

Japan's Priority Proposals
For Regulatory Reform in the EU
(Tentative Translation)

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Government of Japan

Japan's Priority Proposals for Regulatory Reform in the EU

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Table of Contents

Japan's Priority Proposals for Regulatory Reform in the EU -----	1
<u>A . Cross-sectoral Issues</u>	
1. Business practices, commercial laws, and competition policy --	2
2. Standards and certification -----	3
3. Employment -----	5
4. Trade and customs -----	6
5. Information and intellectual property -----	7
<u>B . Sectoral Issues</u>	
6. Legal services -----	8
7. Telecommunications -----	9
8. Financial services -----	12
9. Automobile -----	14
10. Construction -----	15
11. Tourism -----	16
<u>C . Issues Concerning Environment and Food Safety</u>	
12. Environment -----	17
13. Foodstuffs, TSE, and pet foods -----	19
<u>D . Treatment of Japanese Residents in the EU</u>	
14. Driving licences -----	21
15. Business stays and work visas -----	22
16. Social security -----	26

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The GOJ has reviewed the requests of last October that covered 120 items in 20 areas covering four areas of regulations concerning cross-sectoral and sectoral issues, environment and food safety, and Japanese residents in the EU.

The GOJ screened and narrowed them down to 48 items to make a priority list. Two items were added to the priority proposals, and the items that need to be addressed total 50 in 16 areas.

For your reference, the item number of the October proposals is added to each corresponding item in these priority proposals, and the two new items are marked with a star(*).

A . Cross-sectoral Issues

1. Business practices, commercial laws, and competition policy

1.1. Early adoption of the draft directive that allows the establishment of Societas Europaea (European Company Law Directive) (as stated in 4.(6) of the Deregulation Requests of October 2000)

The draft directive, that would enable a multinational enterprise to operate throughout the EU without setting up subsidiaries in each Member State, if it establishes a company in the form of an SE (Societas Europaea) in one Member State, was first proposed in 1970, so it has not been adopted for over thirty years. It is known that completion of the directive in the early stage of 2001 was agreed among EU Member States at the Nice European Council in December 2000. Therefore, the GOJ requests the EU to disclose new information and concrete prospects of conclusion of the directive, because it recognises that early adoption of the directive will contribute to effective business activities in the EU.

1.2. The draft directive concerning offset of profits and losses across the border in the EU (as stated in 4.(7) of the Deregulation Requests of October 2000)

Currently it is not generally possible for a company resident in one EU Member State to offset losses incurred by its subsidiaries in other Member States. Although a draft directive was proposed in 1991 to address this issue, no progress has been made to date. Therefore, early adoption of the proposed directive is desirable to facilitate further investment in Europe. The previous EU reply was that there were no prospects of it being adopted in the foreseeable future. The GOJ would like the EU to explain the progress that has been made so far, as well as the latest future prospects.

1.3. Prudent operation of requests to third-party companies for failure to provide information concerning investigation of M&A (newly requested)

With regard to the European Commission's investigation of M&As, there were found to be some cases in which third-party companies, which are not involved in the M&A, are fined pursuant to Regulation 4064/89 because they unintentionally failed to meet the Commission's request for providing information about the M&A or because the information they provided was insufficient or incorrect. Furthermore, despite such a situation, there are also some cases in which such a warning as "You shall be fined if you don't abide by our request" is not indicated on the Commission's request form. Therefore, in view of the fact that Japanese companies are unsatisfied with the situations as they feel that compelling third-party companies to provide information in detail is very burdensome, and in view of securing fairness concerning competition between European and Japanese companies, the GOJ requests that the EU will exercise utmost prudence, fairness and transparency on contents of information, deadline for submitting reports, and in imposing fines upon third-party companies and that the EU will report to the Japanese Mission cases in which Japanese companies may be subject to such fines.

2. Standards and certification

2.1. Export of plant machinery to EU countries (as stated in 5.(8) of the Deregulation Requests of October 2000)

When machinery is imported into Europe, it has to be readjusted to meet European CE safety standards even if its safety has been assured in Japan. As national safety regulations under CE safety standards differ from one country to another, some Japanese companies face lots of inconvenience in readjusting machinery to meet various safety standards. The GOJ requests that national safety regulations be harmonized.

2.2. Construction of the European Conformance Assessment Agreement (ECAA or PECA) between the EU and Central and East European countries (as stated in 5.(6) of the Deregulation Requests of October 2000)

Japan requests early conclusion of the European Conformance Assessment Agreement (ECAA or PECA) with Central and East European countries. In the course of concluding the agreement, it is requested that the EU makes efforts to ensure that Central and East European countries would integrate the related EU Directives in the same manner and in the same interpretation as EU countries, since some Central and East European countries require foreign companies to comply with their national legislation in addition to the EU directive, which results in increased costs for these companies.

2.3. Inspection system of machinery in the European market (as stated in 5.(7) of the Deregulation Requests of October 2000)

Some importers sell machinery that is not in compliance with related European directives in the European market and clearly shows the non-compliance. The GOJ continuously requests that the information on inspection methods to check such non-compliance and penalties for such violations taken by each Member State be disclosed so as to give companies an incentive to comply with the related EU directives.

2.4. Disharmony of recycling and collecting obligations (as stated in 5.(5) of the Deregulation Requests of October 2000)

In its latest response in April, the EU acknowledged benefits of unifying recycle marking and collection systems, which vary among the EU Member States. However, it is said to be difficult to achieve this unification because of differences in cultures and waste policies among the Member States. When foreign manufacturers want to meet the environmental requirements of every Member State, they have two choices. One is that they adopt the toughest requirement of all. This means that manufacturers have to bear excessive cost in all Member States except one. The other is that they manufacture various types of one product to meet the requirements of every country. This means that they cannot mass-produce them and consequently

bear excessive cost.

As to the recycling system of the EU, we know efforts are being made to set EU standards by the Directive on Waste Electrical and Electronics Equipment (WEEE) and others. Regarding recycle marking, however, no standardized EU system has been established. For example, Germany has a very strict collection system of Ni-Cd batteries, while others do not, and Japanese companies report that such differences in battery collection systems make their operations inefficient and confusing. Therefore, the GOJ continues to request the harmonisation of recycling, marking, and collecting systems among the Member States, including that of batteries.

3. Employment

3.1. General comments on the European employment situation and efficient labor markets (as stated in 14 of the Deregulation Requests of October 2000)

Employment regulations and labor practices in Europe are, in general, much stricter in many respects than in Japan. Many Japanese companies operating in Europe are faced with a number of difficulties concerning the dismissal and transfer of employees, as well as their work hours and wages. These difficulties may not be necessarily attributable to undue "regulations" or to discrimination against foreign countries. However, efficient labor markets are beneficial also to Europe itself. Japan reiterates its requests, therefore, that these existing difficulties be solved properly.

3.2. Permanent employment system in Spain (as stated in 14.(2)(d) of the Deregulation Requests of October 2000)

Spanish laws allow employers and workers to conclude temporary labor contracts for no longer than six months for workers who engage in specific construction works or jobs, or are hired to meet prosperous market demands. When these temporary workers are continuously employed at the same company after the termination of the contract, they are regarded as permanent employees. This makes it impossible to hire seasonal workers for a necessary period when needs arise, causing inconvenience to personnel management of Japanese companies. The GOJ requests that this system be abolished.

3.3. Regulation for protecting representatives of employees in Belgium (as stated in 14.(4)(e) of the Deregulation Requests of October 2000)

Companies cannot dismiss those employees who run for election as employees' representatives until the next election four years later, even if their work performance is poor. These candidates are protected regardless of the results of the election. The GOJ requests that proxy and unsuccessful candidates should be treated in the same way as ordinary employees, by amending the regulation.

4. Trade and customs

Inappropriate application of AD rules (as stated in 15.(5) of the Deregulation Requests of October 2000)

As in the case of components of television cameras, the European Commission, by its own initiative, conducts anti-dumping investigations even without enough evidence, obstructing business activities in the private sector. The GOJ requests that the EU conduct careful deliberation before the opening of authoritative investigations that may disturb business operations.

With regard to personal fax machines, the expanded definition of the product is currently under re-examination by the European Commission. However the re-examination should be made only for judging if the anti-dumping taxation should be continued. The GOJ requests that new procedures for anti-dumping should be taken when the definition of the product is in question.

5. Information and intellectual property

5.1. EU directive concerning protection of data bases (Directive 96/9/EC) (as stated in "Other Issues" (2) of the Deregulation Requests of October 2000)

The EU directive concerning protection of data bases adopted in 1996 covers only nationals of the EU Member States, residents in the EU area and companies established by laws of the EU Member States with offices within the EU area. However, as nowadays data base delivery services can easily be done by third countries without offices in the EU area, there is no need to have offices within the EU. Due to this directive, Japanese companies are forced to open offices within the EU area, necessitating extra cost. The GOJ requests that the EU amend the directive so that data bases of companies with no office in the EU can be protected as well.

5.2. Personal Data Protection Directive (as stated in 17. (1) of the Deregulation Requests of October 2000, respectively)

The EU implements measures that require the EU Member States not to permit the transfer of personal data to countries and regions that do not have sufficient regulatory provision for the protection of personal data. The measures include the Personal Data Protection Directive, which took into effect in October 1998.

As a result, Japanese companies' subsidiaries operating in Europe might be regulated in transferring information, such as recruitment and customer data, to their head offices, and their business activities could thereby be hampered. Japanese industries have been introducing self-regulation for protecting personal data in accordance with the MITI guideline, JIS Q 15001, and Privacy Marks scheme, and the GOJ is also working on legislation for protecting personal information. The GOJ requests the EU to positively handle the issue so as to ensure the freedom of transfer of personal data between Japan and the EU.

5.3. Copyright law in Germany (as stated in 17.(2) of the Deregulation Requests of October 2000)

The copyright law allows private copying as an exception in Germany, and those making copies for personal use by using copying machines, scanners, and tape recorders have to pay levies (Verguetung) to the GEMA (Gesellschaft fuer Musikalische Ausfuehrungs).

Since January last year, 17 marks have been charged to every CD-W/RW, and in July the GEMA notified personal computer manufacturers that 41 marks will be imposed on every personal computer they produce. It is unreasonable to levy a compensation on machines that are not made exclusively for copying or recording. The GOJ requests Germany to improve this system.

B . Sectoral Issues

6. Legal services

General comments (as stated in 1. of the Deregulation Requests of October 2000)

Sincerely responding to EU requests made during a series of Japan-EU dialogues on regulatory reforms, the GOJ has taken all possible measures, including the amendment of the law concerning foreign lawyers. On the other hand, it is quite regrettable that few improvements have been made on the EU side in response to Japan's requests.

Expecting the strong initiative of the European Commission, as the representative of the EU Member States, the GOJ requests that the laws concerned be revised to the effect that Japanese lawyers are permitted to provide legal services easily and extensively in all EU Member States.

6.1. The establishment of a system in France whereby foreign lawyers are able to provide legal services with regard to their own country's laws (as stated in 1.(1) of the Deregulation Requests of October 2000)

The GOJ has made a request to the EU that France establish a system that would allow foreign lawyers to engage in the provision of legal services pertaining to their own country's laws without taking any special examination, as is duly permitted in Japan under the Special Measures Law Concerning the Handling of Legal Business by Foreign Lawyers.

According to replies from France at the meeting on March 2 and in the EU reply dated April 10, 2000, foreign lawyers have to pass the French bar examination, held in France in the French language, in order to provide legal services concerning home countries' laws.

The French reply does not fully address Japan's request. In addition, the above-mentioned Japanese law does not require foreign lawyers to take any examinations. The French requirement is inappropriate from the viewpoint that the systems of both countries should be equal to each other. The GOJ stands by its original request.

6.2. Permission for providing legal services in Germany whereby foreign lawyers are able to provide legal services pertaining to laws of third countries (so-called "third-country law") (as stated in 1.(2) of the Deregulation Requests of October 2000)

According to replies from Germany at the meeting on March 2 and in the EU reply dated April 10, 2000, Japanese lawyers cannot engage in services involving third-country laws but can practice with third-country laws by co-operating with lawyers from the third country in Germany.

Germany's reply fails to clearly indicate any rational reason why foreign lawyers are not permitted to engage in legal services pertaining to third-country laws. It also fails to address Japan's request for deregulation so that foreign lawyers be allowed to handle third-country laws. The GOJ stands by its original request.

7. Telecommunications

7.1. General comments: Issues in the area of telecommunications regulations in Member States

The European Commission published the "Sixth Report on the Implementation of the Telecommunications Regulatory Package" in December last year, in which a number of issues in the area of telecommunications regulations in Member States are raised.

The GOJ highly evaluates the detailed research and analysis in the report.

The GOJ requests, in particular, prompt improvement on the following issues raised in the report.

(a) The implementation of "reference interconnection offer (RIO)" is insufficient since the RIOs are still in some cases published or approved late, in other cases they do not cover all the services demanded by the market.

(b) New entrants in many Member States continue to experience difficulties in obtaining rapid and equitable interconnection.

(c) In many Member States, license fees are still high. While there have been some attempts to moderate fees, the high one-off fees are reported to be continued.

(d) Regarding Local Loop Unbundling (LLU), failure to provide a wholesale offer or any delay by dominant carriers puts new entrants at a disadvantage in competition. In addition, shared access, in which dominant carriers continue to provide traditional telephony services while new entrants rent high bandwidth spectrum and deliver DSL services using their own equipment, is not yet provided in any Member State.

7.2. Interconnection in the EU and Germany (as stated in 8. (1) of the Deregulation Requests of October 2000, respectively)

(a) Based upon Article 7-3 of "The Interconnection Directive" (Directive 97/33/EC), national regulatory authorities are obliged to work out the "reference interconnection offer (RIO)" and to ensure its publication. The GOJ requests the European Commission to take necessary measures for the timely publication or approval of the "RIO" against those countries which do not establish "RIO" adequately responding to market needs in the utmost expeditious manner (within CY 2000). In addition, the GOJ requests the European Commission in this procedure to clearly indicate that "the period for interconnection (including access to unbundled interconnection points in local loops)" should be included in the conditions of the "RIO" and to indicate it to all Member States.

(b) With regard to interconnection rules in Germany, the European Commission responded at the meeting held in March last year in Brussels that it was studying the German government's reply to the European Commission's advice. The GOJ requests the European Commission to inform us of the content of the German response and the results of the study. The GOJ also requests the European Commission to explain in concrete terms the current situation of the discussions with the German government.

In Germany, the "interconnection basic supply" (interconnection - grundangebot) published in the official gazette of the Regulatory Authority for Telecommunications and

Posts and "other conditions" that are published on the extranet have been established as the "RIO" prescribed in "The Interconnection Directive" (Article 7-3 and 14). However, the standard period for interconnection is not clearly indicated in the German RIO (reference interconnection offer between Deutsche Telecom and other telecommunication operators). This leaves room for DT to delay its negotiations with other telecommunication operators intentionally if it is willing to.

The GOJ requests the German government to include the period for interconnection in the "RIO" in the utmost expeditious manner (within CY 2000).

7.3. Licensing fees in Germany and France (as stated in 8. (2) of the Deregulation Requests of October 2000)

Licensing fees in Germany and France still remain extremely high. They are obstacles for new entrants to the telecommunication markets and restrict fair competition. In Germany, for example, a license fee for the nationwide telephone service costs DM3,000,000. In France, the licence fee for nationwide ordinary telephone service is FF750,000 at the time of application and another FF750,000 as an annual administration fee. This administration fee was cut into half in January last year, but still the total amount remains relatively high. Also, this administration fee is imposed on carriers annually. This constitutes an excessive burden and obstacles in both countries for new entrants to the telecommunications market.

The GOJ requests that both German and French governments take appropriate measures in the utmost expeditious manner (within CY 2000) to address the problem. The GOJ also requests the European Commission to ensure that the two governments would address the problem.

The European Commission responded to the GOJ that it had received a reply to its advice from the German government and was studying it. The GOJ requests the European Commission to make a concrete explanation of the content of Germany's reply and of the current situation of discussions with the German government. The GOJ also requests the European Commission to explain in concrete terms the current status of discussions with the French government, including schedules for improvement of the situation.

Regarding the "Administrative Charges" stipulated in Article 12 of "the proposed Directive of the European Parliament and the Council on the authorisation of electronic communications networks and services", which was published in July last year, the GOJ requests the European Commission to clarify the extent of administrative costs to be covered by licensing fees before the proposed directive would take effect.

For your reference, a licensing fee (tax for registration and licensing) in Japan is merely ¥150,000 (about DM2,580 or FF8,650).

7.4. Disclosure of information by the European Commission (as stated in 8. (3) of the Deregulation Requests of October 2000)

It is acknowledged that the European Commission regularly reviews how Member States implement the series of regulations concerning the promotion of competition in the telecommunications market and releases the findings to the public as the "Report on the Implementation of the Telecommunications Regulatory Package".

In these reports, the Commission says it will not hesitate to take actions under the infringement procedures stipulated in the treaty, that established the European Community, with a view to ensuring the implementation of relevant directives. However, it only reports the number of cases under infringement procedures.

Reporting only the number of cases is insufficient to implement the directives effectively. It is important for the European Commission to disclose broader information about the infringement cases. This information should include the progress of infringement procedures and the development of discussions between Member States and the European Commission as mentioned in requests (2) and (3).

The GOJ requests the European Commission to work out a system to disclose information about the situation concerning infringement procedures in the utmost expeditious manner (within CY 2001).

8. Financial services

8.1. Introduction of EU common procedures in financial business (as stated in 9.(1) of the Deregulation Requests of October 2000)

Japan requests that, without requiring additional procedures, the EU Member States automatically approve business activities, products, licences and others that have already been approved by one Member State. Japan also requests that it will be acceptable to fill in the application forms of financial supervisory bodies in each Member State in English. It is burdensome for companies to make applications in forms, languages, and contents that differ from one country to another, and thus the current situation constitutes an obstacle for their business operations.

8.2. Unified treatment of both EU and non-EU banks, including the issue of unequal treatment of non-EU banks in France (as stated in 9.(3) of the Deregulation Requests of October 2000)

(a) Regarding large loan regulations, in cases where Japanese banks open branches in Portugal, Austria, Luxembourg, and the Netherlands, they are not given the same status as branches of EU Member State banks. The upper limit of exposure that the Japanese bank branches can extend is calculated only on the basis of the fictitious capital of those branches. Therefore, the maximum amount of each loan those Japanese banks can extend is severely limited, and thus they are at a disadvantage against their EU-based competitors. The latest EU reply said that the problem will be solved if Japanese banks establish subsidiaries within the EU. The GOJ is not satisfied with this solution which restricts the freedom of corporate management. The GOJ requests that the calculation of the upper limit of bank exposures be made on equal capital basis, regardless of the location of head offices. Although Japanese banks have no branches in the above-mentioned countries except in the Netherlands, Japan stands by its original request that the EU countries should supervise banks in a unified manner, regardless of the location of their head offices, in order to secure the freedom of business operations in the future.

(b) France unequally treats banks depending upon the location of their head offices. To ensure the freedom of business management forms, the GOJ requests France to treat both EU and non-EU banks equally.

<Some examples of unequal treatment in France>

Non-EU banks are required to submit applications and to obtain permission for opening branches. (Branches of EU banks are required only to submit reports in advance.)

Non-EU banks are required to prescribe fictitious capital. (Branches of EU banks are not.)

The branches of non-EU banks are required to subscribe to deposit insurance. (Branches of EU banks do not have to.)

Moreover, branches of foreign banks are also required to pay for insurance and to be a part of the French relief scheme in the same manner as French banks, and insurance payments are calculated based on outstanding loans. No other countries, including Japan, have such a system. Therefore, the GOJ requests France to improve the situation.

(c) In addition, the GOJ requests France concerning its financial supervising as follows:

(i) Asset assessment in France (as stated in 9.(4) of the Deregulation Requests of October 2000)

There are no written standards for assessing a bank's assets in France, so inspectors have a great deal of discretion in assessing the required reserves of banks. In some cases, administrative instructions concerning loans to a single business partner differ from one inspector to another. Supervising, including assessments of assets, is extremely important to manage banks, and the GOJ requests the clarification of rules in statutory form to make them transparent and clear.

(ii) Regulation on current ratio in France (as stated in 9.(6) of the Deregulation Requests of October 2000)

A foreign bank is required to calculate the current ratio by subtracting standby L/Cs given by its head office from the net money supply to the branch. (The net money supply is the balance between the money supplied to the branch and the money raised through the branch.) The foreign banks are in a disadvantageous position in calculating the current ratio. The GOJ requests that this regulation be relaxed or abolished.

9. Automobile

9.1. Establishment of the WVTA system for motorcycles and commercial vehicles (as stated in 11(5) of Deregulation Requests of October 2000)

The GOJ requests the WVTA system currently covering only passenger cars should also be applied to motorcycles and commercial vehicles by working out details for implementation.

9.2. Application of ECE13H (United Nations ECE standards on break) (as stated in 11.(3) of the Deregulation Requests of October 2000)

Japan has learned that a draft decision of the Transport Council concerning U.N. ECE13H is to be discussed at the Council this fall. Japan would like to have information on the progress of the draft decision. In connection with the WVTA directive, Japan assumes that the directive would be amended to follow ECE13H. The GOJ requests that the WVTA be obtainable at the same time as the ECE standards are adopted.

9.3. Regulations concerning pedestrian safety (as stated in 11.(7) of the Deregulation Requests of October 2000)

Although the EU is independently working out regulations to protect pedestrians, it should work in concert with Japan, the United States and other countries to establish harmonised standards under the framework of the IHRA (International Harmonised Research Agenda). The GOJ requests that the legislation process be transparent and that the Japan Automobile Manufacturers' Association (JAMA) be allowed to participate in the deliberation of the legislation. The GOJ also requests that some arrangements be made to allow Japanese car manufacturers to gain access to the information that European makers can obtain.

9.4. Speed meter directive (2000/7/EC) (as stated in 11.(9) of the Deregulation Requests of October 2000)

Our interpretation of the directive concerning speed meters is that the regulations will be applied to all motorcycles at the time of registration beginning in July 2000. There is no lead time for those models that have already been approved. As a consequence, manufacturers have to remodel them to meet the directive, necessitating extra costs. The GOJ requests that the EU ease the lead time. Among some past directives, there is a case in which the lead time was changed to one year later than the original schedule (93/91EEC).

10. Construction

Management of the construction business in Belgium (as stated in 10.(a), (b) and (c) of the Deregulation Requests of October 2000)

(a) Simplification of procedures for operating the construction business in Belgium (as stated in 17. of the Deregulation Requests of November 1998)

In order to conduct construction business in Belgium, it is necessary to obtain a certificate of approval of business activities in each category of business, as well as to obtain a registration of contractor that is necessary in each of the 28 sub-categories of construction. Applications for certificates and registration must be presented at different offices, and it is necessary to obtain both certification and registration in each category of business. These complicated procedures increase entry costs. The GOJ reiterates its requests that the application for both of them be integrated or should be submitted at the same office and that both the number of categories of business for certification and the number of sub-categories for contractors' registration be reduced by integrating them. According to the reply of the Belgian authorities in April 2000, the Belgian Minister for Foreign Relations sent letters to finance and construction ministers. The GOJ requests Belgium to explain if any progress has been made after the said letters were sent.

(b) Draft directive concerning the registration of constructors

According to the reply of the European Commission in April 2000, it is currently working on a draft directive that would enable any companies duly registered in one Member State to carry out construction business with the registration also in any other Member State. The GOJ would like to have a detailed explanation of the work schedule of this draft directive.

(c) Payment system of construction fees in Belgium

Constructors receive only 70 percent of the construction fees from their clients in Belgium when they are not registered, because the clients have to pay 15 percent as a tax to the taxation authorities and another 15 percent as social debts to the social insurance agency. The GOJ would like to have a detailed explanation on the necessity of this system and to request that the system be either abolished or improved.

11. Tourism

Abolition of nationality requirements for tour guide licences in Italy and Spain (as stated in 6. of the Deregulation Requests of October 2000)

According to the legislation on tour guides in Italy and Spain, only EU nationals can obtain tour guide qualifications. While the EU explained that the nationality requirements for tour guides in these countries are covered by the GATS schedule of the EC and its Member States, Japanese tourists visiting these countries are compelled to hire local guides who do not speak Japanese in addition to Japanese tourist conductors who speak Japanese and thus are forced to pay totally redundant costs.

(a) According to the reply of the European Commission in April 2000, Spain explained that the conditions of tour-guide services by third-country nationals shall be provided by bilateral agreements. The GOJ requests that Spain take a flexible position and abolish or ease the nationality requirement for tour guide licences without such a bilateral agreement. In addition, since, at the moment, tour guides have to be employed regardless of the size of tour groups, the GOJ requests that groups existing of nine tourists or fewer should be exempted from this requirement. Moreover, according to the same reply of the European Commission, it is mentioned that tourist guide services are regulated not by the central government but by each local government. However, in order to improve the situation where irrational problems are existing, the GOJ requests the central government to instruct or advise the local governments by, for example, issuing a guideline.

(b) According to the reply of the European Commission in April 2000, the Italian presidential directive dated August 31, 1999, suggests that it is legally possible for non-EU nationals to obtain tour guide licences. Yet Japanese nationals so far have been unable to obtain them. Italy is requested to clearly explain procedures and qualifications for obtaining tour guide licenses.

C . Issues Concerning Environment and Food Safety

12. Environment

General Comments

The GOJ has learned that the EU is working out the Directive of End of Life Vehicles. Japan fully acknowledges the importance of environmental issues and supports the EU's efforts to lighten the burden imposed on the environment by discarded cars.

The GOJ and the car industry, however, are still concerned about parts of the directives.

The EU is also working on the Directive of Waste Electronics and Electrical Equipment (WEEE) and the amendment of the Directive of Batteries and Accumulators. The GOJ fully understands the importance of environmental issues and supports the EU's efforts to lighten the burden imposed on the environment by waste from electronic and electrical equipment.

However, the GOJ and the electronic and electrical industry are still concerned about parts of the directives.

12.1. Requests concerning the amendment of the Directive on batteries and accumulators (as stated in 16.(1) of the Deregulation Requests of October 2000)

(a) The GOJ requests the EU to ease the limit of percentage of mercury content in button-type batteries for sales from one percent to two percent, since there are a number of products, such as hearing aids, that need batteries containing one percent or more of mercury.

(b) The GOJ requests the EU to ease the limit of percentage of cadmium content in batteries from 0.0005% or more to 0.002% or more, given the unavoidable residue of cadmium that occurs inside materials used in primary batteries. The GOJ also requests that nickel cadmium batteries should be excluded from this regulation, since no alternatives exist to replace Ni-cd batteries in the majority of cases.)

12.2. Requests concerning the Draft Directive of End of Life Vehicles (as stated in 16.(2) of the Deregulation Requests of October 2000)

The GOJ would like the EU to confirm that this directive applies only for vehicles that have newly received type approval.

The current list of exemptions from substances prohibited to use is inadequate because, in many cases, alternative substances are not available or the lead time for research is required. Therefore, the GOJ requests that the list of exemptions be expanded.

The following are examples of parts and materials that should be added to the list of exemptions.

- Bearing shells made of lead or bronze and pistons (lead)
- Coatings (lead) for fuel tanks
- Wheel balancers (lead)

- Piezo~electric elements (lead)
- Lubricants and oils (lead)
- Glass (lead)
- Polymers (lead)
- Fluorescent tubes (mercury)

12.3. Substance ban (as stated in 16.(3) of the Deregulation Requests of October 2000)

With regard to the draft directive of the WEEE and the Restriction of Substance Ban (ROS), which the European Commission adopted on June 13, 2000, we support its objectives, such as control of the abandonment of electronic and electrical equipment and the restriction of hazardous material. However, if these regulations concerning the banning of substances and recycling rates contained in the draft directives are applied to all kinds of electronic and electrical equipment, the necessity for such regulation and technical possibility for the application should be examined in all products. For example, the GOJ thinks that regulations on the removal of lead from electronic and electrical equipment and components, and conversion of substance materials with a moratorium, are not achievable in the light of the level of current technology. For this reason, the current draft might not meet the requirement of WTO/TBT 2.2., which requires that technical regulations shall not be an unnecessary obstacle to international trade. The scope of the regulation, i.e. the range of electronic and electrical equipment and components that are under the regulation, should be clarified and made technically feasible. For this reason, the EU should hold thorough consultations with Japanese companies that supply electronic and electrical equipment and components in Europe.

12.4. Waste Law in the Flandre Region, Belgium (as stated in 16.(4) of the Deregulation Requests of October 2000)

The Waste Law of the Flandre Region in Belgium, which took effect on July 1, 1999, regulates waste vehicles, tires, and white and brown goods. The provisions of the law stipulate the classification of computers and computer monitors as "brown" goods and other demanding regulations for electronic companies.

This law is considered as a duplication of the draft WEEE Directive that is under study by the European Commission. Especially as the law stipulates the "obligation to collect" which has been disputed and deleted from the third draft of the WEEE Directive, the enforcement of the law should be suspended until the WEEE obtains a consensus from all Member States.

13. Foodstuffs, TSE and pet foods

13.1. Lifting of ban on scallop exports (as stated in 19.(1) of the Deregulation Requests of October 2000)

With regard to the lifting of the ban on scallop exports, the GOJ has completed the procedures that had been agreed between Japan and the EU, and the GOJ notified the EU on June 28, 2000. The GOJ has been requesting inspection by the Health and Consumer Protection DG and Food and Veterinary Office, which are responsible for inspections as early as possible.

The GOJ is disappointed that Japan is not included in the Food and Veterinary Office Programme of Inspections 2001 (from January to June) announced in January 2001. The GOJ requests the revision of the inspection programme.

13.2. The easing of the criteria and their flexible implementation with regard to the structure of facilities and sanitation control for exporting aquaculture products, including processed food, to the EU (as stated in 19. of the Deregulation Requests of November 1998/October 2000)

Exporters of aquaculture products from Japan to the EU are required to meet the criteria on structure of processing facilities and on sanitation (Directive 91/493/EEC). Japan recognizes that the EU criteria is based on the philosophy of HACCP, as well as that of the U.S. The EU criteria, however, require to build a physical partition between areas of different work processes to prevent crossing pollution, while the U.S. criteria stipulates that substantial prevention measures, such as staggering work hours of different processes, are good enough. They are more flexible and rational than those of the EU.

To fulfill the EU criteria, Japanese producers of aquaculture products have to invest a large amount of money for constructing additional equipment compared with their investment for products intended for the U.S.. Consequently, the export of aquaculture products to the EU is extremely difficult. For example, only 12 processing plants are approved in the EU, while more than 126 factories are in operation with U.S. approval.

According to the EU criteria, only those facilities approved by the exporting country's government agency are permitted to export aquaculture products to the EU. However, according to the U.S. criteria, facilities are allowed to export aquaculture products to the U.S. if the exporting country's government agency or a certification body etc. guarantee that the facilities manage and produce their products in accordance with HACCP. The EU is asked to flexibly implement the regulations concerning criteria and approval of facilities in view of to the flexible implementation by the U.S..

13.3. Prohibition of the use of Transmissible Spongiform Encephalopathies (TSE) risk materials (as stated in 12. of the Deregulation Requests of October 2000)

The European Commission has been conducting country-wise assessments of the BSE risk status and it is expected the assessment for Japan will be conducted as usual.

As we reported at the Japan-EU Regulatory Reform Dialogue in March last year, mad

cow disease has never broken out in Japan, since strict measures are enforced to prevent infectious diseases from entering into Japan. We also report our status to the International Office of Epizootics (OIE).

In February 1998 the GOJ submitted papers on the TSE status of Japan to the European Commission and in October 1999 additional data was submitted.

According to the EU official bulletin dated June 30, 2000, four-rank assessments will be conducted to find out BSE risk status of every country, and the Scientific Committee completed the risk assessments on August 1 this year, covering 23 countries.

During the Regulatory Reform Dialogue in March 2000, the EU said that the second assessment meeting would begin in March and Japan's participation is expected. It seems that this meeting has not started yet. The EU is requested to explain the procedures of risk assessment toward Japan as well as future prospects. We request that the BSE status assessment toward Japan be conducted immediately and Japan be removed from the list of food restrictions containing specific harmful substances.

13.4. Abolition of the prohibition on the import of pet food into the EU (as stated in 13. of the Deregulation Requests of October 2000)

Imports of pet food from Japan into the EU have been prohibited on the grounds that Japan is not on the list of third countries, on the basis of which the import of pet food is allowed. In May 1998 the Permanent Mission of Japan to the European Union in Brussels requested the European Commission, through a note verbal, to place Japan on the third-country list. No progress has since been made to resolve this problem. The GOJ requests the EU to take prompt action to allow Japanese pet food exporters to resume the export of their products as in the past.

D . Treatment of Japanese Residents in the EU

14. Driving licences

Requests concerning EC Directives on Driving Licences (as stated in 3. of the Deregulation Requests of October 2000)

On July 29, 1991, the Council of the European Communities adopted the Council Directive on Driving Licences (91/439/EEC) (hereafter referred to as the EC Directive), and the EU Member States were to make and amend their domestic laws based on the EC Directive. In almost all the Member States, as a result of the amendment of legislation and/or the enactment of new legislation, Japanese driving licences are confiscated when licence holders apply for local driving licences in those countries. As the treatment of driving licences issued by a third country is a matter of Member States' discretion, there is no standardised EU procedure, and some countries confiscate third-country licences and destroy them later, while others keep and return them when applicants leave their countries. The GOJ continuously requests that driving licences issued by the Japanese authority be returned at the time of issuing a local licence. (The request is submitted by Japanese residents in Germany, France, Britain, Italy, Luxembourg, Switzerland, Belgium, Denmark, Portugal, and Spain.)

The EU has recently proposed that the Japanese authority should allow Japanese nationals to drive in Japan by attaching a photocopy of his/her Japanese driving licence to the one issued in the EU. The GOJ is unable to accept a proposal that conspicuously lacks reciprocity between Japan and the EU, and violates the Japanese Road Traffic Law and other regulations.

15. Business stays and work visas

【Issues of residence and work visas in Italy, Spain, Greece, Germany, France, and Belgium】 (as stated in 2.(1) , (2), (4) , (5), (10), and (11) of the Deregulation Requests of October 2000)

15.1. Residence and work visas in Italy (as stated in 2.(1) of the Deregulation Requests of October 2000)

(a) According to Italy's reply, residence permits are issued within 20 days after applications are submitted. The focal point of the GOJ's request is to shorten the time that applicants have to wait to obtain permits. However, it still takes an average of three months to obtain the permit. In some places, moreover, applicants have to queue up at application windows, standing for a long time. Italy is requested to improve such a system, among others, by issuing reception number cards to applicants so that they do not have to wait in line.

(b) Documents required for work visas differ from one official to another or from one office to another. Such a situation seems to have been created because changes of rules are not thoroughly implemented at local offices. Italy is requested, therefore, to clarify the documents required for work visas by, among others, issuing a guideline clearly describing what are necessary, and to keep officers in charge well-informed and to make them follow the instructions.

(c) Officers handling residence permit applications at foreign affairs sections of local police stations often do not understand English. The GOJ hopes that Italy will make utmost efforts to assign as many English-speaking officers as possible to foreign affairs sections of local police stations.

(d) When spouses of Japanese expatriates in Italy apply for a residence permit separately, they actually have to prepare 13 different kinds of documents, not only a certificate of spouses as stated in Italy's reply, and have to wait 60 days to receive a receipt of the documents before applying to the Italian Embassy in Tokyo. This causes a tremendous burden to those spouses of Japanese expatriates in Italy. Italy is again requested to improve such time-consuming and complicated procedures.

(e) Resident registration is required to purchase an automobile in Italy, and it takes much time to obtain a residence permit, a prerequisite for resident registration. Italy is once again requested to improve the procedure, among others, by dropping the resident registration from the requirement for purchasing an automobile. Italy is also requested to explain what "remedial actions" in its reply means.

(f) The place of birth is regarded as important in Italy. The Italian translation of a copy of the applicant's family register has to be submitted each time to obtain official certificates, such as work visas. Italy is requested to simplify the procedures. In Japan, a copy of the family register is required in applying for a passport, and passports are issued only after having verified the identification of the applicants in the family register. Therefore, the permanent

residence indicated in the Japanese passport is trustworthy, so the government of Italy can check the place of birth by referring to the passport.

15.2. Work visas and related problems in Spain (as stated in 2.(2) of the Deregulation Requests of October 2000)

(a) In Spain, a work visa applicant must present a non-criminal certificate issued by the police authorities from all the countries where he or she has resided in the past five years up to the date of the application. For Japanese applicants who have lived outside Japan, such a requirement is quite time-consuming and complicated. In its reply on April 10, the European Commission apparently says that a certification by competent authorities of the home country is good enough. The GOJ requests the EU to confirm that a single non-criminal certificate issued by competent Japanese authorities should be sufficient when Japanese citizens apply for a work visa.

(b) By and large, visa issuance is getting less time-consuming than it used to be, but it still takes an average of three months. Spain is requested to speed up visa issuance.

(c) Japan has learned that Spain is deliberating the revision of the law concerning foreigners. The GOJ expects its requests to be taken into account in the deliberation of the law.

15.3. Work visas in Greece (as stated in 2.(4) of the Deregulation Requests of October 2000)

Greece has the following regulations in granting work permits to non-EU citizens: (a) a company has to employ at least five EU nationals to hire one non-EU national, and (b) a company employing five EU nationals or more must maintain the employment ratio of EU nationals to foreign nationals at 10 to 1. (In case that non-EU nationals are either executives or those who have specific technological or scientific knowledge or skills, these requirements are not applied.)

At this moment, no Japanese companies are facing this particular problem, and the Greek government replied that it would take note and study the Japanese request. However, the investment environment in Greece for foreign companies, including Japanese, would be much improved by relaxing the regulation. Japan reiterates its request that such regulations be abolished. In addition, Greece is requested to shorten the lengthy processing time for work visa.

15.4. Improvement of the work permit system in Germany (as stated in 2.(5) of the Deregulation Requests of October 2000)

Without a multi-entry visa, Japanese businessmen have had to apply for both residence and work permits upon entering Germany before their work visas expire, and unless having obtained residence and work permits, they have been unable to travel to countries that have not signed the Schengen Treaty. The GOJ and the embassy of Germany in Japan discussed the problem after the Japan-EU Regulatory Reform Dialogue in March 2000. As a result, the problem was solved and the GOJ highly evaluates the progress made so far.

However, as a result of the reform of the German law concerning foreigners in December 2000, it has become different from state to state whether to permit the making of applications for stay and work permits in Germany through a proxy before the applicant enters Germany. Therefore, the GOJ requests that the making of applications for stay and work visas through a proxy should be permitted in all states. The GOJ also would like to ask that

work visas may be issued from the German embassy or general consul in Japan to Japanese applicant if he or she so wishes.

As for the formality of work permits, the period of validity, for example varies from one state to another, which causes inconvenience in business operations. The GOJ requests the government of Germany to standardize the formality of work permits through all states.

In addition, while there is no limit on the working period for German young people who stay in Japan for a year under the system of the Japan-Germany working holiday, there is 90-day limit on the working period for Japanese young people who stay in Germany for a year. The GOJ requests that this restriction be abolished.

15.5. Work visa in Belgium (as stated in 2.(10) of the Deregulation Requests of October 2000)

(a) It used to take three or four weeks to obtain a work permit in Belgium, but recently the situation has worsened. Now it takes about six weeks. Some documents, including certification of academic background, which had not been necessary before, were added to the list of required documents in 1997. Belgium is requested to shorten the processing time for work permits and to simplify required documents.

(b) Japanese members of the board at local companies are required to obtain a professional card upon the issuance of a work visa. Since it takes several months to obtain the card at the Belgian Embassy in Tokyo, expatriates in most cases obtain work permits in Japan and, after arriving in Belgium, apply for professional cards to change their status. Changing status in Belgium is also time-consuming. Belgium is requested to speed up the procedure for issuing professional cards.

(c) In some cases, the maximum length of the validity of a work permit for younger business executives is limited to four years. This presents an obstacle for Japanese companies to assign young engineers with expertise in, for example, information technology to Belgium. Belgium is requested to abolish this work permit limitation.

15.6. Improvement and speeding-up (simplification) of issuance, extension, and renewal of business stay permission and work visa in France (as stated in 2.(6) of the Deregulation Requests of October 2000)

The GOJ appreciates the improvement in procedures in France concerning the entries of Japanese expatriates' family members, as well as those concerning long-term permits of residence and work visa issuance. Yet applicants still have to wait at least two months to obtain work permits and one month to renew their residence permits. In some cases, the time-consuming procedures cause difficulties for Japanese expatriates and companies in moving to France as well as in arranging personnel reshuffles. The procedures also make it almost impossible to address urgent and emergency situations.

In addition, we have learned that bringing family members of expatriates to France takes at least six months under the current procedures. France is requested to further shorten processing time and simplify the procedures. France is also requested to extend the validity period of residence permits from the current one year to two years. Moreover, as it has often been reported that required procedures differ from one official to another, the GOJ reiterates its request that such a situation be corrected.

15.7. Foreign business identity card in France (as stated in 2.(4) of the Deregulation Requests of October 2000)

(a) Non-EU nationals are required to obtain business identity cards, that is "la carte d'identité de commerçant étranger" when they assume a position on the board of directors of a French company. However, the documents necessary for the application are numerous. Moreover, they differ from one province to another, which makes the application procedure even more complicated. Necessary documents include, for example, non-criminal certificates both by Japanese and French authorities, curriculum vitae, a non-bankruptcy written oath, a non-criminal written oath, certificates of bank balance, etc. In addition, some provinces require a copy of a portion of the person's family register, diploma and other documents. The GOJ requests that application documents for "la carte d'identité de commerçant étranger" should be simplified and standardised throughout France.

(b) In addition, it takes four to five months to obtain this identity card and it has to be renewed every year. France is requested to extend the validity period of "la carte d'identité de commerçant étranger" to two or three years.

16. Social security

16.1. Exchange of information concerning social security (as stated in 18. of the Deregulation Requests of October 2000)

In European countries that have not concluded social security agreements with Japan, Japanese businessmen are required to pay for social security in accordance with national legislation. As they are also obliged to pay for social security in Japan, they are actually doubly paying social security. Many Japanese companies still claim that this imposes an extra burden on them and has been an obstacle to their investment to the EU. To solve the problem, the GOJ has already concluded social security agreements with Germany and the United Kingdom. Preliminary negotiations are underway with France. Some countries including several EU member states are also calling on Japan to start negotiations for a social security agreement. Japan is prepared to promote information exchanges with a view to opening negotiations with European countries, according to the order of priority, taking into account the state of people's exchanges between Japan and those countries.

16.2. Uniform application of social security within the EU (as stated in 18. (1) of the Deregulation Requests of October 2000)

When people emigrate from one Member State to another, they find the application for social security is different and the standards of taxation assessment are also different. Procedures are complicated and they have to bear additional costs. Therefore, social security should be uniformed throughout the EU.