



EUROPEAN COMMISSION

Commission Services Progress Report
on the
EU-Japan Business Round Table 2008 Recommendations

Brussels, June 2009

The **European Union – Japan Business Round Table** (BRT) issued in 2008 its recommendations to the leaders of the EU and Japan (*“Joining forces for competitiveness and sustainability”*).

Adopted during the BRT annual meeting held in Tokyo on 3 and 4 July 2008, those recommendations have been duly studied by the European Commission Services.

The following document outlines progress made in considering or implementing the various recommendations put forward by the BRT.

In this progress report, an introductory part recalls the recent developments in the EU-Japan bilateral dialogues and underlines how the main EU concerns regarding the regulatory environment in Japan have been addressed in the EU-Japan Regulatory Reform Dialogue.

The progress report is then divided into six parts dealing with the following issues:

- Creating an Open Environment for Trade and Investment (Working Party 1),
- Tax and Accounting Issues (Working Party 2),
- Information and Communication Technologies – ICT (Working Party 3),
- World Trade Organisation (Working Party 4),
- Life Sciences and Biotechnology (Working Party 5),
- Sustainable Development (Working Party 6).

For each recommendation (or set of recommendations concerning the same issue / topic), a summary is proposed before describing the action taken and the state of play.

Table of Contents

INTRODUCTION	5
1. WORKING PARTY 1 – CREATING AN OPEN ENVIRONMENT FOR TRADE AND INVESTMENT.....	8
1.1. Dialogue on the formation of a common institutional environment (1- EJ-1)	8
1.2. Supporting timely development of business: social security contributions (1-EJ-2).....	8
1.3. Supporting timely development of business: personal data protection regime (1-EJ-2).....	9
1.4. Enhanced cooperation in the promotion of new global standards: patent harmonisation and fight against global counterfeiting and piracy (1-EJ-3).....	10
1.5. EU policy on company law (1-E-1).....	10
1.6. Japanese expatriates: transposition of Directive 2003/109/EC on long-term residence status and draft Directive on "intra-corporate transferees" (1-E-2)	11
1.7. Supporting timely development of business: smoother and swifter application procedures for obtaining work and residence permits (1- EJ-2)	11
1.8. Community Patent and Patent Prosecution Highway (1-E-3).....	12
1.9. Fight against counterfeited, pirated and contraband goods (1-E-4)	13
1.10. Competitiveness of the EU economy (1): customs classification for IT and non IT products (1-E-5)	14
1.11. Competitiveness of the EU economy (2): integrated approach for CO ₂ reduction – passenger cars (1-E-5)	14
1.12. Competitiveness of the EU economy (4): REACH (1-E-5)	15
2. WORKING PARTY 2 – TAX AND ACCOUNTING ISSUES	17
2.1. Recommendation 2-EJ-1	17
2.2. Recommendation 2-EJ-2	17
2.3. Recommendations 2-EJ-3 and 4	19
3. WORKING PARTY 3 – INFORMATION AND COMMUNICATION TECHNOLOGIES (ICT).....	20
3.1. Governments’ Support towards Development of a Low-Carbon Society (3-EJ-1).....	20

3.2.	Maintenance of the WTO's Information Technology Agreement – ITA (3-EJ-3)	21
3.3.	Development of a Dynamic Society with Next Generation Network – NGN (3-EJ-4)	22
3.4.	Key Role of Regulations for Investment in Network (3-EJ-5).....	22
3.5.	Accelerating Innovation by Convergence/Federation of Communication and Broadcasting (3-EJ-6)	23
3.6.	Enhanced Cooperation for Security of Critical ICT Infrastructures (3-EJ-7)	25
3.7.	Protection of Intellectual Property via the Envisaged Anti-Counterfeiting Trade Agreement (3-EJ-8)	26
3.8.	Initiate a Dialogue on e-Government and Public Private Partnership (3-EJ-9)	26
4.	WORKING PARTY 4 – JOINT STATEMENT ON WORLD TRADE ORGANISATION	28
4.1.	Summary of recommendation.....	28
4.2.	Action taken and state of play	28
5.	WORKING PARTY 5 – LIFE SCIENCES AND BIOTECHNOLOGY	29
5.1.	Summary of recommendations (5-EJ-1 to 5-E-5)	29
5.2.	Action taken and state of play	29
6.	WORKING PARTY 6 – SUSTAINABLE DEVELOPMENT	33
6.1.	Introducing a system for promoting energy-efficiency (6-EJ-1a to 6-EJ-1c)	33
6.2.	Reduction of reliance on fossil fuels (6-EJ-2a to 6-EJ-2d)	34
6.3.	Development of innovative technologies (6-EJ-3a and 6-EJ-3b).....	36
6.4.	Technology transfer to emerging and developing countries (6-EJ-4a and 6-EJ-4b)	37
6.5.	Post-Kyoto Protocol framework (6-EJ-6a to 6-EJ-6e)	37

INTRODUCTION

1. Since the publication of the 2008 Business Round Table's annual recommendations, the European and Japanese political authorities have expressed, on several occasions, their determination and shown their commitment to address global challenges, in particular, in the economic, financial and environmental fields. Recently, the London G20 Summit of 2 April 2009 gave the opportunity to the EU and Japan to show joint leadership on issues such as the increase of IMF financial resources to contribute to the global recovery of the world economy and the strengthening and reform of the international financial institutions. The 18th EU-Japan Summit held on 4 May in Prague gave an additional illustration of both sides' willingness to further cooperate bilaterally and multilaterally, including on climate change. It also announced official talks to be launched at the 2010 Summit on a new framework to replace the 2001 EU-Japan Action Plan, the basic pillar of the EU-Japan relationship.

2. On recurrent sectoral issues in the EU-Japan relationship, the following illustrative recent developments, which could be of interest to the Business Round Table, should be noted:

- the basis for bilateral cooperation on e-procurement has been launched following Japan's positive reply to the EU proposal to cooperate in this area. Japanese experts attended an EU meeting in March 2008, as a follow-up to the December 2007 EU-Japan Regulatory Reform Dialogue. Other opportunities will be provided in 2009;
- bilateral cooperation in the financial area was strengthened, in particular, through the Commission's decision of July 2008 to grant Japanese audit firms a transitional regime until July 2010, in the context of the process of recognition of equivalency in the field of auditing. Furthermore, on 12 December 2008, the Commission adopted a decision recognizing that standards of the Japanese GAAP were equivalent to IFRS;
- on 19 February 2009, Japan and the EU initialled an Agreement on Science and Technology and good prospects exist for its entry into force in the short term;
- technical work towards the mutual recognition of authorised economic operators' programmes was launched following the implementation of the 2008 EC-Japan Agreement on Cooperation and Mutual Administrative Assistance in Customs Matters;
- on intellectual property rights (IPR), the EU and Japan remain deeply committed to cooperate on the basis of the 2007 EU-Japan Action Plan on IPR and to conclude the negotiation of the Anti-Counterfeiting Trade Agreement;
- taking into account progress in EU-Japan aviation relations in early 2009 (issue of the EC designation in the bilateral agreements between Japan and the EU Member States), new bilateral cooperative actions could be envisaged in areas such as aviation safety, security and air traffic management;

- the EU-Japan Centre for Industrial Cooperation, co-funded by the European Commission and the Japanese government, has continued to develop its training and information programmes, while putting a new emphasis on the organisation of events, conferences and seminars where EU and Japanese policies in specific areas of joint interest are presented and confronted, so that EU and Japan business people, academics and policy-makers can share best practices and identify areas for future cooperation. A particular focus has been put on the one hand on energy, environment and climate change related issues, and on the other hand on trade, investment and industrial policy issues.

3. Since last July, the EU and Japan had various opportunities to address regulatory and policy issues, including non-tariff trade barriers in the context of bilateral dialogues such as:

- The EU-Japan Regulatory Reform Dialogue (RRD). The Japanese RRD proposals related to the European market for Fiscal Years 2007 and 2008 were discussed in Brussels on 12 March and 15 October 2008 and then on 12 March 2009. The European proposals related to the Japanese market for 2008 were addressed on 12 December 2008 in Tokyo. The proposals for 2009 to be submitted in Autumn will be discussed by the end of this year.
- Other bilateral dialogues were organised such as the High Level Trade Dialogue (October 2008), the EC-Japan High Level Fisheries Consultation (2-3 February 2009), the Industrial Policy and Industrial Cooperation Dialogue (18 February 2009), the EC-Japan Energy Dialogue (20 February 2009), the EU-Japan Macro-Economic Dialogue (economic aspects addressed on 20 March 2009 and in May 2009, financial services discussed on 21 April 2009), the High Level meeting on Environment (20 April 2009) and the Intellectual Property Rights Dialogue (21 April 2009). Forthcoming dialogues to be held by the end of 2009 include the bilateral dialogue on Information Society and the High Level Trade Dialogue (Autumn 2009), the EU-Japan Forum on the Future of the Internet (7-10 July 2009) and the EU-Japan ICT Research Forum (2 July 2009).

4. With regard to the EU-Japan RRD, a great number of recommendations submitted by BRT's working groups were discussed in the context of the EU-Japan Regulatory Reform Dialogue, in particular:

- Working party 1 (recommendation 1-EJ2/ supporting timely development of business, 1-E- 1/ EU company law, 1-E 2/ Japanese expatriates; 1-E 3/ Community patent and prosecution highway, 1-E4/ Fight against counterfeited, pirated and contraband goods; Better Regulation and Reach). It seems that Japan was satisfied by the clarifications given by the EU at expert and political levels in the context of the March 2009 EU-Japan Regulatory Reform Dialogue. In particular, a detailed update was given on issues such as intra-corporate transferees, the statute for European private companies, patent harmonisation and the implementation of the REACH legislation. Furthermore, an updated presentation of the EU approach on Better Regulation was given to the Japanese experts. With regard to the EU concerns on the Japanese market, re-entry permits remain an issue for the EU, even though progress is announced in this area.

- Working party 2 (recommendations on accounting issues and tax issues): Significant progress was made in the field of the convergence of accounting standards. The EU 2008 RRD proposals included a chapter on taxation with a view to being informed of new developments in Japan in taxation related issues with impact on companies.

5. With regard to the Japanese market, the EU would like to encourage the Government of Japan to find the appropriate ways to solve the longstanding trade restrictive barriers discussed in dialogues such as the EU-Japan Regulatory Reform Dialogue as quickly as possible and implement policies contributing to a wider circulation of innovative products. On an illustrative basis, EU concerns include areas such as government procurement (to extend the GPA coverage to local procurement and railway procurement), foreign direct investment (inter alia to implement the Shimada report on FDI promotion), beef (to lift the ban against the EU and eliminate discriminatory treatment), organic products (to make the equivalency granted by Japan work), technical standards (to align on international standards including in the fields of medical devices and pharmaceutical products as well as of food additives) and Japan Post (to stop the expansion of Yucho's and Kampo's activities which is contradictory to the principle of a level playing field on the market with other financial and postal services).

1. WORKING PARTY 1 – CREATING AN OPEN ENVIRONMENT FOR TRADE AND INVESTMENT

1.1. Dialogue on the formation of a common institutional environment (1-EJ-1)

1.1.1. Summary of recommendation

The BRT is recommending continued discussion on an ambitious bilateral framework to set new standards for global trade. Such a framework initiated and pushed through respective administrations from the highest political level is the most feasible way to deliver real solutions for business. The Authorities should not surrender to endless discussions but establish a mechanism that can take the EU-Japan relationship to a new level.

1.1.2. Action taken and state of play

The European Commission (EC) attaches the greatest importance to the need to address barriers hindering trade and investment. Over the last year, discussions have taken place between EC and Japanese authorities to ensure that the existing dialogues can be streamlined and can deliver timely and ambitious results.

At the 2009 EU-Japan Summit, Summit leaders agreed on the need to focus on a few Non-Tariff Barriers (NTBs) with the objective to increase market access and investment opportunities. The overall objective is to prove in the short term that fruitful cooperation can take place between the EC and Japan on those regulatory barriers, which are hindering trade and investment flows. Positive results on NTBs in the short term would help build the mutual confidence which is the necessary precondition for a future strengthened trade and investment relation. This upcoming exercise should rely more effectively on the existing bilateral mechanisms such as the High Level Consultation, the bilateral Regulatory Reform Dialogue, the High Level Trade Dialogue, the Industrial Policy and Industrial Cooperation Dialogue and the other bilateral dialogues.

The Summit Statement of 4 May 2009 includes a review clause: progress will be assessed, at the latest, at the Summit in 2010.

1.2. Supporting timely development of business: social security contributions (1-EJ-2)

1.2.1. Summary of 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.

1.2.2. Action taken and state of play

Community provisions in the field of social security co-ordinate but do not harmonise arrangements for people who exercise their right to free movement within the European Union. Member States continue to be responsible for the funding and organisation of their social security systems. They are therefore free to determine details of their own social security systems, including which benefits shall be provided, the conditions for eligibility and the value of these benefits, as long as they adhere to the basic principle of equality of treatment and non-discrimination as laid down in the Regulation. The problem of double-contributions can only be addressed by concluding bilateral social security agreements with all Member States. The Commission has repeatedly raised the issue in its Regulatory Reform Dialogue with Japanese authorities and appreciates the fact that a growing number of bilateral social security agreements between Japan and some EU Member States have been concluded, or are being negotiated at present.

1.2.3. Prospects for implementation

Given the competencies in this area, the conclusion of social security treaties between Member States and Japan has to be discussed on a bilateral basis.

1.3. Supporting timely development of business: personal data protection regime (1-EJ-2)

1.3.1. Summary of recommendation

The two authorities should work together to ensure an internationally equal, transparent and secure data protection regime between the EU and Japan. The European Commission should consider launching a detailed study to assess the adequacy of the level of protection afforded by the Japanese Data Protection Act and its implementation measures

1.3.2. Action taken and state of play

The Commission intends to improve the co-operation in the field of the protection of personal data and data transfers and to work towards the free movement of personal data between the EU and Japan according to the highest international standards.

Existence of appropriate data protection rules and administrative capacity in the third countries such as Japan is important and a condition for success in a number of policy areas

The 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. Nevertheless, this initiative should be supported by the Japanese side. In order to initiate an adequacy finding procedure, an official request should be presented to the European Commission.

1.4. Enhanced cooperation in the promotion of new global standards: patent harmonisation and fight against global counterfeiting and piracy (1-EJ-3)

1.4.1. Summary of recommendation

1. The Authorities of the EU and Japan should take the lead in the creation of a harmonised international patent system.
2. 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. The BRT urges the two authorities to exercise active leadership in order to conclude as soon as possible the ongoing negotiation of an international anti-counterfeiting trade agreement (ACTA).

1.4.2. Action taken and state of play

The European Commission supports global discussions and a future International Treaty aiming to streamline the global patent system, and considers it important to move forward within the informal "Alexandria process" (Group B+). However, practically all competence for substantive patent law matters rests with EU Member States. The main role of the European Commission is to work in order to coordinate position among EU Member States to facilitate progress within the Group B+.

During the last Plenary meeting of the Group B+ in Geneva on 21 September 2008, no agreement could be reached mainly due to divergences regarding a "global grace period", mandatory "18-month publication" of all patent applications, and to the US approach of linking its patent reform bill to progress made in these international negotiations. However, members agreed to continue informal discussions; the Working Group was mandated with discussion on cooperation to improve timeliness and quality on patents. This changes the direction of the Working Group away from substantive patent law harmonisation and implicitly indicates failure of this process in this area. Meanwhile, talks on international patent law in WIPO restarted in June 2008, but not solely related to patent law harmonisation.

Regarding international activities on Enforcement of IPR, negotiations on a multilateral Anti-Counterfeiting Trade Agreement (ACTA) are to be continued this year. The European Commission is actively committed to finalise this agreement as soon as possible.

1.5. EU policy on company law (1-E-1)

1.5.1. Summary of recommendation

The BRT recommends that the legislative proposal for the Statute for European Private Company ("the SPE") should be introduced as soon as possible.

1.5.2. Action taken and state of play

The proposal on the Statute for a European Private Company (“the SPE”) was adopted by the European Commission on 25 June 2008.

This new company form will enable small- and medium-sized enterprises (SMEs) to do business throughout the EU, with the aim of cutting costs and encouraging growth in this area.

The SPE has been designed to address the current onerous obligations on SMEs operating across borders, which need to set up subsidiaries in different company forms in every Member State in which they want to do business. In practical terms, the SPE would mean that SMEs can set up their company in the same form, no matter if they do business in their own Member State or in another. Opting for the SPE will save entrepreneurs time and money on legal advice, management and administration. The SPE offers SMEs a very flexible yet transparent company form.

The proposed SPE Regulation will have to be adopted by a unanimous decision of the Member States in the Council of Ministers of the European Union. It also requires the approval of the European Parliament. The European Commission proposes that the SPE Regulation enter into force on 1 July 2010, but this will depend on the progress of the negotiations.

The SPE Statute was a priority for the French Presidency. The French Presidency came forward with a new compromise proposal in December 2008 that was considered by the current Czech Presidency as the basis for further negotiations. In the last few months technical discussions have advanced significantly in the Council. In parallel, the European Parliament adopted its report on the proposal in March 2009. The amendments proposed by the European Parliament may pave the way to a compromise in the Council. Consequently, it may be possible to reach a political agreement on the file before the end of 2009.

1.6. Japanese expatriates: transposition of Directive 2003/109/EC on long-term residence status and draft Directive on "intra-corporate transferees" (1-E-2)

and

1.7. Supporting timely development of business: smoother and swifter application procedures for obtaining work and residence permits (1-EJ-2)

1.7.1. Summary of recommendations

1) The BRT proposed that the future proposal for a directive setting out common procedures to regulate the entry into, temporary stay and residence in the EU of intra-corporate transferees (ICTs) include the possibility of submitting an application for work and residence permits after entering the

assigned country as well as automatic granting of the same rights to spouses of the permit holders as well as provisions on intra-EU mobility.

2) The BRT requested a state of play of the implementation of the Directive 2003/109/EC on long-term residence status in each Member State.

1.7.2. Actions taken and state of play

1) The proposal for a Directive on the procedures regulating the entry into, the temporary stay and residence of Intra-Corporate Transferees is foreseen for 2009.

2) The first report on the implementation of the Directive 2003/109/EC on long-term residence status will be presented in January 2011, as foreseen in Article 24 of the Directive. As a follow-up to this report, the Commission will propose, where necessary, amendments to the existing provisions.

1.7.3. Prospects for implementation

1) The intention of the Commission is to set up a specific scheme dedicated to ICTs which could provide for a fast-track procedure to enter into and stay in the territory of the EU Member States and facilitate the reallocation of international companies' key personnel within Europe. This scheme would include a swift processing of applications and favourable treatment as regards family reunification. It needs to be underlined that the draft proposal is still to be discussed internally and the content of proposal is not yet finalised.

1.8. Community Patent and Patent Prosecution Highway (1-E-3)

1.8.1. Summary of recommendation

1. The BRT urges the EU and its Member States to adopt and implement a Community Patent as soon as possible.

2. The BRT urges patent offices of other EU Member States as well as the European Patent Office to participate in the Patent Prosecution Highway (PPH), for the benefit of patent applicants both in the EU and in Japan.

1.8.2. Action taken and state of play

1. On the Community patent, three outstanding issues are currently being addressed by innovative solutions which have already won broad support: (a) the concept of automatic machine translations, (b) the renewal fee system for the Community patent and (c) the establishment of an enhanced partnership between patent offices in Europe.

As regards the proposal for a Patent Court, a draft Agreement on the European and Community Patent Court has been prepared and discussed intensively in the Council. The latest draft provides for an integrated and specialised jurisdiction with competence for litigation of European and

Community patents. At first instance, there would be decentralised (regional or local) divisions to hear infringement cases and a central division to hear disputes where validity of the patent is put into question. There would be a single second instance court which would be able to refer questions to the European Court of Justice for preliminary rulings.

On 24 March 2009, the Commission adopted a Recommendation to the Council that would provide the Commission with negotiating directives for the conclusion of the Agreement. Before, it is necessary to consult the European Court of Justice about the compatibility of the draft Agreement with the EC Treaty. Both the current Czech Presidency and the future Swedish Presidency endeavour to keep the momentum built up over the last 12 months.

2. The European Commission is concerned about the situation of the patent offices worldwide and their performance. The European Commission thus welcomes initiatives aiming at improving the efficiency of the patent granting process, such as the Patent Prosecution Highway (PPH). However, the PPH and other utilisation schemes would be considerably more efficient if there were more "global" substantive patent law harmonization and the same "claims' patterns" for the patent applications worldwide.

The European Commission notes that UK, German and Danish national patent offices have joined the PPH pilot project. The European Patent Office (EPO) and the United States Patent Office also started in September 2008 a Patent Prosecution Highway pilot programme.

The European Commission is concerned about the very moderate industry participation in the PPH network and continues to believe that efforts should be invested in rectifying the deficiencies inherent in the PCT framework. The European Commission would mainly support proposals that will not undermine the current PCT system or hamper its future development.

1.9. Fight against counterfeited, pirated and contraband goods (1-E-4)

1.9.1. Summary of recommendation

It is anticipated that the Commission will issue a report in 2009. The BRT would like to see further necessary steps such as possible proposals for modification of the Enforcement Directive with a view to step up efforts of all the EU Member States to fight against counterfeited, pirated and contraband goods, both inside and outside the EU.

1.9.2. Action taken and state of play

The European Commission is committed to fighting counterfeiting and piracy by employing a balance between education and enforcement. The European Commission is setting up a European Counterfeiting and Piracy Observatory, in line with the Resolution on a comprehensive EU anti-counterfeiting and anti-piracy plan adopted by Competitiveness Council in September 2008. The Observatory will play a central delivery role by

strengthening our knowledge base and promoting greater cooperation between national authorities involved in enforcement. The Commission is also developing structured stakeholder dialogues to identify and implement practical solutions that will tackle IPR infringements.

Regarding the Enforcement Directive, the European Commission shall draw up a report on its application, pursuant to article 8 of the Directive. The latter stipulates that each Member State shall submit to the European Commission a report on the implementation of the Directive by the end of April 2009. On the basis of those reports, the Commission will draw up a report, including an assessment of the effectiveness of the measures taken, as well as an evaluation of its impact on innovation and the development of the information society.

The report will be finalised by the end of the year 2009 and it will be followed by an evaluation of the Directive itself.

1.10. Competitiveness of the EU economy (1): customs classification for IT and non IT products (1-E-5)

1.10.1. Summary of recommendation

The BRT understands that the classification must be done in accordance with the Harmonized System Convention rules. However, the rules do not provide a clear method of classification for such products as electric-electronics products, where the technical convergence of IT and non-IT products has emerged. This situation makes interpretation and classification more difficult and complicated than ever, and has undermined transparency, predictability and promptness for businesses. It is requested that the EU continues efforts to take this initiative towards a substantive solution.

1.10.2. Action taken and state of play

The Harmonised System Convention rules provides the legal base for classifying products and includes the necessary mechanisms for updating the HS nomenclature and resolving disputes on classification issues. The EC has the necessary mechanism for ensuring transparency and predictability for business, for example by the mere existence of the European Binding Tariff Information System and its availability on the Internet.

1.11. Competitiveness of the EU economy (2): integrated approach for CO₂ reduction – passenger cars (1-E-5)

1.11.1. Summary of recommendation

The BRT supports the application of an integrated approach to reduce CO₂ emissions, which would involve all relevant parties (car industry, fuel sector, drivers, public authorities).

1.11.2. Action taken and state of play

The Commission's strategy of February 2007 to achieve the EU objective of 120 g/km CO₂ emissions endorses the use of an integrated approach consisting of vehicle technology (passenger car) measures, fuel efficiency of light commercial vehicles, the increased use of biofuels, tyre pressure monitoring systems, air conditioning systems, tyre rolling resistance and gear shift indicators. Of these the Commission has come forward with proposals on passenger cars (approved by Council and Parliament), the increased use of renewable fuels (approved by Council and Parliament), tyre pressure monitoring systems and tyre rolling resistance (approved by Council and Parliament). Proposals for light commercial vehicles and air conditioning systems are in the process of being prepared.

1.11.3. Prospects for implementation

In addition to the above strategy, the CARS 21 process will investigate the implementation of the other potential pillars of the integrated approach (eco-driving, traffic management, infrastructure) as part of the future regulatory approach in the 2020 perspective. The Commission is expected to come forward with proposals for the 2020 perspective in the 2014 timeframe.

1.12. Competitiveness of the EU economy (4): REACH (1-E-5)

1.12.1. Summary of recommendation

The BRT recommends that the EU government takes further actions for education and capacity building in developing countries for compliance with REACH (EU Regulation dealing with the Registration, Evaluation, Authorization and Restriction of Chemicals). The BRT also requests consideration by the EU government to establishing certain lead-times or grace periods for compliance in cases involving developing country parties in supply chains.

1.12.2. Action taken and state of play

Regarding the recommendation that further action for education and capacity building in developing countries, we note that the EC has been providing (and will continue to provide) technical assistance on REACH to developing countries upon request. In this regard, we refer for instance to the Asia Invest program that foresees substantial funding possibilities for capacity building in India, Pakistan, China, ASEAN countries in the chemicals sector, including for SMEs, and the integration of South and East Asian SMEs into the 'EU-Asia REACH Alliance' and 'EU-East Asia REACH Alliance'.

Additionally, it should also be noted also that the EC has made considerable efforts (guidance documents, tools, seminars, assistance from help desks) to help companies, including those from third countries, to better understand REACH.

Regarding the recommendation that certain grace-periods for suppliers in developing countries are introduced, we note that the REACH Regulation was adopted on 18 December 2006 and entered into force on 1 June 2007 but the obligation to register only entered into force on 1 June 2008. Consequently, economic operators have been given sufficient time to get acquainted with the provisions of REACH. Moreover, extended registration deadlines (up to 2018) apply to phase-in substances that are pre-registered. In this regard, it should be noted that pre-registration is a simple, free of charge process and that the pre-registration was open until 1 December 2008.

Likewise, the entry into force of the authorisation provisions of REACH was postponed until 1 June 2008. In addition, we note that the identification of substances that are subject to authorisation is done through a process that allows for comments from any interested party, including those from outside the EU. Although the process for inclusion of substances in the Annex XIV - which is the trigger for the authorisation requirement - has formally started, no substance has yet been included in the Annex. Moreover, it should be stressed that after a substance is included in Annex XIV, a sunset date would be given prior to which the substances may still continue to be used and placed on the EU market without an authorisation.

2. WORKING PARTY 2 – TAX AND ACCOUNTING ISSUES

Accounting issues

2.1. Recommendation 2-EJ-1

2.1.1. Summary of recommendation

The BRT asks the public authorities to ensure continuing wide-ranging dialogue among IASB, FASB and ASBJ with respect to the convergence of accounting standards. In addition, the BRT calls for cooperation of regulatory authorities such as security regulators in EU and Japan for the international competitiveness of financial and capital markets.

2.1.2. Action taken and state of play

The global acceptance of International Financial Reporting Standards (IFRS) is progressing. More and more countries are in the process of ensuring convergence between their national Generally Accepted Accounting Principles (GAAP) and IFRS or adopting IFRS directly.

The European Commission adopted on 12 December 2008 a decision, which recognised standards of the Japanese GAAP equivalent to the IFRS as from 2009. In addition, at the occasion of the most recent High Level Meeting on financial issues held in Brussels in April 2009, the Commission services welcomed Japan's draft interim report on the "Application of International Financial Reporting Standards in Japan", which includes considerations for future mandatory application.

From an EU perspective, Japan is one of the key partners in the area of accounting. We acknowledge the increased activities of the Japanese FSA, the ASBJ and the industry in the field of accounting, for example regular meetings with the IASB and FASB.

The European Commission intends to continue and intensify dialogue with Japan in order to make sure that there is an ongoing debate and exchange of views, e.g. regarding the issue of further convergence of accounting standards and necessary improvements regarding the governance of international standard setting bodies.

2.2. Recommendation 2-EJ-2

2.2.1. Summary of recommendation

The BRT asks IASB to pay more attention to the practical needs of market participants, including preparers, users and regulators, in order not to develop standards that are too theoretical. In this respect, IASB should not focus only on publication of comprehensive income (should not eliminate net income) and, in addition, should ensure wide consultation on further application of fair value accounting.

2.2.2. *Action taken and state of play*

The European Commission shares the concerns of the Japanese authorities regarding accounting standards developed by the IASB: new standards are expected to address practical problems and they need to respond to interests of different kind of stakeholders. The IASB thus needs to develop high quality standards that need to be understandable and practicable. The installation of the Monitoring Board should have a positive impact in this context.

The current financial crisis has demonstrated that accounting standards play an important role in the broader economic context. As a result, additional aspects (e.g. financial stability issues) need to be considered in the process of standard setting.

The project on financial statement presentation is crucial because it has serious implications for the presentation of financial information. There are concerns in the EU whether the elimination of net income would be acceptable. The IASB is about to develop a new approach based on the principles of cohesiveness and disaggregation. In this context, the IASB published a Discussion Paper in October 2008. The comment period ended in April 2009 and the IASB is now in the process of re-discussing the approach in the light of comments received. A final standard is expected by 2011. It is of utmost importance that views from stakeholders in the EU, Japan and elsewhere are seriously considered during this process.

The issue of fair value is very much in the focus of the debate. The financial crisis made clear that rethinking is necessary. The IASB is committed to undertake several projects, e.g.:

- a) revise the definition of fair value and add guidance regarding the use of fair value (Exposure Draft expected May 2009);
- b) revise IAS 39 completely with the aim to reduce complexity (Exposure Draft expected by October 2009);
- c) revision of IFRS 7 regarding disclosures of fair value

It is expected that the issue of fair value measurement will be under serious debate and subject to a number of consultations for the next few years. The accounting for financial instruments, but also the question of wider use of fair value is a key issue in the EU accounting debate and the Commission Services together with EFRAG are following this debate very closely.

Tax issues

2.3. Recommendations 2-EJ-3 and 4

2.3.1. Summary of recommendations

1. 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. The BRT hopes that the EU Member States and Japan will enter into common agreements on tax issues in order to fully enjoy the benefits of the single market.

2. The BRT recommends the establishment of a joint forum between EU Member States and Japan to harmonise and simplify interpretation and documentation requirements, and to make the conclusion of bilateral and multilateral APAs (advance price agreements) easier and cheaper by improving procedures.

2.3.2. Action taken and state of play

In principle, direct tax matters, as well as the conclusion of the agreements the text makes reference to, fall within the competence of the Member States of the European Union. Member States usually deal with these matters within the framework of bilateral conventions against double taxation with their partner countries.

Only very limited legislation in the field of direct taxation have been adopted at Community level. At EU level, legislative proposals in the field of direct taxation have as main objective to ensure a better functioning of the EU Internal Market in the cross-border relations between Member States. Only in exceptional cases and in the presence of a clear mandate unanimously adopted by the Council of the EU it is possible for the Community to negotiate the extension of the benefits of the EU legislation to countries which are outside the European Union.

Therefore, the recommendations from industry should be addressed to individual Member States rather than the Community.

3. WORKING PARTY 3 – INFORMATION AND COMMUNICATION TECHNOLOGIES (ICT)

3.1. Governments' Support towards Development of a Low-Carbon Society (3-EJ-1)

3.1.1. Summary of recommendation

ICT has a tremendous potential to mitigate the challenges of climate change, and to develop a low-carbon society. ICT services and solutions are fundamental to tackle climate change and can enable other sectors to reduce their own carbon footprint. Both governments are requested to develop measures and processes for the measurement of GHG reduction by ICT, which visualize the reduction effects to environmental burden, and thus improve persuasiveness to a market.

Both governments are recommended to establish an evaluation method of assessing contributive factors of ICT solutions to the climate change, to assess the multiple barriers (behavioural, needed upfront investments, lack of capabilities and skills and awareness) which need to be overcome

3.1.2. Action taken and state of play

The Commission has addressed the potential role of ICT in the development of a low carbon society in a Communication adopted in March 2009 entitled "Mobilizing ICT to facilitate the transition to an energy-efficient, low-carbon economy".

The Commission is in agreement with the roles of ICT as identified by WP3 of the BRT, namely that it can be used in energy accounting as well as in process management and optimisation. It is clear that on the one hand ICTs can be exploited to automatically optimise the energy consumption of all sorts of processes and on the other hand to facilitate and improve decision-making. The Commission has – in the Communication – highlighted a number of domains, notably, in buildings and construction, in transport logistics and in energy distribution, where ICTs can be exploited in these ways. It further proposes that cross-domain industrial partnerships be established to accelerate the uptake of ICTs and is ready to act as facilitator in discussions.

The Commission is supporting R&D to promote further innovation both in ICTs themselves as well as in their application for bring about efficiency gains.

The Commission has also highlighted the need for the ICT sector to remain vigilant in respect of its own carbon and energy footprints. It is now working with the ICT sector – through a number of sector associations - to establish a commonly agreed methodology for measuring the energy performance and carbon emissions of ICT systems. It has noted that there is a need for a 'common language' among companies when it comes to measurement of

energy performance and making claims in respect of carbon footprints, and that more transparency is needed. To this end a public consultation has been launched:

<http://ec.europa.eu/yourvoice/ipm/forms/dispatch?form=ICT4EE3>

The Commission expects to adopt more specific recommendations to the ICT sector as well as to Member States before year end.

Within this context, in March 2008, the European Commission and the Ministry of Economy, Trade and Industry of Japan agreed in a Memorandum of Understanding to establish a close research cooperation on Intelligent Transport Systems, including in research on the methodology to assess the impact of ITS for environmental energy issues.

3.2. Maintenance of the WTO's Information Technology Agreement – ITA (3-EJ-3)

3.2.1. Summary of recommendation

The BRT expresses 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. ITA signatories are obligated to bind and eliminate customs duties on covered IT products. However, it is noted that there are concerns around the world over ITA-covered products being taxed as dutiable and new convergence-technology devices are under threat of losing their zero-tariff status. As a priority, both governments should do their best to ensure that the maintenance of the current ITA is achieved. In addition, we encourage governments to work towards a wider global adoption of the ITA.

3.2.2. Action taken and state of play

On 16 September 2008 the EC presented a proposal for an update of the ITA. The proposal firstly concerns the removal of existing NTBs and the prohibition of new ones. The objective is to build on the ambitious NTB proposal tabled by the EC in the DDA round under NAMA, by promoting the recognition of internationally agreed standards, and the generalisation of the less burdensome ways for the assessment of conformity of IT products with regulatory requirements.

Secondly it calls for negotiations on the product coverage. Many ITA members agree that it is high time to review the product coverage. Technology development has significantly changed the product landscape since 1996 when the ITA was negotiated. There is also a need to establish new effective mechanisms to keep the agreement up to date and fit for the future.

Finally the proposal calls for inclusion of new members to the ITA to widen its geographical coverage. The proposal was discussed on 30 October 2008 in the ITA committee and the EC is currently further developing the proposal and intends to present this work and discuss it again in the ITA committee in the near future.

3.3. Development of a Dynamic Society with Next Generation Network – NGN (3-EJ-4)

and

3.4. Key Role of Regulations for Investment in Network (3-EJ-5)

3.4.1. Summary of recommendations

1. It is necessary to accelerate the utilization of Next Generation Network (NGN) through government support. Both governments are recommended to extend best practice sharing of network usage in each country and region, and analyze and share success factors and barriers, in order to expedite the network usage and to promote the development of a dynamic society.

2. The regulatory environment should provide incentives for network investment, allowing proper return on ICT investment.

3.4.2. Action taken and state of play

It is a major EU policy objective to boost the take up of high-speed broadband so as to accelerate the transition towards an open and technology neutral competitive digital economy in Europe.

There is an urgent need to develop an open, fully connected high speed European economy which can compete in the world that will emerge from the current economic crisis.

Europe's strategy is built on opening markets to competition. On the one hand this pro-competitive approach has so far provided incentives for new alternative operators to emerge, while on the other it boosted investment, particularly in technologies such as DSL, mobile broadband, broadband over cable - where cable is available – and more recently Next Generation Networks (NGNs).

Today, at a time when private investors are faced by uncertainties in global equity and capital markets, investment in high-speed networks has to be maintained in order to keep Europe on track towards a fully-fledged, sustainable digital economy based on open markets for e-communications services.

The deployment of NGNs is indeed a crucial component both for economic recovery and the future competitiveness of the EU, not only because ICT has been shown to be the basis of half the growth in EU productivity in the last decade, but also because the availability of high-speed broadband

infrastructures is the key to the creation of new jobs, new talents and new markets and, by lowering costs, can ultimately increase consumer welfare.

Today we are close to reaching an agreement on the new telecom regulatory package, which will also act as a stimulus for European economies, by enhancing regulatory predictability and legal certainty across the EU, thus providing strong incentives to invest in NGNs. Both with the current review of the regulatory framework and the ongoing work on the Recommendation for Next Generation Access Networks (NGAs), the Commission clearly intends to keep the roll-out of high-speed networks at the top of its agenda.

The strategy of the Commission encompasses fostering the internal market for telecommunications services, in a way that does not call into question the basic principles of the regulatory framework or of competition law, and without jeopardizing incentives to invest for any market player. In this respect on several occasions the Commission has acknowledged that the deployment of NGAs requires large capital outlays and entails a certain level of risk.

This is why it is crucial to set the right conditions in which investment can flourish and deployment of NGAs can proceed at an economically efficient pace. Nevertheless it is true that the deployment of high-speed infrastructures may not always be possible or viable for a sufficient number of competitors. As a consequence, the priority is to secure that market entry in the form of third party access is possible at all levels of the value chain.

Finally, the Commission aims to ensure an appropriate balance between both investment and competition imperatives, in which both passive and active remedies have a role to play, and ultimately between infrastructure-based and service-based competition. Therefore an important factor is to take due account of the risk incurred by the investing undertakings, in line with the recent conclusions of the European Council.

3.5. Accelerating Innovation by Convergence/Federation of Communication and Broadcasting (3-EJ-6)

3.5.1. Summary of recommendation

Both governments are recommended to create the institutional framework in each country, and have dialogues and collaboration to ensure international consistency. Specifically, the BRT suggests having discussions on promotion of international distribution of digital content, and a principle of non-discrimination about content regulation regardless of countries.

3.5.2. Action taken and state of play

The need to develop policies for an appropriate regulation of converging markets and services (that include telecommunications, media and information communications technologies) has already inspired the current EU electronic communications and audiovisual regulatory frameworks.

While there is no doubt that it is important to promote internationally models that take account of convergence in all its forms, when addressing the issue of the international distribution of digital content, public interest issues (such as access to local content, diversity of content and language) addressed by content regulations and policies cannot be overlooked.

In this respect, measures such as the majority share requirement for European works in broadcasting services provided for in the Audiovisual Media Services (AVMS) Directive (2007/65/EC), relate to the public interest objective of cultural diversity, an issue that needs to be addressed in the framework of the Community harmonised rules to ensure the good functioning of the EC internal market. The harmonised majority proportion requirement for European works in broadcasting services ensures that any operator established in the EU will not be subject to more restrictive or detailed rules in another EU Member State with respect to this aspect. At the same time, the flexibility left to the Member States by the "where practicable approach", enables them to take account of situations where it could be deemed justified to exempt certain channels from the majority rule.

The EU considers this requirement, based on cultural aims, to be compatible with openness to cultural exchanges and cooperation in the audiovisual field. The EU legislation provides a very wide and flexible definition of European works, which is open to cooperation with third countries on the basis of reciprocity. The new AVMS Directive further enhances such openness to international cooperation. It widens the definition of European works to include works co-produced within the framework of agreements related to the audiovisual sector, concluded between the European Community and third countries. This modification aims precisely at favoring new opportunities for cultural cooperation with third countries in the audiovisual sector and meeting new challenges in this area, for instance in the framework of the implementation of the UNESCO Convention on the promotion and protection of the diversity of cultural expressions.

Furthermore, under the Audiovisual Media Services Directive on-demand audiovisual media services ("non-linear" services) are not subject to the European content promotion requirement which applies to traditional television services, where the broadcaster establishes the programme schedule ("linear" services). For "non linear" services, the Directive only provides a political signal that such services should contribute to promote European productions and cultural diversity by mandating Member States to ensure that providers of such services " where practicable and by appropriate means, promote production of and access to European works ". Thus the Directive does not introduce "quotas" neither sets thresholds in this regard. The "where practicable approach" leaves the margin for manoeuvre necessary to take account of the specific characteristics of national audiovisual markets and avoid over-regulating new emerging "non linear" services.

3.6. Enhanced Cooperation for Security of Critical ICT Infrastructures (3-EJ-7)

3.6.1. Summary of recommendation

Both governments are recommended to assure reliability and robustness of their critical ICT infrastructures such as transportation system and financial system, which is a prerequisite for smooth business operations, and intensify dialogues between authorities of EU and Japan. This should include a close communication, including sharing their latest policies, at periodic conferences between EU and Japan for enhancement of international cooperation.

3.6.2. Action taken and state of play

With regards the recommendation 3-EJ-7 related to the security of Critical ICT Infrastructures, we would like to point out that the European Commission has recently adopted a Communication on Critical Information Infrastructure Protection (COM(2009) 149) which proposes a plan of immediate actions (from now to 2012) to enhance security, preparedness and resilience of critical ICT infrastructures across Europe.

In line with the recommendation 3-EJ-7, the Commission's communication on Critical Information Infrastructure Protection (CIIP) recognises that ensuring the reliability, security and resilience of ICT infrastructures, in particular those on which vital societal functions depend, is a global challenge.

Furthermore, considering the global relevance that the Internet has acquired in the past years, the action plan proposes to intensify international cooperation towards the definition of shared global principles and guidelines for the resilience and stability of the Internet via strategic cooperation with third countries. Japan is regarded as a key third country in that respect.

Another specific aspect of the CIIP action plan of relevance to the recommendation is the proposal to reflect on a practical way to extend at the global level the exercises being conducted to enhance preparedness for recovery and mitigation of large scale Internet incidents.

DG INFSO has already been in bilateral contact with Japanese representatives, namely from the Japanese National Information Security Centre (NISC), to explore possible cooperation in the CIIP area where potential mutual benefits could be achieved via exchange of good practice, cooperation on standards and contingency planning and exercises.

3.7. Protection of Intellectual Property via the Envisaged Anti-Counterfeiting Trade Agreement (3-EJ-8)

3.7.1. Summary of recommendation

ICT industry is strongly committed to protecting intellectual property rights, including copyrights and trademarks. Consequently ICT industry supports the involvement of the Japanese and the European Authorities in the negotiations of an Anti-Counterfeiting Trade Agreement (ACTA) that would provide for a high-level international framework strengthening the global enforcement of intellectual property rights.

ICT industry urges the Japanese and the European authorities to consult with ICT industry on the best way forward regarding the protection of goods and services of relevance for the ICT industry included within the scope of ACTA.

3.7.2. Action taken and state of play

COM has recently organised its second ACTA stakeholders' consultation, open to all – industry, citizens, media and representatives of third countries. Several ICT companies were present and active in the meeting. Furthermore, industry's input, including in the ICT sector has been and will continue to be taken into consideration during the negotiations.

On 6 April 2009, the EU, together with the other ACTA partners, issued a [Summary of key elements under discussion in the on-going ACTA negotiations](#)¹. This paper is intended to clarify the objectives of the proposed Agreement. It provides a detailed description of the elements suggested by the parties under the different headings and highlights the main issues that may constitute the body of ACTA.

3.8. Initiate a Dialogue on e-Government and Public Private Partnership (3-EJ-9)

3.8.1. Summary of recommendation

Japan and the EU should initiate a dialogue on e-Government and the role of the private sector in e-Government development, how partnerships between the public and private sector can be promoted in order to stimulate the e-Government development. Best practices at both EU and Japanese level should be exchanged and the establishment of joint initiatives and measures with the aim to eliminate trade barriers should be considered.

3.8.2. Action taken and state of play

The European Commission has been actively involved in eGovernment for many years. It has been a key element of the different EU Information

¹ http://trade.ec.europa.eu/doclib/docs/2009/april/tradoc_142745.pdf

Society strategies and has received funding under the past three EU Framework Programmes for R&D.

The i2010 Information Society strategy adopted in 2005 recognises the importance of eGovernment, and in 2006 the Commission launched an eGovernment Action Plan. With this Action Plan the Commission seeks to:

- accelerate the delivery of tangible benefits for all citizens and businesses;
- ensure that eGovernment at national level do not lead to new barriers on the single market due to fragmentation and lack of interoperability;
- extend the benefits of eGovernment at EU level by allowing economies of scale in Member States' initiatives and cooperating on common European challenges;
- ensure cooperation of all stakeholders in the EU in designing and delivering eGovernment.

This Action Plan will run until 2010. The Commission aims to present a new Action Plan after the current one expires.

Financial support to the objectives of the Action Plan is available through the ICT Policy Support Programme (ICT-PSP), part of the Competitiveness and Innovation Programme (CIP). Launched in 2007, it has provided 65 million Euros so far to support large scale and innovative pilots in the field of eGovernment. By stimulating the best use and wider uptake of ICT in public administrations, it aims to:

- improve the efficiency and effectiveness of public administrations and facilitating the interactions of citizens and businesses with them;
- open up new market opportunities for innovative ICT based solutions for governments and administrations.

Examples of projects include EU-wide pilots to test the interoperability of eProcurement solutions (PEPPOL²) and of Electronic Identity systems (STORK³). A number of Industry stakeholders are directly involved in these projects, and the involvement of industry is actively encouraged.

The ICT-PSP also supports the exchange of best practice in eGovernment through funding of the ePractice portal (www.epractice.eu). It is a good practice exchange scheme with a web portal, weekly newsletter, country factsheets, online library, practitioner profiles, events calendar and monthly workshops. With 16,000 members from public and private sector and over 1,000 cases, it has become the focal point for stakeholders from administration, industry and academia.

² www.peppol.eu

³ www.eid-stork.eu

4. WORKING PARTY 4 – JOINT STATEMENT ON WORLD TRADE ORGANISATION

4.1. Summary of recommendation

The BRT underlines that after seven years of negotiations it is now time to conclude the Round. However, European and Japanese businesses insist that support is conditional on negotiation of an agreement that truly liberalises trade among the major trading nations in a fair manner. A balanced deal means that both developed and emerging countries have to shoulder their responsibilities and commit to real trade liberalisation.

The BRT reaffirms its strong support to an ambitious and balanced outcome of the WTO DDA negotiations with real new market access for business. The BRT offers the support of its members and calls upon the European Commission and the Government of Japan to intensify their joint efforts in reaching a successful conclusion of the negotiations.

4.2. Action taken and state of play

Since these recommendations were issued, the EU has continued to make every effort to conclude the Doha Round. A Ministerial meeting was convened by Pascal Lamy, the Director General of the WTO, in Geneva in July 2008. This meeting enabled compromise to be identified for the vast bulk of outstanding issues necessary for the conclusion of Doha modalities. These compromises remain conditioned to agreement on the overall single undertaking. Compromise was notably found on: determining the Swiss formula coefficients for developing and developed countries; the NAMA anti-concentration clause; on determining the overall levels for agricultural trade distorting support; special products in agriculture. In many other areas, the outline compromises which might prospectively be agreed are much clearer and, overall, it can be considered that the vast bulk of the modalities negotiations are complete. Useful progress was also made in the services' area, further to the signalling conference held in Geneva during the July talks.

At this stage, outstanding issues for Doha modalities notably include: NAMA sectorals; the special agricultural safeguard clause for developing countries; cotton. Further to the July Ministerial, new negotiating texts were issued in December 2008 which further anchor the July compromises as a clear basis for concluding modalities. On this basis, the EU is making the strong case to its trading partners that concluding Doha is particularly necessary in the current economic crisis, both as a means of boosting the world economy and of instituting a strong insurance policy against trade protectionism.

The EU therefore remains firmly committed to achieving an ambitious, balanced and comprehensive outcome to the Doha Round as swiftly as possible on the basis of the progress already, including with regard to modalities.

5. WORKING PARTY 5 – LIFE SCIENCES AND BIOTECHNOLOGY

5.1. Summary of recommendations (5-EJ-1 to 5-E-5)

5.1.1. *Life Sciences and Biotechnology in general*

- Continue to promote, review and revise the biotechnology strategies of both governments.
- Significantly increase budget for promotion of public understanding of Life Sciences and Biotechnology.

5.1.2. *Healthcare and Life Sciences Biotechnologies*

- Plan and implement measures to stimulate innovations in pharmaceuticals and other healthcare industries by addressing barriers throughout the whole value chain including R&D and product pricing systems.

5.1.3. *IEB (Industrial and Environmental Biotechnology) and Plant Biotechnology*

- Develop cooperation between the EU and Japan to increase global competitiveness in bio-mass based and bio-fuel products:
- Further implement and enforce existing regulatory frameworks of EU government on GMO crops.

5.2. Action taken and state of play

5.2.1. *Healthcare and Life Sciences Biotechnologies*

The Commission shares the view that life sciences and the pharmaceutical industry being a major segment of this industry will be main drivers of growth and general welfare in the 21st century. Europe trying to reap the positive implications is called upon to face two secular trends and give an integrated and comprehensive policy response to the challenges associated with societal needs and globalisation. Another equally important objective is to create an environment which guarantees fair competition in world markets by bringing the regulatory environment of these emerging economies in line with international practices, including IPRs. The economic dimension has played a major role in the WHO talks on innovation and IPRs.

With regard to the High Level Pharmaceutical Forum it has to be noted that the last Ministerial Meeting concluding the 3 year exercise took place on 2 October 2008. The further success of the Pharmaceutical Forum will primarily rely on the implementation of the recommendations. In this respect, the Commission counts on the important constructive engagement of industry. A conference in order to disseminate the outcomes of the Pharmaceutical Forum towards patients groups was held in March 2009. During the one year reflection process in 2009 the Commission is taking

stock of the position based on the recommendations, the progress made since the G10 process, and new challenges that had arisen. Several specific reflection seminars will be organised on topics including aspects such as the changing business model of the pharmaceutical industry, global competitiveness, and the transformation of the pharmaceutical landscape, including subjects related to societal needs.

The Pharmaceutical Forum endorsed several reflection papers and adopted recommendations on the following topics:

– Relative Effectiveness

The Pharmaceutical Forum adopted general principles, good practices for relative effectiveness assessment and analysis on the availability of data which should contribute to ensure that relative effectiveness decisions are more transparent and consistent.

– Information to Patients

Based on a common understanding on needs and challenges in the field of information to patients on diseases and treatment options, the working group focussed on concrete elements which would support Member States and stakeholders in improving the access to and the quality of the information. Recommendations propose solutions to contribute to the improvement of information in healthcare settings, to the adequate use of the quality principles⁴ and to the practical implementation of partnerships and/or collaborations at the national level. Finally, members also agreed on the possibility of developing some strategic elements including the creation of a European library and coordination mechanism to support the implementations of its outcomes.

– Pricing and Reimbursement

Considering pricing and reimbursement issues, the Pharmaceutical Forum shared experiences in pricing policies towards the identification of solutions to common challenges.

Next steps

In 2009 experts meeting will continue to work on:

- Information to Patient: a network of experts continues with the involvement of Member States and stakeholders. Experts focus their activities on exchanging on practices, raising the visibility of initiatives, enhancing cooperation, or developing a proposal for a European Information Library.

⁴ On 26 June 2007, the High Level Pharmaceutical Forum endorsed the following quality principles for High quality information: objective and unbiased, patient-oriented, evidence-based, up to date, reliable, understandable, accessible, transparent, relevant and appropriate, consistent with statutory information.

- Pricing and Reimbursement: the new network of competent authorities on Pricing and Reimbursement, the Slovenian initiative, will not involve the stakeholders in its first phase. Meeting with stakeholders are foreseen on an ad hoc basis. Part of the work will also be continued in the Transparency Committee.
- Relative Effectiveness: various possibilities exploiting already existing initiatives are currently assessed.

5.2.2. *IEB (Industrial and Environmental Biotechnology) and Plant Biotechnology*

In response to the recommendation dealing with the development of cooperation between the EU and Japan to increase global competitiveness in bio-mass based and bio-fuel products, it should be stressed that the Commission is conducting the Bio-Based Products Lead Market initiative, which aims to promote the expansion of markets for products based on renewable raw material, and to encourage the development of industry standards that will ideally be harmonised internationally.

The Commission continues to implement the legislative framework for GMO authorisation in accordance with the legal provisions. Proposals for a seeds threshold and a solution to zero tolerance are under preparation by the competent Commission services.

Research is ongoing as concerns the development of GM crops engineered to resist droughts, improve nutritional value or increase yields, including with EU's financial support. GM crops commercially available have been genetically modified to resist pests or to tolerate certain herbicides, and can indirectly contribute to increased yields. In any event, the EU legal framework provides for a pre-marketing authorization of GMOs on the basis of a scientific assessment of their potential effects on human and animal health and the environment (irrespective of the type of genetic modification). This is also the case in other parts of the world.

Developing countries

The factors that led to food insecurity need to be analyzed in detail. Doubling yields/production alone is not the solution. The management, use and distribution of those yields need to be geared towards improving food security. The priority is rather to enhance water efficiency, promote the production of less water demanding crops, more efficient irrigation technologies, leakage repair and prevention, reducing evaporation with cover plants, improving the water retention capacity of soils. Improved crops can be obtained through various techniques that range from conventional breeding to genetic modification.

It is important to develop sustainable agricultural approaches adapted to local and regional needs, notably in developing countries (e.g. in some cases GM crops may alter traditional farming techniques, notably for smaller farmers, if not adequately integrated in a framework that takes account of

local specificities and needs). This has been confirmed by a UN study carried out by the International Assessment of Agriculture Knowledge Science and Technology for Development in February 2008, which concluded that GMOs are not as such the solution for poverty, hunger or climate change.

6. WORKING PARTY 6 – SUSTAINABLE DEVELOPMENT

6.1. Introducing a system for promoting energy-efficiency (6-EJ-1a to 6-EJ-1c)

6.1.1. *Summary of recommendations*

To promote the development and production of energy-efficient products, equipments, facilities, and fuel-efficient vehicles and to promote their spread, the EU-Japan BRT has asked the Commission and the Japanese government to *introduce policies and measures that support and promote the dissemination of energy-efficient products and equipment in offices and homes and energy-efficient houses and buildings.*

6.1.2. *Action taken and state of play*

The implementation of the Action Plan for Energy Efficiency, proposed by the European Commission in October 2006, continued since the last EU-Japan Business Round Table. The Plan, which aims to save 20% of energy consumption in the EU by 2020, includes 75 measures such as minimum energy performance requirements and labelling for appliances, equipment, buildings, vehicles and energy services; targeted actions to improve efficiency in generation and transmission in the energy transformation sector; correct pricing and coherent energy taxation; and increased public awareness. The Commission will evaluate the Action Plan in 2009 and subsequently prepare a revised Plan.

Under the Eco-design Directive, the Commission has adopted 5 regulations setting minimum efficiency requirements on standby power consumption of electrical and electronic equipment, on public street lighting, commercial and domestic sector lighting equipment, on external power supplies and on simple set-top boxes for televisions. A committee composed of national experts endorsed another 8 measures setting both Eco-design and Energy Labelling requirements for electric motors, circulators, televisions and refrigerators and washing machines, and they should be formally adopted within the coming months. Together these measures are expected to result by 2020 in annual energy savings around 350 TWh. The Commission is working on establishing minimum efficiency and/or labelling requirements for more than 20 additional product groups, including boilers, water heaters, air-conditioning equipment and computers. In addition, the Commission has tabled a proposal for the introduction of a labelling scheme for tyres, promoting fuel efficiency (low rolling resistance) of road vehicles.

The directive on the energy performance of buildings (EPBD), in force since January 2003, aims to provide for an ambitious step-ahead to increase the energy performance of public, commercial and private buildings in all Member States. In November 2008, the Commission has tabled a proposal for extending the scope of buildings covered and to reinforce several provisions.

Energy efficiency is one of its focus areas of the Energy Dialogue between the Commission's Directorate-General for Energy and Transport and Agency for Natural Resources and Energy (ANRE) of the Ministry of Economy, Trade and Industry of Japan. At the most recent meeting in February 2009, both sides provided updates on the recent legislative and policy developments in the energy efficiency field, including proposals tabled by the European Commission on energy performance in buildings and the implementation and amendments to Japan's Energy Conservation Law. It was agreed that the future meetings of the Dialogue will look in-depth at the energy efficiency in buildings as well as at the link between energy and transport policies.

Improved knowledge and technical cooperation in the field of energy efficiency in appliances and construction has also been expanded in the context of the Regulatory Reform Dialogue set up with Japan. The EU energy efficiency labelling and eco-design directives, as well as the EC regulatory policy on energy efficiency in buildings have been regularly focused in the RRD meetings.

Finally, throughout the 2008 and in the context of the Japan G8 Presidency, the Commission and the Government of Japan have worked closely on establishing the International Partnership for Energy Efficiency Cooperation, a high level forum for enhancing and coordinating joint efforts to accelerate the adoption of sound energy efficiency improvement practices globally. The declaration announcing the establishment of IPEEC was signed by the G8 along with China, India and South Korea at the meeting of the G8 Energy Ministers in Aomori, Japan, in June 2008. The launch of the operational activities of IPEEC is envisioned to take place at the meeting of the G8 Energy Ministers on 24-25 May 2009 in Rome.

6.2. Reduction of reliance on fossil fuels (6-EJ-2a to 6-EJ-2d)

6.2.1. Summary of recommendations

The BRT has stressed the importance of *promoting diversification of energy sources and reducing the reliance on fossil fuels*, including through actions to spread the use of renewable energy by lowering costs through technological development and government policies and to promote the use of nuclear energy including by strengthening efforts to ensure safety and restore citizen's trust. Regarding biomass energy and bio-fuels, the BRT stressed that food supply for consumers should not be affected.

6.2.2. Action taken and state of play

The development of renewable energy - particularly energy from wind, water, solar power and biomass - is a central aim of the EU energy policy. Increasing the share of renewable energy in the energy mix has an important role to play in reducing carbon dioxide (CO₂) emissions and enhancing sustainability, but also helps to reduce the Community's growing dependence on imported energy sources.

In 2008, the Community agreed on a new legislative package on climate change, including the Directive on the promotion of the use of energy from renewable sources. This package will be formally adopted in May 2009. The new Directive on renewable energy sets binding national targets for Member States, which add up to a 20% share for renewable energy in the EU energy mix in 2020. This implies a sharp increase from the current 8.5% in the EU mix. Furthermore, the Directive sets a binding 10% share of renewables in transport for each Member State. The new Directive includes cooperation mechanisms to promote cost-efficient realisation of the target and obliges the Member States to tackle grid issues and administrative barriers.

The Directive also introduces a sustainability regime for bio-fuels and bio liquids used by Member States to count towards their national target. The sustainability regime consists of minimum standards for greenhouse gas savings and protection of land with high biodiversity value or high carbon stock. It also includes reporting requirements on soil, water and air protection as well as on social criteria.

The EU Member States are free to choose their energy mix, including the use of nuclear energy. Nuclear energy will continue to play an important role in the EU's overall energy mix. At EU level, efforts focus on further developing the most advanced framework for nuclear energy in those Member States that choose nuclear power, in conformity with the highest standards of safety, security and non-proliferation as required by the Euratom Treaty.

The Commission adopted on 26 November 2008 a revised proposal for a Council Directive (Euratom) setting up a Community framework for nuclear safety. It is based on the principles and requirements of the Convention on Nuclear Safety (CNS) and of the International Atomic Energy Agency (IAEA) Safety Fundamentals. The general objective of the proposal is to achieve, maintain and continuously improve nuclear safety and its regulation in the Community and to enhance the role of the regulatory bodies.

A new directive 2006/117/Euratom on the supervision and control of shipments of radioactive waste and spent fuel was adopted by the EU Council in 2006. It extends the scope of application of the previous directive 92/3/Euratom to spent nuclear fuel. The Directive was to be transposed by Member States by 25 December 2008.

On 5 March 2008, the European Commission adopted a Decision establishing the standard document for the supervision and control of shipments of radioactive waste and spent fuel referred to in Council Directive 2006/117/Euratom. The standard document shall be used for all shipments within the scope of the Directive.

Likewise, a Recommendation establishing criteria for the export of radioactive waste and spent fuel to third countries was adopted on 4 December 2008. The proposed criteria aim to enable the Member States' competent authorities to evaluate whether or not a third country to which

exports are not prohibited has the ability to manage the waste or the spent fuel safely.

Policy developments in the energy field, including diversification of energy sources, are addressed in the framework of the EU-Japan Energy Dialogue. The recent dialogue meeting provided an opportunity for the EU to present the agreed climate change package and for the Japan to update on the implementation of its existing laws and policies to promote new energy, including the Action Plan for Promoting the Introduction of Solar Power Generation.

6.3. Development of innovative technologies (6-EJ-3a and 6-EJ-3b)

6.3.1. Summary of recommendations

The BRT considers global partnerships among industry, government and academia fundamental for developing breakthrough energy technologies and therefore asks the Commission and Japanese government to *take the initiative in establishing mechanisms for technological development.*

6.3.2. Action taken and state of play

Energy technologies such as renewable technologies that are not yet economically viable, including second generation bio-fuels and offshore wind are currently promoted in the EU by the 7th Research and Development Framework Programme. Increased market deployment is promoted by the Competitiveness and Innovation Programme (CIP) 2007-2013.

A European Strategic Energy Technology (SET) plan was presented by the Commission in November 2007. The main goal of the SET-Plan is to accelerate the development and implementation of low carbon technologies. It focuses on improving joint planning of research, making better use of the potential of the European Research and Innovation area and fully exploiting the possibilities opened up by the Internal Market. In particular, the Plan includes the commitment to set up a series of new priority European Industrial Initiatives focusing on the development of technologies for which working at Community level will add most value.

DG Research of the European Commission, in particular its' Energy Programme, jointly organised with the Japanese Ministry of Economy, Trade and Industry (METI) in cooperation with the New Energy and Industrial Technology Development Organisation (NEDO) of Japan a strategic workshop on Energy Research and Technological Development in Tokyo in March 2009. This workshop was organised within the context of continuing efforts to promote scientific and technological cooperation between the EU and Japan within the field of non-nuclear energy research. The European and Japanese scientific experts came together to discuss research areas within PV, power storage and CCS with view to identifying topics with potential for cooperation and discussing possible forms of cooperation.

The Commission and Japan also cooperate within the framework of various international organizations and initiatives, aimed to promote technological development in the energy field. The International Energy Agency, for example, is currently in the process of developing technology roadmaps for 17 key technologies, which will identify the steps needed to accelerate energy technology development and uptake, including where there is scope for greater international collaboration. Both the Commission and the government of Japan contribute to this process.

6.4. Technology transfer to emerging and developing countries (6-EJ-4a and 6-EJ-4b)

6.4.1. Summary of recommendations

The BRT recommends for the Commission and the Japanese government to work together to *enhance mechanisms for technology dissemination to developing countries*, particularly China and India.

6.4.2. Action taken and state of play

The EU's 7th Research and Development Framework Programme foresees international energy cooperation. The SET-plan underlines the need to take our international cooperation on energy technology to a new dimension. The measures proposed in the Plan should bring about a reinforced international cooperation strategy.

At this moment some important cooperation projects are already ongoing, for instance the EU is cooperating with China on a Carbon Capture Storage (CCS) demonstration plant. With India, the recently launched European Business and Technology Centre in Delhi, India, will assist the business, science and research community in Europe and India to work together towards generating new business opportunities in clean technology transfer and establishing business relevant cooperation in the field of research, science and technology.

Research and technology development are frequently on the agenda of the policy dialogues in energy field between the European Commission and developing countries.

6.5. Post-Kyoto Protocol framework (6-EJ-6a to 6-EJ-6e)

6.5.1. Summary of recommendations

The BRT asks for the Commission and the Japanese government to take the lead together in establishing an international framework for the post-Kyoto Protocol that goes into effect in 2013.

6.5.2. Action taken and state of play

In January 2009, the European Commission adopted its "Copenhagen Communication", which sets out proposals for key elements of the

Copenhagen agreement. These relate in particular to: (1) criteria to ensure the comparability of developed country targets; (2) options to engage developing countries in reducing the growth of their emissions; and (3) the key issue of financing to tackle the climate challenge. The Environment Council on 03 March 2009 endorsed the main ideas in the Communication.

Comparability of developed country targets

To ensure that all developed countries emission reduction commitments are comparable in ambition, the EU proposes that their contributions are assessed against four possible criteria: ability to pay for reductions; mitigation potential; early efforts to cut emissions and population trends.

Important conclusions from the EU's work on targets are that using a single comparability criterion always disadvantages some countries. It is, thus, preferable, to look at a number of criteria that allow addressing specificities of all. Looking at mitigation opportunities alone is not enough, we also need to look at the ability to pay: wealthier countries can and should take on deeper targets, even if they are already more efficient.

The cost of emission reductions can be substantially lowered via the carbon market. The EU wants to see the Clean Development Mechanism (CDM) substantially reformed so that it credits only those projects that deliver real additional reductions and that go beyond low cost options.

Moreover, for highly competitive sectors in the big emerging economies the CDM should be phased out and replaced by a sectoral crediting mechanism that would generate credits once a whole sector does better than an agreed emissions benchmark. Carbon crediting mechanisms could contribute one third or more of the additional investment needed to mitigate emissions in developing countries.

On the basis of these criteria, all developed countries should collectively reduce their emissions to 30% below 1990 levels by the year 2020. The EU call on all OECD countries and other countries at comparable level of development to consider taking up similar targets.

Developing country mitigation actions

The EU proposes that developing countries draws up "Low Carbon Development Strategies", recognising that developing countries as a group should reduce the growth of their collective emissions to 15 to 30% below their business as usual trajectory by 2020. Those strategies should map out concrete actions to limit their emissions, and indicate any support required to implement those actions. Strategies should be assessed by a Coordination Mechanism, to ensure they are ambitious enough and to match this ambition with appropriate support.

Financing

We must significantly step up financing and investment to tackle climate change. A large part of these investments will be carried by developing countries themselves. Developed countries will however need to significantly increase their support. The bulk of this will have to come from the private sector and through the carbon market. Part of this will however also need to come through additional public investment.

The EU is still discussing its financial contribution to the Copenhagen Agreement but has already announced the EU readiness to take its fair share.