

**Recommendations
of the
EU-Japan Business Round Table
to the Leaders of the European Union and Japan**

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**Working Party 1
Trade Relations; Investment and Regulatory Cooperation; Financial
Services, Accounting and Taxation**

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List of Abbreviations

Abbreviation	Meaning
AEOs	Authorised Economic Operators
APA	Advance Pricing Agreement
ATP	Adaptation to Technical Progress
BEPS	Base erosion and profit shifting
BPR	Biocidal Products Regulation
CAA	Consumer Affairs Agency
CbCR	Country by Country reporting
CCCTB	Common Consolidated Corporate Tax Base
CE	Conformité Européenne (European Conformity)
CLP	Classification, labelling and packaging
CMR	Carcinogenic mutagenic or reprotoxic
CoRAP	Community Rolling Action Plan
DDA	Doha Development Agenda
ECHA	European Chemical Agency
EIOPA	European Insurance and Occupational Pensions Authority
EN	Européen de Normalisation de Normalisation (European Standards)
EP	European Parliament
EPA	Economic Partnership Agreement
EU	European Union
FDI	Foreign Direct Investment
FSA	Financial Services Agency
FTA	Free Trade Agreement
FTT	Financial Transaction Tax
G8	Group of Eight
G20	Group of Twenty
GATS	General Agreement of Trade in Services
GDP	Gross Domestic Product
GHS	Globally Harmonized System of Classification and Labelling of Chemicals
GoJ	Government of Japan
GPA	Agreement on Government Procurement
GPS	Gross Product Strategy
HSE	Health Safety and Environment
ICTs	Intra-Corporate Transferees
IEC	International Electrotechnical Commission
IPM	Interface Public Members
ISO	International Organisation for Standardisation
JAS	Japan Agricultural Standard
JELMA	Japan Electric Lamp Manufacturers Association
JET	Japan Electrical Safety & Environment Technology Laboratories
JETRO	Japan External Trade Organisation
JIS	Japan Industrial Standard

JR	Japan Railways
KPIs	Key Performance Indicators
LED	Light-Emitting Diode
LoA	Letter of Access
MAFF	Ministry of Agriculture, Forestry and Fisheries
METI	Ministry of Economy, Trade and Industry
NTM	Non Tariff Measure
NOL	Net Operating Loss
OECD	Organisation for Economic Co-operation and Development
OR	Only Representative
PPPR	Plant Protection Products Regulation
PSE	Electrical Appliance and Material Safety Law
R&D	Research & Development
REACH	Registration, Evaluation, Authorization and Restriction of Chemicals
RoHS	Restriction of Hazardous Substances
SDS	Safety Data Sheet
SIEF	Substance Information Exchange Forum
SMEs	Small and Medium size Enterprises
SVHC	Substance of Very High Concern
UNECE	United Nations European Commission for Europe
VAT	Value Added Tax
WCO	World Customs Organisation
WHO	World Health Organization
WTO	World Trade Organization
WP	Working Party

Introduction

Japan is the EU's seventh largest trading partner and the EU ranks as Japan's third largest trading partner. While already significant, this trade relationship has considerable upwards potential and the benefits of the EU-Japan Economic Partnership Agreement will stretch beyond the many European and Japanese companies already operating in each other's home markets to all those, attracted to the new opportunities it creates. Working Party 1 stresses that the implementation of the agreement must address the specific concerns of European and Japanese businesses reflected in this and previous reports. With so much at stake, we are urging the authorities on both sides to ensure that the necessary progress is made. Many reforms are required to secure a fair and competitive environment for business. They have been identified based on the extensive first-hand operational experience of Working Party 1 members in the Japanese and European markets. This report sets out concrete recommendations addressing the following key issues:

- Creation of a common regulatory environment, mutual recognition of regulations, standards and market authorisations to the extent possible, adoption of international standards and enhancing regulatory cooperation
 - Making certain that essential personnel can still access each other's markets while adhering to proper health protocols
 - Further deepen and support initiatives leading to more collaboration on third markets
 - Ensuring fair competition and equal treatment of all companies, domestic and foreign – for both goods and services
 - Improving conditions for foreign direct investment
- and finally,
- Pursuing simpler, lighter and sensible tax systems, including the implementation of the BEPS Actions without additional administrative burden

To highlight priority issues in the text that follows, one asterisk (*) indicates "priority" recommendations. (e.g. WP 1/ # 01* / EJ to EJ)

Recommendations from both European and Japanese industries

WP-1 / # 01* / EJ to EJ Strengthening the EU-Japan Economic Relationship Post -EPA

The BRT praises both the European Commission, and its member States, and the Japanese Government for the successful conclusion and enforcement of the EU-Japan EPA. In parallel, the BRT would like to emphasise that the parties should be more ambitious in order to get the most out of the agreement and also to build on the agreement to further profit from synergies. The effective application of the EPA would prove even more important in ensuring steadfast economic recovery of both sides following the COVID-19 crisis, as well as sustainable connectivity, and quality infrastructure. It is also important for the EU and Japan as like-minded countries to strengthen our complementarity and competitiveness through the EPA so that weaknesses in supply chains that have become apparent due to the COVID-19 crisis can be addressed. Hence the BRT recommends the following:

Enhancing Regulatory cooperation

The BRT calls on the EU and Japanese Authorities to:

- Continue to further strive for free trade between the EU and Japan without obstacles by pursuing regulatory cooperation, harmonisation and mutual recognition of international regulations and testing procedures.
- In the same vein, ensure that the EPA is continuously updated and that new aspects are added as they become necessary. For instance, new technologies, public health issues, cross-border flow of data, etc.
- Immediately consult with industry in order to set up working groups in sectors that would benefit from closer regulatory cooperation
- Regularly consult companies of all sizes to ensure the best implementation of Regulatory cooperation.

The BRT believes that:

- For regulatory cooperation to be successful, negotiators on both sides must be given the appropriate mandate so that the result of the talks can be properly implemented and enforced. There is a need for a follow-up to ensure this.
- Through regulatory cooperation new technologies can be shared and introduced on both markets with a minimum delay. This in turn leads to more benefits for industry and consumers, hence society as a whole.
- Global solidarity, cooperation and effective multilateralism are required more than ever to defeat the virus as well as to ensure economic recovery. It is therefore extremely important to further develop the EU-Japan relationship to show other countries that such cooperative relationships are possible.

Encouraging the use of EU-Japan EPA, particularly by SMEs

The BRT calls on the EU and Japanese Authorities to:

- Ensure that not only large corporations but also SMEs can make best use of the agreement.
- Proactively inform industry of the advantages of utilising the EPA.

The BRT believes that:

- SMEs are an important and integral part of both the EU and Japanese economies. At the same time, they tend to face bigger difficulties in utilising a complex system due to lack of resources and sometimes even knowledge. Getting them on board is essential to make the trade between EU and Japan reach its full potential.

Joint investment in 3rd countries

The BRT calls on the EU and Japanese authorities to:

- Continue to support EU and Japanese industry to make joint investment in 3rd countries, notably in the regions of the Western Balkans, Eastern Europe, Central Asia, Indo-Pacific, as well as in Africa.
- Make certain that the discussions are concrete and that the results are easy for companies on both sides to implement and take advantage of. It is imperative that talks among the authorities are not too high-level.
- To better coordinate and make certain that ODA projects are not favouring suppliers from either region.

The BRT believes that:

- This support is in particular important in developing countries where investment can help the country in question to raise its standard of living significantly;
- It is furthermore important that the EU and Japan continue to play a leading role in the global scene to ensure enhanced competitiveness.
- The strengths on both sides should be more efficiently utilised and that possible cooperation should be commenced earlier in the process.
- The challenges of the current pandemic cannot be solved by the EU and Japan exclusively within their own countries. Therefore, it is important to step up EU and Japanese assistance to partner countries facing the impact of COVID-19, not only by providing short-term assistance but also by supporting them over the mid- to long-term.

Minimising the impact of Brexit

The BRT calls on the EU to:

- Towards the termination of extended Northern Ireland Protocol grace period, we call the EU and the UK authorities to continue the dialogue in order to minimize any potential risks between the EU and the UK, such as the EU retaliation to the

UK in breaching the substantive provisions of the Protocol on Ireland and Northern Ireland, suspension or termination of the tariff-free trade.

- Maintain/restore a favourable business environment including unfettered investment, smooth services, and financial transaction, harmonised regulation and standards, and access to workforces with necessary skills.
- Listen to calls from across the industries to ensure that any new arrangements will be implemented in a manner that does not cause disruption, and take necessary measures as much as possible.

The BRT believes that:

- Brexit is impacting not only the EU, Japan, and the UK separately but also the EU-Japan relationship;
- Engagement with industry to address concerns and improved information about preparations could help to minimise potential disruption;
- Fair and free trade among the EU, Japan and the UK will not only help business activities but also benefit the wider area of cooperation and mutual interests including the welfare of consumers and society as a whole while also continuously encouraging the rules-based international order, the rule of law and promotion of democracy.

WP-1 / # 02* / EJ to EJ Recommendations for an ambitious multilateral trade agenda toward the next WTO Ministerial Conference in Geneva

Under the growing pressure of protectionism in a post-Covid 19 world, the EU and Japan should support strengthening and reforming the WTO. Together with other WTO members, the EU and Japan should work to ensure the centrality of the WTO as the guardian of the multilateral trading system, and the value of WTO agreements as a basis of fair rules to maintain order in global trade, to assure the mobility of people, capital, goods and services so that we could restart our economies from the negative impact of COVID-19 and to promote further liberalization. It is therefore crucial that the WTO and its members take into account the concerns expressed against trade and globalisation, while ensuring that the multilateral trading system remains relevant and is reformed to better respond to present and future challenges.

The BRT calls on the EU and Japan to:

- Reinforce the negotiating pillar of the WTO to better disseminate the benefits of global value chains. The EU and Japan must play a central role in this regard.
- Safeguard the proper functioning of the enforcement pillar of the WTO, its Appellate Body in particular. The BRT welcomes the leadership of the EU in the development of the “Multi-party interim appeal arbitration arrangement” (MPIA) to the WTO as a way to address the current problems in the Appellate Body. However, the BRT also recognises the temporary nature of this solution and stresses the need for WTO members to engage in a more constructive dialogue.

- Reaffirm the importance of a market-oriented trade environment. Regarding the WTO reform, supporting the continuation of trilateral cooperation among the US, the EU, and Japan, especially efforts to strengthen WTO rules on industrial subsidies and technology transfer, and to improve compliance with notification obligations, as well as ensure that all WTO members contribute according to their real economic power. The BRT also supports the development of rules on trade-related aspects of electronic commerce.
- Explore further topics that are essential for the smooth functioning of global value chains together with other WTO members. These could include, for example, industrial subsidies, the reduction of export restrictions, investment (facilitation) and competition.
- The EU and Japan should take the lead in developing an export control framework with consideration for predictability and the level playing field in business sector to resolve the situation where unilateral trade measures are reducing the stability of the business environment.
- Revitalise plurilateral negotiations. Encourage the conclusion of the Joint Statement Initiative on Domestic Regulation in Services during the Geneva's WTO Ministerial. This is an agreement that shall benefit all WTO Members. Make significant progress and conclude, if possible, the negotiations on e-commerce and investment facilitation.
- Encourage making the moratorium on customs duties of electronic transmissions of the WTO permanent, noting that the custom duty-free distribution of electronic transmissions is at the core of technological innovation and the digital economy.
- Lead the discussion of further expanding the product coverage and membership countries and regions for the Information Technology Agreement (ITA), as agreed in December 2015.
- The current circumstances related to the COVID-19 pandemic have further underlined the need to capture fast technological progress. In this regard the expansion of the ITA should lead to the elimination of tariffs on IT products and promote digital transformation.
- Moreover, the ITA plays a significant role in maintaining and continuing negotiations on a plurilateral basis, given the difficulty of reaching an agreement among all WTO Members.

The BRT believes that:

- The upcoming 12th WTO Ministerial Conference is crucial in reaffirming the benefits of a rules-based multilateral trading system. It shall deliver a package of multilateral and plurilateral outcomes that will equip governments and business operators with modern and effective trade rules. At the same time, it shall also promote the discussion on the reform of the WTO with the view to delivering concrete results by the next Ministerial Conference.

- Notwithstanding the complexity of the negotiations under the Joint Statement Initiative on e-commerce, the upcoming Ministerial Conference should not only be a stock-taking exercise. It should seek to make real progress towards an ambitious, comprehensive and commercially meaningful outcome, including rules to ensure cross-border flow of data. The e-commerce Agreement should prohibit data localization measures and requirements for disclosure of source codes as well as ensure the non-discriminatory treatment of digital products. Incorporating the value chain perspective when negotiating the liberalisation of goods and services under the auspices of the WTO is critical. This will effectively ensure a real impact, as global value chains play an increasingly important role in international trade. Liberalisation should also include environmental goods related to the Environmental Goods Agreement (EGA), so long as it does not discriminate unfairly between products and sectors. Moreover, in the follow up to the COVID-19 pandemic, the WTO should look into trade and health initiatives that will make the world more resilient in future crises.

WP-1 / # 03* / EJ to EJ Applying international standards and enhancing regulatory cooperation

The BRT believes that regulatory cooperation is key to the economic prosperity of the two economies. Given the successful entry into force of the EU-Japan EPA in February 2019, it will be extremely important than ever not only to ensure that new regulations do not nullify or impair the market access benefits which have been achieved under the agreement or create new barriers to bilateral trade, but also to further expand and strengthen the regulatory cooperation between the two economies. This way the EU and Japan will be able to create a favourable business environment and hopefully also expand such cooperation to other bilateral and multilateral relations.

General recommendations

The BRT calls on the EU and the Japanese authorities to:

- Building on the EPA, jointly pursue the harmonisation of rules, regulations and standards. While the EPA has certainly provided great success in this regard, the BRT believes that the work has to continue to deal with areas not covered by the EPA as well as new areas and technologies.
- Where international standards have not yet been developed, when possible, and appropriate, to accept the approval of the import, sale or use of products that have been approved on the basis of functionally equivalent requirements.
- Study the possible impact of new regulatory developments on domestic and foreign business to avoid taking initiatives that might create barriers to trade and investment.
- To establish a close dialogue with industry regarding the harmonisation of regulations and standards by discussing concrete use cases and examples from business experience.

The BRT believes that:

- The EPA creates a perfect platform for regulatory cooperation, but further efforts are needed to keep the momentum up.
- A similar mind-set as was shown during the negotiations is needed so that enforceable harmonisation of regulations can be realised.
- Continued dialogue is needed, but clear goals need to be defined as to avoid a dialogue without results.

1. Create a common chemicals regulation

The BRT calls on EU and Japanese authorities to:

- Establish a common list of the hazard information of substances and a common approach to the evaluation and sharing of data, and the hazard classification.
- As a first step towards complete recognition set up a system where test results carried out in either the EU or Japan to be recognised as carried out in the other region.

The BRT believes that:

- The EPA provided a good platform with progress made for biodegradability of organic chemicals. However, more efforts are needed to harmonise or mutually recognise the two systems.
- A common regulatory environment will not only benefit the industries through cost mitigation but also benefit users and consumers through lower prices and consistent protection.

2. Create a common resource efficiency policy

The BRT calls on the EU and Japanese authorities to:

- Promote the concept of resource and energy efficiency, using the right incentives, standardised test methodologies, criteria and a common format of environmental products declaration between the EU and Japan and cooperate with each other so that such policies are internationally shared. Areas, where regulatory harmonisation should be pursued, are the areas of material recycling and energy recovery which are essential for both EU and Japan economies if they are to become circular.
- Work together at the multilateral level to promote international harmonisation of energy efficiency regulations, relevant labelling rules, and environmental and carbon footprint schemes.

The BRT believes that:

- Only through a common approach can many of the energy and environment related issues be solved. It is therefore vital that the EU and Japan show leadership in the field at ISO and IEC level.

3. Expand the benefits of AEOs

The BRT calls on the EU and Japanese authorities to:

- Aim at introducing further regulatory cooperation in order to give more concrete benefits to AEOs.
- Focus on introducing real advantages without increasing the administrative burden for companies by granting more freedom, simplification and responsibility to companies

The BRT believes that:

- A smoother logistical system where benefits are given to companies that can show that they have the capacity to properly trace each shipment.
- This is also beneficial for the authorities as they will be able to focus more on illegal shipment and to support companies that have less capacity regarding traceability.

4. Adoption of UN Regulations and promotion of regulatory cooperation in the automobile sector

The BRT calls on the EU and Japanese authorities to:

- Continue to work and promote the UNECE as a forum for global harmonisation of the vehicle regulations.
- Furthermore, accelerate their adoption of the UN Regulations to lower the cost of regulatory compliance for both European and Japanese automobile manufacturers by extending the scope and benefits of mutual recognition.
- Work together to establish internationally harmonised technical standards and testing procedures that will encourage the development and smooth market adoption of environmentally friendly and safety vehicle technologies, such as electric, clean diesel, hybrid and fuel cell vehicles, as well as autonomous and connected driving technologies.

The BRT believes that:

- A common regulatory framework will send a strong signal to the rest of the world that harmonisation and the UNECE is the adequate forum

5. Sanitary and phytosanitary regulation

The BRT calls on the EU and Japanese authorities to:

- Use the EPA to better harmonise the SPS framework. This should be done on a detailed level to avoid any divergence. The overarching principle should be that if a product is approved in one market it should be approved in the other market without the need for additional testing or market approvals.

The BRT believes that:

- Harmonisation and mutual recognition is vital if the aim of increasing the export of food and drinks, which is something both the EU and Japan spends considerable resources to achieve, should be fulfilled.

6. Achieve carbon neutrality

The BRT believes and calls on the EU and Japanese authorities to:

- We support the European Commission's goal of Carbon Neutral by 2050, as well as the Fit for 55 Package initiatives to achieve the new CO2 target by 2030. However, the road to Carbon Neutrality has various paths, and diverse technology options have a role to play in effective transition to Climate Neutrality.
- Since climate change issue is a global challenge, we would like all the Governments to cooperate, with a strong leadership of EU and Japan, to build some harmonized, transparent and fair international trade rules and systems related to Carbon Neutrality.

WP-1 / # 04 / EJ to EJ Avoiding double contributions on social security

The BRT welcomes the conclusion of social security agreements between Japan and 13EU Member States. Negotiations or preliminary talks are under way between Japan and some additional EU Member States.

The BRT calls on the EU Members States and Japan to:

- Swiftly conclude bilateral agreements so that double pension payments are avoided.
- As in interim measure introduce regulation that either exempts employees and employers from pension premiums or returns the paid amount of both the employee and the employer when the person leaves the country.

The BRT believes that:

- With increased labour mobility and the need for companies to both transfer and recruit globally the demand for social security agreements will increase.

WP-1 / # 05* / EJ to EJ Recommendation on BEPS Action Plan, Financial Transaction Tax and Other Tax Issues

The BRT supports the creation of an internationally fair taxation framework and level playing field. At the same time, the BRT believes that taxation system should be simple and transparent as possible and should not create excessive administrative burden on businesses.

BEPS Action Plan

The BRT calls on the EU and Japanese Authorities to:

- Ensure that the implementation of BEPS Actions do not create additional administrative burden on businesses;
- Request to file CbCR only to MNE's top parent company but not to MNE's subsidiaries in accordance with the OECD suggested protocol;
- Aim at facilitating the conclusion of bilateral and multilateral APAs;

- Not to implement the European Commission’s proposal for Public CBCR as it breaches the confidentiality of information on taxpayers;
- Keep confidentiality of information concerning taxpayers as BEPS Action 13 demands;
- Give specific consideration to the global trading business model broadly conducted by the financial services industry in terms of Permanent Establishment (“PE”) that the tax authorities in European Countries give utmost consideration before making any tax assessment based on the determination that a trader booking into an offshore booking entity under the global trading business should qualify as dependent agent;
- Give utmost consideration to the implementation requirements in other jurisdictions before implementing new tax rules, which may or not be BEPS Action 13 and 7 related;
- Avoid unnecessary uncertainty for compliant taxpayers and unintended double taxation as was agreed by OECD/G20 countries in 2013.

Other Tax Issues

The BRT calls on the EU and Japanese Authorities to:

- Include all EU Member States and Japan in the mandatory binding MAP arbitration in their bilateral tax treaties which the commitment was made by 20 countries including Japan and 13 EU Member States (Austria, Belgium, France, Germany, Ireland, Italy, Luxembourg, the Netherlands, Poland, Slovenia, Spain, Sweden, and the UK) as a mechanism to guarantee the resolution of treaty-related disputes within a specified timeframe;
- Pursue simpler, lighter and sensible tax systems which will lead to growth and innovation, and furthermore, reduce time and cost for both businesses to comply and tax authorities to enforce;
- Eliminate double taxation and modernise tax treaties between EU Member States and Japan to ensure that royalty, interest and dividend payments are exempted from withholding taxes to the greatest possible extent.
- Cooperate to establish a reasonable global framework regarding digital taxation currently discussed in the OECD in order to avoid economic confusions.

WP-1 / # 06* / EJ to EJ Commence negotiations on bilateral/regional agreements on personal movement under the COVID-19 pandemic

With the COVID-19, countries around the world have introduced restrictions on who can enter the country. In many cases non-resident have not been able to enter certain countries, but there have also been restrictions to that only nationals that enter a specific country. Japan has started negotiating with mainly neighbouring countries, and some agreements have already entered into force. Unfortunately, there are currently no negotiations going on between EU, or EU Member States, and Japan. Without the possibility to travel between the two regions, trade and investments will suffer.

The BRT calls on authorities to:

- Immediately start negotiations to allow short-term businesspeople to travel between EU and Japan.
- Make certain that companies can without hinderance bring in new top management, such as CEOs, and specialist, such as engineers. This is of utmost important in order to properly run the subsidiaries.
- Draft an action plan on how to deal with future pandemics with focus on travel restrictions.

The BRT believes that:

- It is important that companies can continue to provide vital services and that adequate personnel, both CXOs and specialist, can enter the regions. This while adhering to the proper health protocols set up by the authorities.

Recommendations from European industry to Japan

WP-1 / # 07* / E to J Harmonisation & mutual recognition of standards and product certifications; acceptance of international standards where applicable

Industry still faces standards and products certifications that are not harmonised with international standards or regulations. Furthermore, some overseas approvals, despite having been issued in accordance with EN and/or ISO, are not recognised by the Japanese authorities. This leads to delays in the introduction of innovative new products to the market and increases import costs. While accepting the need to safeguard consumer health and safety, the BRT urges Japan to promote the harmonisation of standards and certification procedures, the mutual recognition of product certification and, in areas where harmonized standards do not exist, the mutual approval of the import, sale or use of products that have been approved on the basis of functionally equivalent requirements, so that products certified for one market are automatically accepted in the other market. The BRT recommends the Japanese Government to place particular emphasis on:

Automobiles

The EPA agreement in principle ensures that “both Japan and the EU will fully align themselves to the same international standards on product safety and the protection of the environment, meaning that European cars will be subject to the same requirements in the EU and Japan, and will not need to be tested and certified again when exported to Japan”.

However, in this area a big gap has to be seen between the ambition of the Agreement and the reality. This is due to the transition periods of up to 7 years, several exemptions and specific provisions in some areas. All in all, the Agreement does not significantly change the current status to an improved situation.

It has to be feared that under the current provisions of the Agreement, improvements will be seen only gradually and slowly. Especially in the important area of emissions/fuel consumption, the discrepancy is expected to last.

The BRT calls on Japanese authorities to:

- Abolish its remaining unique regulations, including the standards for exhaust gases
- Promote further harmonization in areas currently not covered by the agreement,
- Change optional to mandatory conditions regarding the approval of EU certificates, especially in the area of emissions/fuel consumption to ensure that – as intended by the EPA – vehicles will not need to be tested and certified again when exported to Japan,
- Use the Automotive Working Group to increase the benefits in this area by speeding up the envisaged changes and widen the harmonization efforts.

Railways

The BRT calls on Japan to:

- To be more involved in introducing a national system for conformity assessment and to encourage mutual recognition of testing and certification. The BRT believes that a working group led by the Japan authorities including both domestic and foreign companies from all railway related sectors should be established.
- Take extra care that standards and testing required by Japanese operators are communicated in a transparent manner so that European suppliers can meet and exceed these requirements.
- Should promote more off-the-shelf solutions instead of creating Japan specific solutions that are difficult to implement elsewhere.

The BRT believes that:

- A national testing scheme would lower the costs for suppliers and would at the same time make it easier for the authorities to make certain that railway related companies fulfil the proper safety requirements.

Processed food

While the EPA offers lower tariffs, the regulatory situation for companies still remains the same. This means that companies have to spend significant resources and money to fulfil requirements that are often unique to Japan.

The BRT calls on Japan in collaboration with the European authorities to:

- Recognise European approvals and test methods
- Harmonise with internationally approved food additives and enzymes

The BRT believes that:

- With more recognition of European approval and test results, Japanese consumers will benefit from more and cheaper European products.

WP-1 / #08* / E to J

Self-verification and risk assessment

Risk assessment and self-verification become more and more common as production cycles become shorter. This in order to offer a way to shorten the time to introduce a product to the market and at the same time ensuring that proper responsibility is taken by companies. While self-verification is used in Japan too, government or third party approval is often the norm. Examples of products could be base stations, food contact materials, non-invasive medical equipment etc.

The BRT calls on Japanese authorities to:

- Expand the use of self-verification while ensuring that proper care is taken to protect the safety of human life, as well as animals and plants.

WP-1 / # 9* / E to J Automobiles

Kei cars and other motor vehicles continue to be subject to different treatments in terms of tax, insurance and parking rules. Although METI and JAMA have suggested reducing the level of discrepancy in taxation to the order of 1:2, for the time being, the discrepancy in the base level of taxation of kei cars and subcompact cars at 1:3.3 remains unacceptably wide.

The BRT calls on Japanese authorities to:

- Put kei cars and other motor vehicles on the same fiscal and regulatory footing.

WP-1 / # 10* / E to J Freight and logistics

Further to the WP-1 / # 03 / EJ to EJ, the BRT recommends that Japan revises its AEO system to introduce real benefits for operators regardless of whether they are forwarders, customs brokers or importers. Furthermore, the administrative load needs to be lessened if companies are to be truly attracted to the AEO status.

The BRT calls on Japanese authorities to:

- Allow a bonded warehouse to act as a port of first entry with regard to products covered by quarantine related regulations.
- Promote Electronic Delivery Order for ocean freight
- Take the lead in trying to digitalise the logistics industry as currently many Japanese companies, including large companies, are still using fax and paper orders.
- Allow smartboxes to be part of the container. Only in Japan does this have to be declared as part of the cargo, hence it has to be declared for import.

The BRT believes that:

- A more seamless and flexible transport sector will have a positive impact on the general flow of trade and better facilitate the improved market access offered by the EPA.

WP-1 / # 11* / E to J Retrospective application of the EPA

Many importers in Japan have struggled to utilise the preferential treatment offered by the EPA due to Japan Customs asking for additional information. This information has in many cases either been confidential, the importer has not had possession of such information due to other reasons or imports were time sensitive and therefore the importer did not want to take the risk of a delay due to missing information requests. Unfortunately because of this some companies have opted for importing the products outside of the agreement paying the WTO tariff. With the announcement made by Japan Customs stating that the submission of additional information is not obligatory it should now be possible to import the very same products. While the EU has a tradition of retrospective application Japan has not.

The BRT calls on Japanese authorities to:

- Allow for the retrospective application of the agreement so that products that do indeed have origin in the EU can make use of the agreement as was always intended.

WP-1 / # 12 / E to J Aeronautics

Haneda D runway weight restrictions are an obstacle to the use of European-made aeroplanes and an obstacle to further development of international traffic at Haneda. These weight restrictions should be re-examined to allow the operations of new and larger aeroplanes such as Airbus-made A380 and A350.

The BRT calls on Japanese authorities to:

- Re-examine the weight restrictions to allow the operations of new and larger aeroplanes such as Airbus-made A380 and A350. This should be in line with the approval of the 747-8i which is in the same category as the A380 (code F aircraft).

The BRT believes that:

- If Japan is to re-open and return and exceed pre-COVID levels in regard to visiting tourists, due to limited numbers on slots on Haneda, aircraft such as the above mentioned will be vital.

WP-1 / # 13* / E to J Travel restrictions and quarantine under COVID-19

With the spread of COVID-19 at the beginning of the year, countries around the world introduced entry restrictions for non-nationals and non-residents. This is/was true for both the EU and Japan.

Today, new visas are not issued in Japan except in some exceptional circumstances. This means that business, both foreign and domestic, are limited in their business activities as they are unable to have essential personnel, both top management and specialist enter Japan. This puts great stress on the companies as they are not able to conduct expansions, new project, or properly support its clients, or properly run the company in the case of top management.

As of late, Japan has introduced the possibility for vaccinated people to have the quarantine decreased from 14 to ten days.

The BRT calls on Japanese authorities to:

- Implement a system where short-term and long-term European businesspeople can be issued visas.
- As a short-term solution, the exemption process should be expanded and made more transparent.

- Introduce further liberalisations for vaccinated people.

The BRT believes that:

- Japan risks losing potential FDI that is dependent on essential personnel being able to enter the country
- The Japanese market risks being downgraded as resources, senior management and experts will not and cannot be dedicated to Japan.

Recommendations from Japanese industry to the EU

WP-1 / # 14 / J to E Chemical Regulations

CSS(Chemical Strategy for Sustainability)

The BRT calls on the EU Authorities to:

- Legislate on risk assessment basis depending on exact exposure situation and use amount by each sector, when assessing health/environmental impact of each chemical substance which are used by multiple sectors.

The BRT believes that:

- Establishment of a 'One substance, one assessment' process under action plan of CSS will possibly lead excessive restriction for specific sector on hazard assessment basis, especially in case that the use amount by each industry is largely different.

REACH

The BRT calls on the EU authorities to:

- European Commission is planning to review the REACH regulations, and it includes the establishment of the registration rules for polymers. Polymer registration rules should be applied only for the polymers which have high concern for human health and the environment, and not applied for the low concern polymers, same as the other nation rules.
- For that reason, the EU should adopt the PLC (Polymer of Low Concern) concept in international alignment (harmonisation) and develop scientifically valid and clear criteria for the identification of PLCs to be exempted from registration requirements.
- The abolition of the current constitution monomer registration rules for imported polymers, instead of the introduction of the new polymer registration rules.

The BRT believes that:

- The monomers registration rules are not impartial system, because it is obliged only for companies which import polymers from outside of EU, and not necessary for polymer procurement from EU inside. In many cases, non-EU chemical manufacturers do not produce polymers by themselves but purchase from outside and prepare them, so they have to ask upward of supply chains for various kinds of monomer information necessary for registration. It becomes a heavy burden for non-EU companies, and acts as a kind of non-tariff barriers.

The BRT calls on the EU authorities to:

- There are many and well-reliable chemical data in the REACH, and the EU authorities have a privilege to take an initiative on the international actions for data sharing. Given this situation, they should encourage the REACH registrant to share the data with the applicants in the other chemical regulations outside of EU, for instance, by the preparation of the rules or guidance designated for the international data sharing.

The BRT believes that:

- For protection of human health and the environment, it is significant to utilize the physical and hazardous data of REACH registration for the chemical regulations in the other nations. In addition, from the viewpoint of animal welfare, it is important to avoid unnecessary animal studies by utilizing them as much as possible. But in reality, troubles happen in some cases now. For example, in Korea, when the negotiations between the REACH registrant and the representative for registration of K-REACH are in difficulty, Korean companies are eventually forced to do the test by themselves and it causes the problems. It is not clear with whom we should negotiate, and there are no rules for appropriate cost sharing, which could also occur in the future registration under the UK REACH, Turkish KKDİK Regulation (Turkish REACH) and Taiwan Toxic Chemical Substances and Substances of Concern Control Act.

The BRT calls on the EU authorities to:

- Once a substance evaluation has been completed under REACH, its conclusions have to be respected and should not be revised/overturned unless new findings or data become available.

The BRT believes that:

- If the conclusion of a substance evaluation officially finalized in the REACH process is later challenged and overturned, despite the absence of new scientific information, by a Member State due merely to differences in their ways of thinking, the dependability and predictability of regulatory decisions will severely be impaired.

CLP Regulation

The BRT calls on the EU authorities to:

- The introduction of new hazard classes (Endocrine Disrupter, PBT/vPvB, PMT/vPvM, etc.) to the CLP Regulation should be done after their integration into UN GHS.

The BRT believes that:

- Introducing new hazard classes to the CLP Regulation prior to their introduction to UN GHS will go against the basic principle of UN GHS, i.e. global harmonization, and impair international consistency.

Appropriate approach to endocrine disruptors

The BRT calls on the EU authorities to:

- The substance which may have a potential for endocrine disrupting effect should be evaluated and eventually nominated as SVHC with special care as much as possible.
- The Authorities of the EU should promote the action to make subjects about the low dose effect by endocrine disruptor clear with a tangible deadline.

The BRT believes that:

- Some substances, like “3-BENZYLIDENE CAMPHOR” concluded as SVHC from January 2019, are concluded as SVHC based on the endocrine disrupting potential for human and environment, by the reason that the potential can be observed in some kinds of creatures, although the subjects mentioned as following are not reached a clear scientific conclusion. On the other hands, in reality, markets tend to eliminate the substances listed on the SVHC list before actual hazard level becomes clear, in case of the possibility to be added them to authorization in the future.
- The subjects about potency of endocrine disruptors are not reached clear scientific conclusions yet, like it can be settled any thresholds of endocrine disruption or not, and the thresholds can be measured or not.
- Activities such as those related to “EFSA Scientific Committee Opinion on biological plausibility of non-monotonic dose responses and their impact on the risk assessment” for which public consultation started from 4 December 2020 are welcomed, and continued open discussions for the establishment of risk-based evaluation methods based on scientific knowledge will highly be appreciated.

Fluorochemicals

The BRT calls on the EU authorities to:

- With regard to the publication of the "Registry of restriction intentions(RoI)" for the restriction of PFAS, the EU authorities should take full account of the socio-economic assessment to determine the level of regulation, as PFAS is expected to contribute significantly to the realization of the European Green Deal policy and the sustainable growth of the EU economy in the future due to its features such as chemical and weather resistance.
- Regarding the PFAS regulations, the fact that "substances containing at least 1 aliphatic substance -CF₂- or -CF₃," which was presented as a scope of evidence at the time of “Call for Evidence” in May 2020, is included in the scope of the proposed restriction in RoI of July 15, 2021, is considered to be the de facto definition of PFAS. The EU government should ensure that the definition of PFAS is finalized following a full scientific discussion.

The BRT believes that:

- While it is understood that the grouping approach for PFAS restriction is an initiative based on the precautionary principle, we believe that it should be applied at a level that allows both human health and environmental risks and social contributions to be adequately assessed, and that it is necessary to relax restrictions on the use and use of PFAS where the contribution is judged to outweigh the risk.
 - We believe that the introduction of grouping approach for restriction should be applied carefully to ensure that it does not result in double regulation with existing regulations. (e.g. PFAS, which are subject to strict controls under the F-Gas Regulation (Regulation (EU) No 517/2014) in order to meet the greenhouse gas reduction target of the EU Green Deal (at least 55% below 1990 levels by 2030)).
 - Many of virtually unregulated PFASs as of today are not communicated through the supply chain, the transition period for restrictions should be considered so as not to cause market disruption.
 - There is a concern that the lack of effective measurement and evaluation methods for PFAS may cause significant disruption in supply chain management.

RoHS

The BRT calls on the EU authorities to:

- The Authorities of the EU should keep harmonized and consistent in the operation of RoHS and REACH, and aim to do prior confirmation and adjustment to prevent confusion in the correspondence of supply chain, like the past case of the SVHC concentration criteria in the article which the multiple interpretations existed and became problems.

Nanomaterial

The BRT calls on the EU authorities to:

- With respect to the REACH ANNEXES which newly specify the necessary subjects for registration dossier about nanoforms, the compliance of the Dossier should be evaluated considering that the relevant knowledge and tools, such as the OECD test guidelines and grouping tools, have not be fully available for the registrants.
- Attention should duly be paid to the international harmonization in the revision of the definition of nanoforms.

The BRT believes that:

- The test methods or tools of nanoforms which REACH ANNEX requests are under developing.
- In the public consultation concerning the CLP of Multi-Walled Carbon Tubes (MWC(N)T) opened on 5 July 2021, a grouping of MWC(N)T based on the length, diameter, and aspect ratio has been proposed. Grouping according to specific shapes, however, is not considered appropriate since there have not yet been enough scientific discussion on it.

WP-1 / # 15 / J to E Business in Europe: Framework for Income Taxation (BEFIT)

- The BRT hopes that the Member States will keep the tax system simple and sensible, and focus on fostering growth and investment.
- The BRT encourages the EU to aim at making the Best Practice corporate tax system in the world to which countries around the world would aspire.

WP-1 / # 16 / J to E Sustainable European Future

Policy on the Sustainable Development Goals (SDGs) and Corporate Social Responsibility (CSR) / Responsible Business Conduct (RBC)

The BRT calls on the authorities of the EU to:

- Maintain the ambition to integrate the SDGs into all policy with ensuring policy coherence and create an enabling environment to encourage the uptake of both individual and collective actions to maximise positive impacts while mitigating negative ones.
- Support dialogue as a powerful tool to advance towards a sustainable future. BRT welcomes the launch of the Committee on TSD under the bilateral EPA. This committee should have an open and transparent nature and involve broad participation from the real economy. It would be particularly beneficial to exchange best practices between Japan and the EU, and to gather views on the future policy trajectory in the two regions and globally.
- Take account of past positive experiences. BRT recognises that the Committee on TSD will be a platform for the EU and Japan on sustainability. The Committee should build on the outcomes and experience of the EU-Japan CSR Working Group, one of the technical working groups set up by DG GROW and METI within the EU-Japan Industrial Policy Dialogue for the past years and the EU-Japan business- dialogue on CSR.

Disclosure and transparency (EU corporate sustainability reporting)

The BRT believes that:

- The EU Taxonomy is rolled out to speed up sustainable investments, with reporting obligations on economic activities set out in the Corporate Sustainability Reporting Directive (CSRD). The EU Taxonomy is a framework legislation where important parts are later added on via delegated acts. This leads to insecurity on the demands and details, and future changes to come. There are limited possibilities to give feedback on delegated acts. Since Japanese companies in Europe will fall under the scope as of 2023 (reporting year 2024) this is an important issue. With the EU Taxonomy, a link between environmental and social governance is made. Especially on the environmental part, a complex and detailed structure is developed, which will need specialised workforces on both sides. The current possession of knowledge on the impact of the Taxonomy remains insufficient, within companies and financial service providers alike. Resources will be needed to ensure financial and non-financial actors are able to meet the requirements set out by the Taxonomy and the CSRD.

The BRT calls on the authorities of the EU to:

- Ensure the alignment with international and existing frameworks when developing the EU corporate sustainability reporting standards (under the CSRD), as many companies' operations have a global footprint, and an equally global value chain. BRT further calls on the EU to take a more proactive role in the development of international standards, in recognition that sustainability is a global issue that should be treated in the most inclusive way possible from the beginning.
- Take reasonable consideration of the burden imposed on companies. BRT urges the EU to acknowledge that a fair degree of flexibility is of pragmatic importance to enable companies to provide proper and relevant sustainability information; for example, the flexibility to report on an entity level for Taxonomy disclosures, while maintaining CSRD disclosures at the group level
- Take a step-by-step approach to implement the corporate sustainability information disclosure requirements.
 - Implement requirements that are based on international standards first, while facilitating the above-mentioned flexibility for social and governance elements, as these are less advanced in current international discussions.
 - Provide sufficient preparation time to companies: CSRD requirements should happen not earlier than two years after the EU corporate sustainability standards established.
- Reporting must not solely be a practice of providing legally required information, it has been a communication tool for companies to share corporate values while generating trust among stakeholders and the wider public.
 - Emphasise dialogue as an equally valuable means for companies to strengthen the trust of their investors and stakeholders and leverage the improvement of companies' internal practices by incorporating dialogue into the PDCA management cycle. Dialogue is a powerful tool in fostering a culture of risk management and innovation, whereby companies across different cultures can exchange views on potential future risks as well as explore collaborative opportunities.
 - Recall that not all corporate sustainability information is quantitative, and not all quantitative data are self-explanatory; social aspects often need narrative information. Focusing too much on comparability will undermine stakeholders' understanding of the real value of non-financial information.
- Acknowledge that linking of corporate sustainability information disclosure requirements to the EU Taxonomy is just one way of demonstrating the efforts towards environmental sustainability. BRT is concerned about excessive reliance on the EU Taxonomy, as it is still in development and there is hence a lack of legal clarity at this point.

Sustainable Corporate Governance

BRT underlines the need to acknowledge the diversity of stakeholders' interests, as stakeholder engagement is vital to incorporate sustainable corporate governance in practice. Aspects such as human rights, environmental, and climate change considerations, should be taken into account alongside financial aspects. However, BRT believes that requirements related to corporate governance should not be solely

regulated by law, as companies' decision-making is significantly affected by investors' interests.

The BRT calls on the authorities of the EU to:

- For corporate governance & director's duty
 - Sustainability priorities are business-specific as well as related to corporate culture, therefore a binding management style with a one-size-fits-all approach would risk undermining companies' long-term flexibility and the case-by-case approaches that are crucial for business growth.
 - Legally enforceable duty of care obligations risk becoming a compliance tool rather than a stimulus for proactive and strategic management.
 - Duty of care shall be applied to the company, not the director; as potential harms might go beyond the latter's mission.
- For due diligence duty
 - BRT prioritises the alignment of the EU legislation with international recognised framework in order to avoid fragmentation between regions, such as UN Guiding Principles on Business and Human Rights and the OECD Guidance for Multinational Enterprises, which take a risk-based approach.
 - The reasonable extent of accountability of companies: Provide a distinction between a company's liability and its responsibility to carry out due diligence. The responsibility should focus on the undertaking of due diligence across the value chain; with liability applying in severe cases where conducting such due diligence would have prevented the harm. Transparency and predictability should be ensured when establishing trade control measures on the grounds of human rights abuses.
 - Prioritise guiding companies by placing a primary focus on incentivising companies and providing the education and capacity building. The EU should also recognise company efforts, as well as existing industry schemes to make progress in nurturing competitive, value-creating supplier networks and to put in place enabling management processes.
 - Elaborate on the legal clarity required for the integration of environmental due diligence.
- Take leadership in closing the governance gap between countries and regions in order to effectively address the fundamental problems on the ground. It is important to work hand in hand with other countries to tackle systemic issues such as poverty and corruption. The BRT recognises that the efforts of industry alone cannot ensure responsible sourcing of products and services from such regions. Although the world is experiencing unprecedented challenges from the COVID-19 pandemic, it is crucial that national governments get involved and collaborate, and in this regard, EU diplomacy has an important role to play.