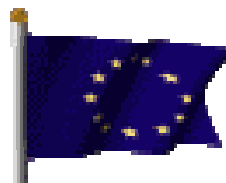
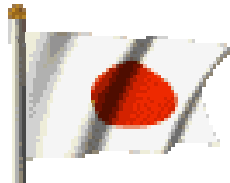


Japan's Proposals For Regulatory Reform Dialogue in EU



November 11, 2004

**Japan's Proposal
For Regulatory Reform Dialogue
— Tentative List of Proposals —**

November 2004

★ : New Proposal EC : Proposal to EC, M.S. : Proposal to Member States

A. Cross-sectoral Issues

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2. Legal framework at EU level allowing cross-border mergers 【EC】
3. A European Private Company Statute 【EC】
4. Corporate social responsibility (CSR) 【★,EC】
5. Consultation procedures in EU member states 【★,EC,M.S.】
6. Introduction of prior confirmation procedures for the application of laws and ordinances in the EU “No action letter” 【★,EC】
7. Labeling the country of origin for EU products 【★,EC】
8. Treatment of accumulated losses in Spain, France and Italy 【EC, Spain, France, Italy】
9. Improvement of the legal framework for regulating commercial transactions in Spain 【Spain】
10. Simplification of the application procedures provided in the Commercial Law in Austria 【Austria】
11. Amendment procedure of the corporate statute in Germany 【Germany】
12. Elimination of the payment of the goodwill value in Germany 【★,Germany】
13. Relaxation of the conditions for the conversion of corporate form in France 【★,France】
14. Relaxation of the commercial registration in the Czech Republic 【★,Czech】

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【Spain】
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13. Extending the term of validity of student visas in Denmark (Japanese schools in Denmark) 【★,Denmark】
14. Extending the period that students are allowed to work under student visas in the UK 【★,England】
15. Expediting and simplifying the process of issuing residence and work permits and extending their term of validity in the Czech Republic 【★,Czech】
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Japan-EU Regulatory Reform Dialogue —Japan's Proposals to the EU—

As of November, 2004
Economic Integration Division

Foreword

1. Introduction

Japan and the European Union (EU) bear increasingly large responsibilities in maintaining the stability of the global economy and in its development. Furthermore, the economy and society of both sides are in the process of transformation, due to the steady advancement of structural and regulatory reforms under the Government of Prime Minister Koizumi in Japan and continued efforts by the EU to achieve the targets set by the Lisbon Strategy by 2010. Under these circumstances, the Japan-EU Regulatory Reform Dialogue has been increasing its importance as a framework for two-way dialogue for enhancing trade and investment relations between Japan and the EU. The Dialogue has promoted regulatory reform and improvement of the business environment of both sides and contributed to the development of Japan-EU economic relations.

2. Agreement at the Japan-EU Summit and confirmation of the significance of the Japan-EU Regulatory Reform Dialogue

Launched in 1994, the Japan-EU Regulatory Reform Dialogue entered a new decade with this fiscal year. At the 13th Japan-EU Summit held in June 2004, the Japan-EU Regulatory Reform Dialogue was confirmed as a uniquely successful and adaptable instrument for dealing with regulatory issues affecting the business environment. In addition, the Cooperation Framework for Promotion of Japan-EU Two-Way Investment issued at this Summit acknowledged that dialogue and cooperation between the regulatory authorities were vital for promoting two-way investment. Against this background, Japan and the EU should utilize the Japan-EU Regulatory Reform Dialogue more vigorously as an effective tool for developing economic relations between Japan and the EU.

3. Evaluation of Japan's Priority Proposals for Regulatory Reform in EU in FY2003

Regarding the dialogue in FY2003, the Government of Japan (GOJ) values the attendance of the representatives from EU Member State governments at the meeting in Brussels in February 2004 in order to respond to some of Japan's requests, and appreciates the mediatory role played by the European Commission (EC). This year, the GOJ requests that Member State governments participate more actively in the Regulatory Reform Dialogue process, especially concerning the matters under the competences of the Member States and hopes that the EC will further continue its efforts to encourage the engagement of the Member States.

The GOJ appreciates that there were several concrete progress with respect to individual

requests. Japan's request concerning the anti-dumping duties on professional cameras that cannot be used for broadcasting was completely fulfilled. The accession of the EC to the Protocol Regarding the Madrid Agreement Concerning the International Registration of Marks was realized and the protocol would enter into force on October 1, 2004. The EC provided a forward-looking proposal aiming at solving the problem of driving licenses, which is a long-standing request of the Japanese residents in Europe. Japan exchanged frank opinions with the government representatives of EU Member States on the issue of residence and work permits in these Member States and it appears that Japan's stance regarding this issue has been understood by each Member State. The GOJ would like to continue to request that improvements be made in actual operational aspects.

On the other hand, it is regrettable that no achievement has been made regarding the Community Patent System although the EU indicated a prospect for a final solution to the issue. Furthermore, the GOJ acknowledges the positive stance taken by the EU towards solutions to the issues, including the early adoption of a directive allowing offset of profits and losses across multiple EU Member States and the establishment of a legal framework at the EU level allowing mergers across national borders. However concrete steps forward have yet to be taken.

Moreover, as an important request that was brought up at the abovementioned Japan-EU Summit, the GOJ urges the EC to complete the necessary steps to establish the equivalence between international accounting standards (IAS) and Japan's existing accounting standards at the earliest possible date. In addition, regarding the Proposal for a Regulation of the European Parliament and of the Council concerning the Registration, Evaluation and Authorization of Chemicals (REACH) in which industrial circles both in Japan and the EU has a serious interest, the GOJ appreciates the EU's stance of addressing environmental issues in a forward-looking manner. However, the GOJ requests that such regulations should not prevent sound economic activities by imposing an excessive burden on enterprises or by creating trade barriers. Furthermore, the GOJ requests that an agreement be reached promptly on the Standard Contractual Clauses concerning the Data protection Directive.

4. Impact of EU expansion

The GOJ welcomes that 10 new countries including Central and Eastern European countries became new EU Member States with the enlargement of the EU on May 1, 2004. Meanwhile, the EU enlargement has brought about a number of concerns from the perspective of Japan-EU economic relations, such as (1) compensation negotiations on the rise of the tariff rate in new Member States, (2) setbacks in the commitment on services under the General Agreement on Trade in Services (GATS), (3) automatic application of EU anti-dumping measures to new Member States, and (4) handling of existing Treaties on commerce and navigation. Accordingly, the GOJ hopes that the new Member States will actively participate in the Japan-EU Regulatory Reform Dialogue to ensure that the EU enlargement will have further positive impacts and to enhance economic relations with Japan.

5. Guidelines for advancing the Japan-EU Regulatory Reform Dialogue in FY2004

and Japan's Proposals to the EU

There is a need to continue making efforts for the effective implementation of the Japan-EU Regulatory Reform Dialogue to ensure frank and substantive dialogues and to realize as much concrete progress as possible. Measures introduced to improve the dialogue were effective, including the submission of written replies prior to high-level meeting and the proactive use of director-level meetings and experts' meetings. In FY2004, the GOJ would like to fully utilize director-level and experts' meetings to narrow down the issues and therefore focus on them at the high-level meeting, so that more substantive discussions can be conducted. Moreover, input from business circles, such as the Japan-EU Business Dialogue Round Table (BDRT) is important, as has been pointed out.

From this perspective, it is regrettable that the replies from the EU to Japan's Supplementary Proposals for Regulatory Reform in EU in FY2002 were delayed and that replies were not given to many requests. Given this background, the GOJ did not submit the Supplementary Proposals in FY2003 and has instead incorporated them into this year's proposals. Furthermore, this year's proposals have been consolidated into one document without separating them into priority proposals and supplementary proposals. The GOJ would like to consult with the EU and decide which requests, among many proposals, should be discussed at the high-level and other meetings. Given that providing official written replies to all requests will make the Japan-EU Regulatory Reform Dialogue more substantive and is essential for realizing concrete results, the GOJ strongly requests the EU to make sure to provide written replies to all requests without delay in FY2004.

A: Cross-sectional Issues

A1. Commercial Laws and Practices

(1) Early adoption of draft directive allowing offset of profits and losses across multiple EU Member States 【EC】

A draft directive allowing offsetting of losses incurred by branches or subsidiaries in Member States with profits recorded by the parent company was proposed in 1990. However, the European Commission withdrew the draft directive in December 2001 because deliberations had hit hard going. The Commission said in its communication (IP/01/1468) announced in October 2001 that, after the retraction of the draft directive, consultations with Member States on new policy would start in 2002. Nevertheless no such consultations have been started yet.

Meanwhile, in the EC Communication "An Internal Market without company tax obstacles: Achievements, ongoing initiatives and remaining challenges ((2003) 726 final) announced in November 2003, it is stated that a Commission initiative concerning the offsetting of losses is scheduled to be announced at the end of 2004 or beginning of 2005. The Government of Japan (GOJ) welcomes the proactive approach that the European Commission is taking regarding this matter.

The GOJ understands that the EU attaches importance to the offsetting of losses incurred by branches/subsidiaries in the EU with profits recorded by their parent companies from a viewpoint of reinforcing the inner-EU market. Also, this is a matter of great importance for enterprises of third countries, including Japan, engaging in business activities in the EU. The EU has also expressed its intention to work toward the early adoption of this draft directive in the Cooperation Framework for Promotion of Japan-EU Two-Way Investment issued at the Japan-EU Summit this year. Accordingly, the GOJ strongly hopes that consultations designed for early realization of profit/loss offsetting will be carried out between the European Commission and Member States of the EU.

(2) Legal framework at EU level allowing cross-border mergers 【EC】

The Proposal for a Directive to make cross-border mergers easier was submitted by the EC in November 2003. The aim of this proposed directive is to overcome obstacles caused by different national laws involving cross-border mergers and to simplify cross-border mergers for all companies with share capital. Taxation arrangements for cross-border mergers were achieved through the merger directive of 1990. However, the EU-level framework in terms of company law has been limited to the Statute for a European Company designed for the establishment of SE (Societas Europaeae). Consequently, the cross-border mergers can not necessarily be smoothly attained by companies not recognized as an SE. The adoption of this proposed directive, whose objective is to establish a legal framework for cross-border mergers, is of great importance for companies not recognized as an SE. Given that the EU has made clear its intention in the Cooperation Framework for Promotion of Japan-EU Two-Way Investment to work toward the creation of the legal framework, the GOJ will continue to request the EU to swiftly advance considerations aimed at the early adoption and enforcement of the proposed directive.

(3) A European Private Company statute 【EC】

In the EU, the Statute for a European Company will be put into effect in October 2004 to establish SE (Societas Europaeae) which enables a company to operate on a European-wide basis without setting up a subsidiary company in each Member State. The GOJ welcomes the enforcement of this statute. However, most Japanese companies in Europe—particularly those in the UK, Germany, and the Netherlands—take the form of non-public company (private company), and they cannot establish SE through merger or conversion of existing companies unless they become public companies, because such SE establishment will only be permitted for public companies.

As a result of the final report of the High Level Group of Company Law Experts published in November 2002, the EC announced the Action Plan on the Modernization of Company Law and Enhancement of Corporate Governance in May 2003. According to this plan, feasibility study on the practical needs and problems of the European Private Company (EPC) statute will be conducted by 2005 and considerations will be made with a view to presenting a proposal for an EPC statute sometime between 2006 and 2008. Given that an EPC statute is an important system, the GOJ will continue to request the EU to expedite work toward the enforcement of the statute at an early date.

(4) Corporate Social Responsibility (CSR) 【★,EC】

The EU recognizes that corporate social responsibility (CSR) plays a crucial role in attaining the goals set forth in the Lisbon Strategy, which outlines the strategic goals to be achieved by the EU by 2010. In July 2001, the EC released a green paper on CSR proposing a strategic framework to promote CSR, thereby launching EU-level discussions on this topic. In July 2002, the EC released a communication entitled Corporate Social Responsibility: A business contribution to Sustainable Development. Furthermore, a final report was issued by the Multi-Stakeholder Forum in June 2004 with reaffirmed that CSR is the voluntary integration of environment that is over and above legal requirements and based on dialogue with stakeholders.

Although some EU member countries have made the disclosure of information on CSR mandatory, the GOJ will request that CSR be defined as a voluntary task for enterprises in the new communication for which the EC is advancing considerations with a view to adoption by the end of 2004.

The communication issued in July 2002 defines CSR as “a concept whereby companies integrate social and environmental concerns in their business operations and in their interaction with their stakeholders on a voluntary basis.” The communication stresses the “voluntary nature of CSR” and that it is “behavior by businesses over and above legal requirements, voluntarily adopted.” Furthermore, the communication states that “CSR is not an optional ‘add-on’ to business core activities – but about the way in which businesses are managed.” Since CSR is closely linked to corporate management, the GOJ recognizes that it is important to ensure the voluntary and optional nature of the approach taken by enterprises.

Accordingly, the GOJ will continue to request that the voluntary aspect for enterprises, including the modality of information disclosure, be secured at the EU level.

Moreover, the Cooperation Framework for Promotion of Japan-EU Two-Way Investment, issued at the Japan-EU Summit this year, affirms that “the promotion of Corporate Social Responsibility can contribute to improving the investment environment and will therefore promote exchanges of good practices between public authorities and businesses” for both sides. Thus, the GOJ recognizes that it is meaningful for both sides to continue to promote efforts in CSR.

(5) Consultation procedures for the EU and EU Member States (public comment) 【★,EC,MS】

The GOJ understands that the communication with a title: “Towards a reinforced culture of consultation and dialogue - General principles and minimum standards for consultation of interested parties by the commission” on December 2002 stipulates transparency, content, publication, time limits for participation and feedback of the EU consultation process. However, given that EU Member States have adopted individual consultation systems which differ in content, the GOJ requests that each Member State provide information on the content of its system. The GOJ also requests that the systems be harmonized at the EU level, since complying with different systems for each country

may place a significant burden on companies operating in a wide range of fields within the EU. Furthermore, the GOJ requests the Member States that do not have such consultation system to implement the system at an early date, in view of the fact that the EU expressed its intention to make efforts to improve regulatory transparency in the Cooperation Framework for Promotion of Japan-EU Two-Way Investment, issued at the Japan-EU Summit this year.

(6) Introduction of prior confirmation procedures for the application of laws and ordinances in the EU (“No Action Letter” system) 【★,EC】

Considering a number of factors including the strong request from the EU, the GOJ has introduced the “No Action Letter” system, allows to inquire beforehand the relevance between actions planned by private enterprises and other parties and regulations under specific laws and ordinances with a view to improving the predictability of whether or not these actions will infringe the laws and ordinances. In addition, the content of the said inquiry and the response given by the authorities are disclosed in order to ensure administrative fairness and to enhance transparency. However, no such system exists in the EU. Consequently, voices have been raised from Japanese companies that this has a debilitating effect on corporate activities, they have no means to conduct basic inquiries on whether or not their products are subject to the EU regulations. The GOJ requests the EU to introduce the “No Action Letter” system at an early date.

(7) Labeling the country of origin for EU products 【★,EC】

In July 2004, the EC released a report on the result of consultations with the concerned Member States and parties on the scheme to indicate EU origin. According to this report, there is little support among the concerned Member States and industrial parties for the proposal to make the “Made in EU” label mandatory for EU products and such labeling has not been made mandatory as a result. The GOJ recognizes that there are currently no integrated rules at the EU-level. However, the GOJ requests that the country of origin labeling systems be harmonized at the EU level since complying with different systems for each country may place a significant burden on companies operating in a wide range of fields within the EU.

(8) Treatment of accumulated losses in Spain, France and Italy (regulations on excessively small amounts of capital) 【EC, Spain, France, Italy】

The EU Directive (71/91/EEC) requires companies to hold shareholders meetings and resolve the problem of accumulated losses of a company when the losses exceed 50% of the company’s capital. Due to this directive, companies in some EU countries have no choice but to liquidate them or reduce their capital. This directive could hinder business operations of new entrants with smaller capital, such as venture businesses. The reply of the EU in August 2001 indicated that it would be difficult to change the figure, 50% of capital. The GOJ again requests study by the concerned countries to abolish this unique provision, which does not exist in Japan or the United States. Especially, the GOJ requests individual replies from Spain, France and Italy. Moreover, the GOJ understands that the EU is planning to simplify the Second Company Law Directive concerning capital and therefore requests the EU side to provide on what kinds of revisions are being

made.

(9) Improvement of the credit and debt system in Spain (Commercial Transaction Law) 【Spain】

Since the Spanish legal framework for regulating commercial transactions is insufficient, defaults on payments often take place, and the settlement of disputes in court is time-consuming. Also, the punishment on delayed payment is not rigorous enough to prevent these transaction problems. For instance, checks are often dishonored and the repeated dishonor of checks is not subject to suspension from bank transaction, if they eventually make payment. The GOJ continues to request that the regulations be amended to strengthen and establish the legal framework to regulate commercial transactions, apply stricter rules to make them observe payment deadlines and bear the cost for the delay in payment, and implement appropriate punishment by the authorities or banks.

The GOJ recognizes that the EU Directive (Directive 2000/35/EC) on payment delay took effect in August 2002. The GOJ requests information on the specific legislation introduced in Spain based on the said directive.

(10) Simplification of the application procedures provided in the Commercial Law in Austria 【Austria】

In Austria, a signature certificate by an executive of the parent company is always required in the application procedure under the Commercial Law (application for an amendment to the statutes of the company, etc.). For example, the parent company's executive has to go to the Embassy of Austria in Japan to obtain the signature certificate when its subsidiary changes the legal contents of its commercial registry (date of reckoning, etc.). This procedure is extremely time-consuming and burdensome. The GOJ requests simplification of this procedure so that most applications for registration can be completed in Austria by the foreign company's subsidiary once it is entrusted by its parent company's executives.

In its reply in August 2001, Austria explained that the procedure must be strict enough to prevent illegal manipulation of commercial registries as they are referred to by a court of justice. However, The GOJ requests improvement of the system by abolishing at least the signature certificate requirement, since the personnel identification of a company executive at issue is possible without signature certificates.

(11) Amendment procedure of the corporate statute in Germany 【Germany】

When a limited liability company changes its statute in Germany, it is required to obtain a certificate by a German notary or consul, or a certificate by a Japanese notary with an Apostille affixed. In cases where shareholders are corporations, a director representing the corporation is required to sign the document with a certificate of qualifications. In cases where it is done in Japan, the certificate of qualifications is also required to affix an Apostille. It is quite cumbersome for directors to go to a notary's office to sign before him or her and to affix an Apostille whenever the corporate statute is amended. The GOJ requests that Germany simplify this procedure.

(12) Elimination of the payment of the goodwill value in Germany 【★,Germany】

In cases where locally incorporated subsidiaries in Germany attempt to transfer business operations to another country, based on the view that “goodwill was transferred to the newly established subsidiary in another country,” the German tax authority requires that the newly established subsidiary in the country to pay a value equivalent to the goodwill to the subsidiary in Germany. The calculated value of the goodwill is equivalent to nearly a year’s worth of sales, on which German corporate tax will be imposed. Consequently, transferring business base to another country will oblige corporations to pay 40% of their annual sales as corporate tax, making it virtually impossible for them to transfer their bases in Germany to another country. To ensure that corporations can swiftly transfer their overseas bases within the EU and make efficient investments, the GOJ requests Germany to eliminate the payment of the goodwill value when locally incorporated subsidiaries in Germany transfer to another country.

(13) Relaxation of the Conditions for converting the forms of enterprise in France 【★,France】

With the enforcement of the Law Relating to New Economic Regulations on May 15, 2001, the regulations imposed on the SA (Société Anonyme) became even more stringent and Japanese enterprises that operate as SA have become subject to a vast number of legal obligations. At the same time, the Law Relating to New Economic Regulations allows corporations to change their form from SA to SAS (Société par actions simplifiées), provided that their “core capital is not less than their capital stock.” However, since there is little need to protect the stocks of unlisted foreign subsidiaries, the GOJ requests that France allow corporations to convert from SA to SAS even if they do not meet the said condition.

(14) Relaxation of the Commercial registration procedures in the Czech Republic 【★,Czech Republic】

The GOJ requests the Czech Republic to simplify and expedite its commercial registration procedures and modification procedures. The GOJ recognizes that the Czech Government is deliberating the bill for speeding up of commercial registration procedures in the parliament. Simplifying procedures is extremely important for third country enterprises that have ventured into the Czech Republic including Japan. As such, the GOJ strongly hopes that the Czech Republic will advance considerations aimed at realizing the simplification of procedures at an early date.

A2. Certification of Standards and Criteria

(1) Standardized adoption of safety regulation concerning baby carriage in France and England 【★, EC, France, England】

EN1888 (European Standard), which sets forth the safety standards for strollers (baby carriages), was officially stipulated in April 2003. However, countries such as the UK and France continue to use different standards. The GOJ requests that the EU Member States apply domestic standards that are consistent with EN standards.

(2) Machine tool inspections regime in the EU market (CE mark) 【EC, France】

It has been reported that in several EU Member States, machine tools not bearing the CE mark have been distributed in the market, including those introduced to the market after the adoption of the Machine Safety Directive (1989/392/EEC). At present, no EU-wide, unified arrangements to control such illegal machine tools are in force. Although in some countries, government authorities conduct investigations every year and take such actions as prohibiting sales or recalling tools without CE marking, no sufficient investigations have been implemented in many other Member States.

Enterprises of Japan and other countries abide by the CE marking system from the viewpoint of enhancing the safety level within the EU. In 2002, the GOJ requested the European Commission to formulate laws (regulations or directives) to unify control measures in case of violations of CE marking-related legislation, so that illegal cases will not undermine efforts made by law-abiding Japanese and foreign enterprises. However, the EU has not responded to this point. The GOJ, therefore, would like to know the EU position on this issue.

(3) Additional Italian regulation of TV imports 【Italy】

To import TV sets produced outside the EU into Italy, including those already distributed within the EU market, it is obligated under the Ministerial Decree 26/03/1992 to obtain specification recognition different from the CE mark. To obtain the said specification recognition, it is required to pack a circuit drawing in the product package. Furthermore, it takes a maximum of three months to obtain the said specification recognition. Since necessary technological requirements for products such as TV sets are set by the EU Directive 73/23/EEC and the EU Directive 89/336/EEC, products that meet these requirements should be allowed to circulate freely within the EU market. The GOJ requests the Italian Government to abolish the additional regulation. The GOJ made the same request in FY2002 but the EU side did not reply. The GOJ expects the EU side to respond sincerely to the request.

(4) New Approach Directives 【EC】

Among EU directives, the New Approach Directives is a general term that refers in particular to directives aimed at regulatory harmonization on the safety and quality of products. All products supplied within the EU must conform to the basic requirements stipulated in the New Approach Directives. Under these New Approach Directives, harmonized standards for mechanical products, for instance, are frequently modified. Under such circumstances, particularly when an enterprise adopts a self-recognition module (self-conformity statement module), conformity reassessment is frequently required. Taking into account the speed of technological renovation and requirements for safety, changes in standards are unavoidable to a certain extent, but the GOJ requests that these changes in standards should not result in an excessive burdens on enterprises. In its reply to the supplementary proposal to the EU in FY2002, the EC expressed its view that these changes would not pose an excessive burden on enterprise. However, the GOJ requests the EC to respond to this matter constructively.

(5) The Protocols to the European Agreements on Conformity Assessment and Acceptance of Industrial Products (PECAs) between the EU and Central and East European countries 【EC】

The GOJ requests that the EU conclude the PECAs at an early date with other Central and East European countries, other than the 10 countries that acceded to the EU on May 1, 2004. Also, some non-EU Central and East European countries require compliance with their national legislation different from the EU directives, which results in increased costs for companies. The EU stated, in its reply in August 2001, that the early conclusion of PECA is a political issue, and that the European Commission has no competence or interest in interfering in the relations between third countries and candidate countries which are still fully sovereign states. Considering that Central and East European countries are expected to join the EU, it is important for a candidate country to adopt the same systems as those in the EU as soon as possible, or to faithfully conform to the PECA. In connection with the conclusion of PECAs, the GOJ continues to request that the EU makes efforts to recommend Central and East European countries to apply the related EU directives in the same manner and with the same interpretation as EU countries. In its reply to the supplementary proposal to the EU in FY2002, the EU side said that the EU had launched negotiations on PECA with Bulgaria and Romania. The GOJ requests that these negotiations be continued and that the EU side provide information on the status of negotiations.

(6) Uniformity of sound pressure regulations for stereo headphones 【EC, France, Belgium】

With regard to regulations on sound pressure for stereo headphones, France and Belgium are currently planning to introduce different regulatory standards.

The EU reply in June 1998 states that the Member States are allowed to enact regulations necessary to protect the health and safety of consumers, even if those regulations may constitute obstacles to trade, justifying the introduction of different standards to be established in France and Belgium. However, what the GOJ views as a problem is that such divergence in regulations and standards within the EU will considerably undermine the merits of the Single Market. According to the reply from the EU side in August 2001, Belgium stated that if a new standard should be developed, it would be in due international collaboration with France and the EU. The GOJ welcomes this stance. The GOJ continues to request that France and Belgium harmonize their standards, or that the EU establish unified regulations concerning regulatory standards, test methods, and methods of indication throughout the EU. At the same time, the GOJ would like to know the French position on this issue.

(7) Improvement of the Inspection Procedure in the EU 【EC, M.S.】

As a result of inspections of microwave ovens imported from Japan, the French authority ordered to discontinue the shipment of the microwave ovens on account of non-compliance with the EU's Low Voltage Directive. Although the order was withdrawn after the re-inspection at the EU level, neither the French authority nor the European

Commission has sent a notification of conformity (i.e. a notification that the order to stop shipment has been withdrawn) to the company dealing with the microwave ovens. Therefore, there has been a report of a case where the company experienced difficulty in resuming its business.

As exemplified in this case, problems related to differences in interpretation of the standards among authorities have significant impacts on business activities. The GOJ therefore requests that the inspection procedure be carried out in a careful and prompt manner. The GOJ also requests that results of inspections and withdrawal thereof be published and communicated to related companies in writing.

(8) Harmonization of the type approval system for automatic scales 【★,EC】

For non-automatic scales, there is already a system in place wherein if type approval is obtained in one of the EU Member States, then it simultaneously obtains approval in all EU countries as well. Meanwhile, there is still a need to obtain type approval from each country for automatic scales.

Each country has different test items that are necessary for automatic scales to obtain type approval. As a result, automatic scales have different specifications in each country, which causes inconvenience for the consumers in each country. In addition, since manufacturers need to respond differently to each country, they are unable to manufacture products with common specifications for the EU market and it requires time and expense to go through the procedures to obtain type approval in each country.

Consequently, the GOJ requests that the EU establish a unified type approval system within the EU for automatic scales in addition to the system for non-automatic scales.

(9) Regulation on the shape of plugs and sockets for electrical outlets, telephone lines, etc. 【★,EC, M.S.】

The shape of plugs and sockets for, among others, electrical outlets and telephone lines, differs in each country of the EU. The GOJ requests the EU to consider integrating the standards, since these differences result in increased costs.

A3. Trade and Customs

(1) Change in tariff classification of digital video cameras (camcorders) and retroactive duty imposition 【EC】

For several years, the GOJ has requested the EU side to make improvements concerning this problem. It is regrettable that it has not been resolved yet. The EU side has replied that this is a problem of tariff rates and should be handled in the World Trade Organization (WTO) negotiations. The GOJ, however, would like to again point out that its request does not concern tariff rates, but the tariff classification on the basis of European unified subdivisions which is applied in the member countries of the EU. The GOJ reiterates its request as follows.

The EU tariff classification distinguishes between video cameras capable of recording not only signals from the embedded camera units but also signals from external equipment, and those incapable. Although these are almost all analogous products, the EU has set different tariff rates, 14% and 4.9%, respectively.

Among the digital video cameras which are manufactured by Japanese electronic equipment makers and exported to the EU, the models whose functions of recording signals from external equipment (DV-IN) are inactivated by software, had been declared as products upon which the tariff rate of 4.9% is applied according to the EU's tariff classification.

However, the EU announced in the Official Journal of the European Communities on July 6, 2001, that models with potential functions of recording signals from external equipment are also classified as video cameras subject to a 14% tariff.

Due to the classification, it has become possible that digital video cameras produced by Japanese electronic equipment manufacturers will be classified as models subject to the 14% tariff, although their DV-IN functions is nullified by software control before import customs clearance and these models are explained in catalogues, etc., to consumers as those without DV-IN functions. In fact, some Member States of the EU such as France have stated that the past import declaration was erroneous, and that they would retroactively collect the past three years' worth of unpaid tariffs from local subsidiaries that import products from Japanese export manufacturers.

It is quite usual for electronic equipment manufacturers to control the functions of digital products by software. In addition, these manufacturers already took steps to remodel the said software in July 2001. Through these steps, it became impossible for general consumers to modify the structure of the models exported and sold in the EU as products without DV-IN functions and thus the reactivation of the DV-IN functions was virtually unfeasible. Moreover, these manufacturers have been adopting further steps to remodel hardware aimed at excluding such possibility itself of reactivating DV-IN functions as pointed out by the EC side.

If the EU side argues that the EU's change in tariff classification of the Japanese electronic manufactures by changing its interpretation of the tariff classification for video cameras of July 2001 was an appropriate measure, the GOJ requests the EU side to provide an official explanation on the rational reasons behind its position and to take a positive approach toward solving this issue. Furthermore, given that some EU member countries such as France have made a claim for the retroactive imposition of tariffs, the GOJ requests the EU side to clarify its position on this matter and to withdraw the aforementioned claim.

(2) Tariff classification for flat panel display 【★,EC】

Considerations are currently underway in the EU Customs Co-operation Council on changes of tariff classification for flat panel display (FPD) monitors, such as liquid crystal displays (LCD) and plasma display panels (PDP).

Without giving clear and plain criteria for tariff classification compatible with World Customs Organization (WCO) rules, the EU side decided to classify certain PDP (those with computer terminals that were previously imported with 0% tariff) under HS8528.21 (video monitor: 14% tariff). However, in terms of product content, they should be classified under HS8471.60 (computer output device: 0% tariff) as computer peripheral equipment would be classified. This decision is scheduled to be publicly released in the Official Journal of the European Communities (a part of this decision has already been released). With respect to PDP, which are manufactured as computer peripheral equipment in terms of product content, the GOJ requests the EU side to place them under the 0% tariff classification as computer peripheral equipment.

Furthermore, the GOJ is aware that conditions irrelevant to function (monitor screen size) are being considered as criteria for tariff reclassification for LCD monitors.

The GOJ is also cognizant that the EU side has decided to change its classification for PDP without thoroughly studying or considering the technical information possessed by manufacturers, especially those in Japan, and the EU is advancing considerations to change its classification for LCD monitors.

Moreover, regardless of the fact that there are no manufacturers in the EU of FPD including PDP and LCD as well as the fact that it has been agreed under ITA that PDP and LCD monitors for products covered by the ITA shall be covered by the ITA, the imposition of high tariffs by the EU hinders the advancement of free trade.

Changing tariff classifications without giving clear and plain criteria could become a precedent for undesirable management of classifications. Furthermore, it could raise legal uncertainties for industrial circles and tariff authorities.

The GOJ requests the EU side to conduct an appropriate and sufficient reexamination and review of this matter.

(3) The European Commission's proposal "obligating declaration 24 hours before customs clearance" [EC]

On July 24, 2003, the European Commission proposed a revision of the customs code, mainly designed to obligate exporters to declare the content of cargoes 24 hours before their transportation into the tariff area as part of safety reinforcement measures against terrorist actions. The proposed revision is aimed at strengthening the functions and advancing the risk management of customs administrations, having them make the closer liaison and coordination with other organizations that are in charge of quarantine, security, etc., and thereby enabling them to perform as a "one stop shop."

The GOJ recognizes the importance of making efforts against terrorism. Thus, it basically supports the European Commission's proposed revision to reinforce security by implementing uniform transport safety management in the entire EU. However, the planned step has a possibility of imposing excessive burdens on foreign exporters of goods to Europe, such as greater shipment costs, as well as increased complexity of procedures to be followed. The GOJ is aware that the proposed regulation is currently in

the second reading in the European Parliament, and many opinions have been raised to revise the originally proposed regulation, making it impossible to project a concrete time frame for declaring the content of cargoes in advance. The EU has also expressed its intention to secure practical solutions for manufacturers with respect to the aforementioned regulations in the Cooperation Framework for Promotion of Japan-EU Two-Way Investment. In this light, the GOJ requests the European Commission to provide information on the subsequent developments of the proposed regulation. The GOJ also requests the European Commission to continue giving consideration to shortening the period required for the declaration and introducing an exemption system. The GOJ also requests the EU to advance the integration of formats for declaration. Moreover, considering that 10 countries newly acceded to the EU in May 2004, bringing the total number of Member States to 25, the GOJ requests that the EU Member States implement the aforementioned regulations in accordance with the common standards in the case that the customs regulation requiring the advance declaration of the content of cargoes is implemented.

(4) Shortening the period required for customs procedures in Hungary/customs declaration in Poland 【★,Hungary, Poland, EC】

(a) Since Hungary acceded to the EU, import clearance procedures for cargo from non-EU countries have been taking an extremely lengthy time. The GOJ thus requests that the time required for customs be shortened in Hungary. Before its accession to the EU, one day was required to clear customs (from the arrival in Hungary to the shipment in factories). However, Japanese enterprises have reported that since the accession of Hungary to the EU, it takes about one week to 10 days to clear customs. Therefore, the GOJ requests an explanation on why the period required for customs procedures has been prolonged.

(b) When the slightest mistake is found in the format of customs declarations, Poland will not accept them even if there are no questionable points in the relevant data or product. Customs declarations should be rejected only when there are questionable points in the relevant data or product. The GOJ requests that Poland's response to this matter be improved, as no particular improvements have been made in the past.

(5) Tariff for copying machine toner 【EC】

Regarding copying machine toner, under the EU system aiming at the promotion of information technology, the import of toner cartridges is duty-free and customs duties for the import of toner chemicals are exempted when applications are accepted. However, the process takes a considerable period of time, ranging from one year to one and a half years. Moreover, it is difficult to prove that there are no competitors in the EU, although this proof is required for the application. Therefore, it is virtually difficult to apply this provision from the standpoint of promoting industry in the EU. The GOJ continues to request shortening of the period to process application and simplification of the said proof requirement for customs duties exemption. Since the EU side did not reply in writing on this matter in FY2002, the GOJ requests the EU to respond sincerely to this request.

(6) Tariffs on audiovisual (AV) and household electrical appliances 【EC】

Within the framework of WTO-ITA, tariffs on IT-related products have been eliminated in the EU. On the other hand, the maximum tariff rate on AV and household electrical appliances is 14%, which is higher than those in other industrial countries (e.g. 0-4.9% in the US; 0% in Japan). Under the current situation, non-EU countries with large exports of AV and household electrical appliances to the EU are put in a disadvantageous position. The GOJ is concerned about the harm in the price competitiveness of AV and household electrical appliances as well as in the profitability of related business operations.

With the recent development of technology, an increasing number of AV and household electrical appliances can be connected to networks. Therefore, and therefore the demarcation between IT equipment and AV/household electrical appliances is getting obscure. Based on such development, the GOJ proposed to add digital household appliances to ITA items in the WTO non-agricultural market access negotiations. The GOJ also proposed “zero-zero harmonization” with a view to further improving market access regarding non-digital AV and household electrical appliances.

Because improved market access for the above products is related to the diffusion and promotion of IT, the GOJ requests that the EU promptly reduce its overall high-rate customs on AV and household electrical appliances. Since the EU side did not reply in writing on this matter in FY2002, the GOJ requests the EU to respond sincerely to this request.

(7) Raising the limit on duty-free goods 【EC】

With respect to the limit on duty-free goods besides tobacco, alcohol and perfume that can be brought into the EU upon entering its borders, the total value of the goods cannot exceed 175 euros. This is remarkably lower than the 200,000 yen limit for commodities and other items that can be brought into Japan duty-free, causing cumbersome customs inspections. The GOJ therefore requests the EU to raise the limit on duty-free goods that can be brought into the EU. Since the EU side did not reply in writing on this matter in FY2002, the GOJ requests the EU to respond sincerely to this request.

(8) Integration of customs clearance forms for goods manufactured in the EU and outside the EU 【★,EC, Austria】

Given that there are goods manufactured in a Japanese factory in the EU Member States which an enterprise keeps in warehouse in Vienna and plans to sell in Central and East European countries, and that there are goods manufactured in a Japanese factory outside the EU such as in Japan or other Asian countries which the said enterprise transports mainly by train to Vienna, via the Hamburger port or Rotterdam port and declared for customs clearance in Vienna to sell in Central and East European countries, this enterprise prepares customs clearance forms for the said two types of goods in the Vienna Customs to transport the two types of goods together from Vienna to the countries in the EU such as Poland, Hungary, Czech, Slovakia, Slovenia. In this case, this enterprise must prepare two different customs clearance forms for goods manufactured in the EU and for those outside the EU respectively, which is complicated and cumbersome. The GOJ therefore requests the submission of the same customs clearance form be accepted.

A4. Information and Intellectual Property

(1) Early establishment of the Community Patent System 【EC,MS】

A political accord on the establishment of the Community Patent System existing in parallel with the patent system of each Member State was made at the Ministerial Council of the EU in March 2003. Furthermore, in its reply in FY2003, the EU side stated that further progress would be made in 2004. However, any related EU regulation has not been adopted yet. Considering that the EU expressed its intention to work toward the implementation of the Community Patent System as soon as possible in the Cooperation Framework for Promotion of Japan-EU Two-Way Investment issued at the Japan-EU Summit this year, the GOJ requests the EU to realize the Community Patent System promptly.

(2) Objection to the abolition of the design protection for replacement parts of cars 【★,EC,MS】

On September 15, 2004, the EC issued a proposal to revise the EU Directive 98/71 that would abolish the design protection for replacement parts of complex products in EU Member States. It is not clear what cost benefits would be brought to consumers with the proposal. Furthermore, according to the final report submitted by The European Evaluation Consortium (TEEC) to the Internal Market Directorate-General on November 18, 2003, new model cars are thoroughly inspected and must prove that they meet safety standards, while inspections are not required when attaching replacement parts, and replacement parts produced by non-finished-cars-manufacturers, unlike parts of authentic products, do not undergo safety inspections. To be more precise, this report points to the concern that if the market becomes more open to unauthentic products, then the safety of final consumers could be endangered. In addition, the GOJ takes the view that the returns on investments made by finished car manufacturers to develop replacement parts should be respected. Consequently, there is no rational reason for singling out replacement parts and denying them design protection. As long as no clear, objective reasons exist for justifying the revision to the said directive, the GOJ believes that this proposal should be revoked.

(3) Data Protection Directive 【EC】

The EU adopted the Data Protection Directive in October 1998 and has implemented government-led measures, which require EU Member States to prevent the transfer of personal data to countries and regions that do not have sufficient regulatory provisions for the protection of personal data.

With regard to this matter, the GOJ requested in its previous proposals that Japanese industry's efforts, such as the formulation of an alternative to the Standard Contractual Clauses by international private-sector organizations such as the Japan Business Council in Europe (JBCE), be recognized as offering an effective alternative to improve business efficiency of private enterprises engaged in the transfer of personal data, as Japan has not yet received due recognition on the appropriateness of personal data protection. The GOJ

requested the EC, if the abovementioned alternative is not accepted, to change the Standard Contractual Clauses in consideration of the proposed alternative so that the clauses could be more conveniently used in accordance with the current business environment. In response to the alternative drafted by industrial circles including JBCE, the EC proposed that if the following three points were met, then the alternative would be accepted: (1) arrangement of closer cooperation, (2) more explicit system of responsibility, and (3) the right of enhanced access. After considering the EC's proposal, industrial circles submitted a final draft in July 2004.

The GOJ requests the early approval of the said final draft. This request is made from the perspective that facilitating the transfer of personal data is necessary for Japanese enterprises operating in Europe to conduct their business activities smoothly, bearing in mind that the EU has said that it will fully and closely examine the draft proposal through continued discussions with the relevant organizations as in the past, and that the EU pledged in the abovementioned Cooperation Framework for Promotion of Japan-EU Two-Way Investment to consider the GOJ's request concerning the Standard Contractual Clauses that are related to the Data Protection Directive.

Also, the WG29 wrote a working document concerning the Binding Corporate Rules (BCR) related to the information transfer to third countries, and asked the persons concerned to submit their opinions in September 2003. As demonstrated by the JBCE's responses to the said request to submit opinions, the BCR are expected to serve as a new tool for smoother transfer/receipt of personal data within an enterprise group operating globally. The GOJ requests that the opinions of the industrial sector be duly considered in formulating specific rules and guidelines as in the past, so that they will suitably reflect actual business practices.

(4) Integration of laws concerning music-related copyrights 【★,EC,MS】

Due to the fact that EU countries have not integrated their laws concerning music-related copyrights, enterprises that are operating in the EU have faced inconveniences caused by the use of different methods to resolve copyright-related problems and by different costs. The GOJ therefore requests the EU to integrate the laws concerning music-related copyrights.

(5) Protection of personal information in the commercial registry of the Czech Republic 【EC, Czech Republic】

The individual names and home addresses of representatives are clearly written in the commercial registry of the Czech Republic and such information can be accessed anonymously through the Internet. Since this is a problem in terms of protecting and securing personal information, the GOJ requests that this situation be improved. One possible measure may be to implement a browsing system that can track the browser's identity.

A5. Employment

(1) Overview

The GOJ respects the efforts at the EU level to achieve the European Employment Strategy (EES). At the same time, the GOJ is aware that the employment has a sensitive aspect arising from the historical background of labor practices and labor which that are unique to each Member State. The GOJ is also aware that the EU side stated in its written reply to Japan dated June 2004 that existing EU legislation in the employment and social field lays down only minimum requirements, and that a number of issues raised in Japan's list of proposals fall exclusively within the competency of the Member States.

Nonetheless, Japanese enterprises operating in EU Member States continue to point out that employment regulations and practices in Europe frequently bring about difficulties in terms of dismissal, work hours, wages and other aspects, which may present obstacles for enterprises planning to operate and conduct activities in Europe. In this light, the GOJ is convinced that listening to the viewpoints of non-EU enterprises and striving to rectify the problems will not only promote Japanese investment to the EU, but also lead to employment creation, economic revitalization and increased competitiveness in the EU. Therefore, the GOJ requests the EU side to continue taking steps to improve the labor market, both at the EU level and member state level, with a view to improving the business environment.

Country-specific issues (individual requests to the Member State)

(2) Spain

The GOJ made requests (a) and (b) below in Japan's Priority Proposals for Regulatory Reform in the EU in November 2002 and Japan's Supplementary Proposals for Regulatory Reform in EU in March 2003, respectively. Although the EU side (Spain) responded to (a) in June 2003, the issue persists. As for (b), a sufficient response has yet to be given and the GOJ continues to make these requests.

(a) Revisions to the temporary labor contract system and compensation for dismissal

According to the response from the EU side (Spain) in June 2003, there are four types of temporary labor contracts by law and Spain's regulation of temporary employment is flexible enough to allow businesses to cope with market trends. In reality, however, there is a virtual time limit of six months in principle (at most 12 months) and it is difficult for Japanese companies to employ workers based on temporary labor contracts according to their business needs. The GOJ reiterates its request for an amendment of the system so that companies can conclude contracts with time period of their choice without restrictions.

Moreover, with respect to reducing the redundancy pay, the aforementioned response from Spain in June 2003 said that in the course of successive labor market reforms, a contract method, which sets the redundancy pay at a level lower than in the past, was introduced in order to promote open-ended employment contracts. Nonetheless, the scope of application of redundancy pay is limited in these new systems. Since they are

only applied to new employment contracts and not to employees with existing employment contracts, enterprises still find it necessary to pay significant amounts in redundancy pay in many cases, such as when they are compelled to pay a large sum when dismissing an elderly employee.

Given these circumstances, the GOJ requests the expansion of the scope of application for the redundancy pay, which was reduced under the new system, in addition to the further reduction of the redundancy pay. The GOJ believes that these measures are essential for promoting open-ended employment contracts.

(b) Greater flexibility in the annual overtime work

According to the past explanations given by the EU side (Spain) in response to Japan's request for deregulation of overtime work and holidays, the limit of 80 hours' overtime a year is not laid down in absolute terms and can be flexibly implemented. However, the annual maximum overtime is fixed at 80 hours, and companies must always provide vacations for their employees if their overtime work exceeds this threshold. Such a regulation makes it difficult for companies to promptly cope with a sharp increase of their production and sales. In some cases, companies repeatedly hire and dismiss their employees in order to keep their production abilities flexible, and thus they are forced to operate inefficiently. Therefore, this regulation could make Spain a less attractive place for Japanese companies.

The GOJ reiterates its request for the introduction of a new flexible clause in relevant Spanish laws and regulations, which would allow overtime work to exceed the 80 hours limit.

(3) Belgium

Although the GOJ included these requests in Japan's Supplementary Proposals for Regulatory Reform in the EU in March 2003, no responses were given to requests (1) through (5) below. The GOJ continues to make these requests.

(a) Dismissal system

(i) On the dismissal of employees, a contract can be terminated by establishing a period of notice. A period of notice of 28 days to over three months is required by law, depending on the employee's occupation, length of employment and annual salary. In reality, however, based on the "claeys formula," which is calculated according to a recent judicial precedent, companies are required to give notices one year or longer in advance or to pay compensation tantamount to the payment for the period of notice, depending on the length of employment and annual salary of the employee to be dismissed. As Belgium has not provided a response to date, the GOJ continues to underline the problem of prioritizing a formula based on judicial precedent over the law to determine the period of notice, and requests that the longest period of notice be reduced to six months.

(ii) Regulation for protecting representatives of employees

Companies cannot dismiss those employees who have run for election as employees' representatives, regardless of the outcome of the election, until the next election to be held four years later, even if their work performance is poor. According to the reply from the EU side (Belgium) in April 2002, although the reason for this protection is to shield candidates for such representative positions from undue pressure, this protection does not mean that those employees cannot be dismissed, and Belgian law provides that under certain circumstances, the employer can initiate a procedure to dismiss a protected employee for urgent reason. However, in the case of the dismissal of these protected employees, high amounts of compensation must be paid, so the dismissal is practically difficult. It is also reported that there are some cases in which union members run for election solely to protect themselves. The GOJ continues to request that the relevant provisions be amended so that proxy and unsuccessful candidates be treated in the same way as ordinary employees.

(b) Employment system

Under the present Belgian law, the period of employment contract is basically open-ended and temporary labor contracts with a maximum period of two years is possible in some special cases (i.e. cases in which there are rational reasons such as employment of temporary staff for projects or special events). After temporary labor contracts are renewed once or twice, the contracts are to be converted into unlimited ones. Therefore, it is difficult to employ company members for the medium to long term. The GOJ requests the Belgian Government to revise the temporary labor contracts system so that companies can conclude contracts that last for the period they choose without restrictions.

(c) Wage system

Under the present Belgian law, it is not allowed to cut the salaries of individual employees. In addition, while the Belgian Government sets a ceiling on the rate of increase in wages, it mandates a minimum annual wage increase for the entire workforce.

The GOJ found that the reply of the EU side (Belgium) in April 2000 on this point was insufficient and reiterates its request that the determination of wages individual workers should be made within the capacity of each company.

(d) Work hours

The present Belgian law restricts the excess of the designated annual work hours. The law also obligates companies to compensate extra overtime work with holidays. Such an obligation makes it impossible for companies to respond to the change of work volume by extending overtime work, and they have to make the adjustment by new employment. They will face the problem of having an excessive workforce when work decreases again. The restriction on designated work hours is an obstacle to the timely management of the workload. The GOJ requests that the designated annual work hours be increased.

As of January 2000, the weekly work hours were cut by one hour and annual paid holidays were increased by six days. Work hours are thus getting shorter in Belgium. The

GOJ continues to point out that a further reduction of work hours and increase of paid holidays could discourage foreign investment.

(e) Laws and regulations concerning labor unions

Corporate management is required to submit their companies' financial and business reports monthly, quarterly and annually at the law-designated management-labor council. The annual report must cover a wide range of items such as cost accounting, position in market and contents of research, among others. These requirements place a great burden on Japanese companies. Since there was no response from Belgium on this matter, the GOJ continues to request that the Belgian Government streamline the items to be covered by reports, limiting them to matters related to important changes of corporate organizations that might affect the settlement of accounts, labor conditions and employment. The GOJ also requests that the frequency of the council meetings be decided at the discretion of each company.

(4) The Netherlands 【★】

Compensation for dismissal and sick guarantee system

Employees are generously protected by employment law. However, a substantial amount of compensation is required when carrying out restructuring to respond to changes in the business environment. As extreme worker protection could threaten corporate management itself, the GOJ requests that the burden of this compensation for dismissal be reduced. In addition, if employees become unable to work due to illness, employers are obliged to guarantee wages of 100% in the first year and 70% in the second year for two years. However, since no medical certificate is required, it is impossible, in some cases, to confirm the impact of an illness on an employee's ability to work. The GOJ requests that this certification method be revised.

(5) Germany

As for "Relaxation of Sunday/holiday work regulation" and "Relaxation of the employee protection system" mentioned in Japan's Supplementary Proposals for Regulatory Reform in the EU as of March 2003, consultations between the embassy of Japan in Germany and the relevant German authorities are in the preparatory process. The GOJ hopes that the situation will be improved by two parties.

(6) France 【★】

Improving workers' compensation and sick leave system

(a) Workers' compensation and sick leave systems are abused due to easy approvals of some physicians, which has given an adverse effect on the activities of Japanese enterprises. The GOJ understands that the French Government is currently discussing measures to deal with these issues as a part of its medical insurance reform and hopes that improvements will be made in the workers' compensation and sick leave approval systems.

Relaxation of the employee protection system

(b) Under the French system, it is in principle impossible for the employer to unilaterally abolish the dismissal and employment contract with “protected employees (salariés protégés)” including workforce delegates (délégué du personnel), trade union delegates (délégué syndical), and members of the works council (comité d’entreprise). Consequently, given the some cases are reported that these protected employees cannot be dismissed, even if they make mistakes that inflict losses on enterprises, have a rebellious attitude or other problems. The GOJ requests that the relevant laws on employee protection be improved.

(7) Sweden

The GOJ made the following request in Japan’s Supplementary Proposals for Regulatory Reform in the EU in March 2003. The GOJ continues to make the request, since no response has been obtained.

Last-in, first-out rule relating to dismissal

Since many Japanese enterprises operating in Sweden are small- or medium-sized ones. The number of employees is limited. Meanwhile, these enterprises need competent employees who have acquired advanced technologies to meet the progress of high technologies including IT. However, because of the last-in, first-out rule (the rule under which, when a company reduces its workforce, employees with longer history of employment in the enterprise are protected over those with shorter history of employment. That is an enterprise must fire employees with shorter service history in the enterprise when it intends to dismiss its employees), it is difficult to discharge persons who cannot deal with new technologies. Furthermore, as these enterprises are unable to increase the total number of employees so much, they have difficulty in securing qualified personnel. Such a situation obstructs the establishment as well as the expansion of business activities by Japanese companies in Sweden. The GOJ requests that this last-in, first-out rule be relaxed at an early date.

In the 3rd Japan-Sweden Trade and Economic Consultation and additional explanatory notes, the GOJ obtained a response that exceptions to the rule include (a) the application of dismissal categories based on expertise and (b) the exemption of small- and medium-sized enterprises with less than a certain number of employees from its application. Nonetheless, the GOJ continues to make the above request since in many cases, these measures are not applicable to Japanese enterprises that employ a significant number of local employees and thus do not serve as an essential solution to the obstacle to free business activities.

(8) Luxembourg

In January 2004, Luxembourg provided a suggestive reply to the following requests proposed in Japan’s Supplementary Proposals for Regulatory Reform in the EU in March 2003. The GOJ appreciates the sincere stance of the Government of Luxembourg, while the other EU countries have not sufficiently responded to GOJ’s requests concerning employment. In its response, Luxembourg explains that there is no discrimination

between Luxembourg and foreign companies and that statistics and studies show that labor regulation in Luxembourg does not constitute any problem for the implantation of companies in Luxembourg. However, as Luxembourg itself has mentioned, the Organization of Economic Co-operation and Development (OECD) indicated that strict employment rules could be of disadvantage in the case of economic slowdown. The GOJ would like to reiterates the following request, as problems are still reported from Japanese business circles.

Reducing the number of days of paid leave

This is an issue that concerns both national legislation and the labor agreement. Although some industries do not recognize the number of days of paid leave as grave concern, there are enterprises and industries that perceive this as a burden. Consequently, even if the decision on the number of days of paid leave is consistent with the labor agreement, the GOJ wishes the Government of Luxembourg will examine this issue from a medium-to long-term perspective to ensure that the burden on enterprises does not increase and to develop a business environment conducive for foreign enterprises to venture into Luxembourg.

(9) Czech Republic [★]

Reducing the percentage of workers on sick leave

According to a report of the Ministry of Labor and Social Affairs of the Czech Republic, the average absentee rate in 2002 for workers was about 31 days. This figure is extremely high among European countries including Central and East European countries. The GOJ appreciates the efforts that the Czech Government has made to enact a bill to reduce the percentage of workers on sick leave. This law may have a certain impact on fiscal reform since the amount of compensation is reduced. However, some argue that this is insufficient to reduce the percentage itself of workers on sick leave. The high percentage of workers on sick leave is a complex problem composed of the systematic problem of compensation by the state, the problem of medical system and the abuse of the system. Therefore, it is important for the Czech Government to tackle the reduction of the percentage of workers on sick leave. The Czech Government should follow up on the recent measure to improve the situation, and take further steps when deemed insufficient. The GOJ would like to underline that without efforts of the Czech Government, the high percentage of workers on sick leave may have a negative impact on the implantation enterprises into the Czech Republic.

B: Sectional Issues

B1. Legal Services

(1) General comments

Taking seriously the requests made by the EU side including the European Commission, the GOJ has taken measures such as amending the law concerning foreign lawyers and establishing the Office for Promotion of Justice System Reform. As a result, lawyers

from countries including EU countries such as France, Germany and the UK are working as a foreign lawyer in Japan. In contrast, a number of EU countries have restrictions on the activities of Japanese lawyers and it is regrettable from a reciprocal point of view that few improvements have been made on the EU side in response to Japan's requests. The GOJ has a keen interest in improving the aforementioned issue and wishes that the European Commission and Member States respond sincerely to Japan's following requests in order to ensure the reciprocity of this dialogue.

(2) Permission of legal services pertaining to home country laws by foreign lawyers in France 【France, EC】

The GOJ requests France to establish promptly a system that allows foreign lawyers to engage in legal services pertaining to their home country laws without passing any special examination, as is duly permitted in Japan under the Special Measures Law Concerning the Handling of Legal Business by Foreign Lawyers.

In connection with this request, the GOJ has keen interest on the developments for the creation of the Foreign Legal Consultant (FLC) certification, which was mentioned by the French authorities last year. The GOJ requests France to provide information on the current status of study and the concrete time frame on the future outlook of the FLC.

(3) Permission of legal services pertaining to third-country laws by foreign lawyers in Germany 【Germany, EC】

Japan allows German lawyers to provide legal services pertaining to third country laws in Japan. Germany, on the other hand, allows EU lawyers to provide services on all laws, but does not allow non-EU lawyers including Japanese to provide legal services on third-country laws. Germany takes a position that this issue should be handled in the negotiations of the General Agreement on Trade in Services (GATS). However, since the GOJ understands that the EC's commitments in GATS do not preclude each Member State from further liberalizing its national legal system beyond the commitments, the GOJ reiterates its earnest request that Germany respond sincerely to this matter from a reciprocal point of view.

B2. Telecommunications

(1) Promoting local loop unbundling 【★,EC,MS】

It appears that broadband in the EU is less advanced compared to Asian countries including Japan in terms of cost and quality. One of the reasons for this is because local loop unbundling (LLU) has not advanced, despite the establishment and enforcement of the ULL regulation in 2000.

According to the 9th Report on the implementation of the regulation, the shared access cost in the EU is still high compared to Japan and is not at a level appropriate for use by competitors.

Furthermore, it is thought that one obstacle is that the governments as a whole lack

driving force in all stages from policy planning to the implementation of regulations and due to weakness in their ability to counter resistance from existing companies they are allowing these companies to utilize delaying tactics.

Under these circumstances, the GOJ requests that the EC and Member States take measures aimed at lowering the shared access cost.

**(2) Harmonizing frequency allocations for wireless local area networks (LAN)
【★,EC,MS】**

At the EU level, frequency ranges of 2400-2483.5MHz and 5150-5350MHz have been allocated for wireless local area networks (LAN), but restrictions have been imposed on the use of these frequency ranges in Member States. For example, France has a restriction on the outdoor use of the frequency range of 2454-2483.5MHz and Austria restricts the use of the 5GHz range to 5150-5250MH. The differences in restrictions at the member state level make it difficult to use wireless LAN, for instance, by equipping automobiles with wireless LAN. Therefore, the GOJ requests that Member States strive to harmonize the frequency allocations for wireless LAN.

(3) Ensuring government neutrality in competition 【EC,MS】

In a number of EU Member States, the government is involved in the management of telecommunications companies as a shareholder. For example, government officials serve as directors and auditors, among others, in telecommunications companies. The GOJ requests that currently active government officials be prevented from serving as directors of telecommunications companies at the same time and requests that the neutrality of government be secured with respect to market competition. At the same time, the GOJ requests that the exchange of opinions be continued with the EC and the national governments on the desirable approach to government involvement including state aid schemes.

B3. Financial Services

(1) General comments

Japan continues to request that the EU introduce a system that would make activities, products, licenses and others approved by one EU Member States, be automatically approved in the other Member States, with no additional procedures required, or only with reporting, as the introduction of such a system would be effective from the viewpoint of creating a single, attractive market for external nations. Regarding documents to be submitted to governing authorities in EU countries, the GOJ requests that each Member State promptly prepare forms in multiple languages for foreigners, including Japanese, because such an arrangement is considered to be a fast effective step to improve the business environment within Europe. Since the GOJ believes it too cumbersome to have to file reports different in content from country to country, and considers that the current arrangements have a room for improvement from the viewpoint of efficiency, it asks the Commission to harmonize the contents of report items and its

form. Although integration of the financial services market is not a matter which may be settled in a short period of time, the GOJ hopes for continual efforts by the Commission.

(2) International accounting standards 【EC】

Under the Prospectus Directive and the Transparency Directive, companies from non-EU countries which have made or will make public offerings or have listed or will list their securities within the EU are required to prepare their financial statements in accordance with International Accounting Standards (IAS/IFRS) or accounting standards which are equivalent to IAS, beginning from around 2007.

There are approximately 70 Japanese issuers with shares listed within the EU. There are also at least 180 Japanese issuers whose bonds, including convertible bonds (CB) and warrant bonds (WB), are listed within the EU. If Japanese issuers were required to prepare their financial statements in accordance with IAS, and not allowed to use Japan GAAP, this could discourage their financial activities within the EU markets, force their delisting from securities exchanges in the EU markets, and shift the focus of Japanese overseas financing activities outside Japan to non-EU markets. This is an issue of great importance. Through the so-called “Accounting Big Bang” in the late 1990s and early 2000s, Japan GAAP has been rapidly developed and has become consistent with international accounting standards.

The GOJ has explained to the Commission and authorities of major EU countries the status of the development and improvement of Japan GAAP, the concepts aimed at international convergence and comparisons of Japan GAAP with IAS. The GOJ welcomes that the EC mandated to the Committee of European Securities Regulators (CESR) to make technical advice for assessing the equivalence between third country GAAP, such as Japan GAAP, US GAAP and Canadian GAAP, and IAS by June 30, 2005.

Regarding this point, it should be noted that it was stated at the Japan-EU Summit this year in the Joint Press Statement and the Cooperation Framework for Promotion of Japan-EU Two-Way Investment that “the leaders of Japan and the EU noted that the European Commission has started a process of establishing equivalence between international accounting standards and existing Japanese standards and urged that work to establish equivalence be concluded as soon as possible and at any rate before 2007.” The GOJ continues to request that the EU promptly establish equivalence between Japan GAAP and IAS.

(3) New entry to credit card operations in France 【★,France】

In France, an organization called Cartes Bancaires “CB” manages the payment card network system (CB cards, but also credit cards) and determines the specifications of card processing equipment. This network excludes credit card companies except for a certain international credit card brands. The GOJ understands that the Commission has sent a statement of objections on this issue.

Credit card networks in most countries including Japan can be used by all credit card companies, and there are no barriers to entry. As such, the GOJ seeks the opinion of the

Commission and the French Government on this issue and requests that the CB network be opened to all credit card brands.

(4) Relaxation of investment regulations in Spain 【★,Spain】

According to the Comisión Nacional del Mercado de Valores (CNMV), in an official journal dated July 19, 1997 (Real Decreto, BOE, de 19 de Julio de 1997 dispongo 1) (Royal Decree 7 dated June 7, 1996/ revision of 1996 edition), it is stipulated that with regard to investment trust products set within the EU region, “securities of investment companies and investment funds, which can be purchased, must be issued by a company which has its head office in an OECD Member State.” When purchasing securities issued by a company which has its head office in a non-OECD country, prior approval from the CNMV is required, and Spain is behind other EU countries in relaxing this regulation. The GOJ requests that Spain relax this investment regulation, as well as expand the scope of countries in which investments can be made through investment trust funds.

(5) Relaxation of regulations related to settlement among residents in Poland 【★,Poland】

In Poland, Euro-denominated settlements in commercial transactions are increasing. However, currently settlements among residents with the euro (or with currencies of other countries) are not permitted, and residents are obliged to make settlements with the local currency. The GOJ requests that Poland relax this regulation to enable settlements among residents with the euro or currencies of other countries.

B4. Broadcasting Services

Enhancing international exchange of contents (“Television without Frontiers” Directives). 【★,EC,MS】

1.

(1) The “Television without Frontiers” Directives (89/552/EEC, revised by 97/36/EC) requires that broadcasters reserve for European works a majority proportion of their transmission time (quota system). Since the existence of such regulations may affect the distribution of Japanese television programs in the EU, there are concerns that this may be an obstacle to exchanging cultures of good quality through television programs.

Last year, Conseil Supérieur de L’audiovisuel (CSA) instructed Manga Channel, which is under the umbrella of Cable Channel AB Groupe in France, to pay a fine of 70,000 Euros for having violated domestic laws based on the directives. Manga Channel was established as a channel solely for Japanese animation, but the situation is that such exclusive channels cannot in fact exist.

(2) The GOJ fully recognizes the importance of cultural diversity. However, considering the background where European culture has attained rich and creative development through exchanging cultures of regions outside the Europe, the GOJ is convinced that expanding opportunities for people to view quality works made by Japanese artists and

producers will be beneficial to both Japan and the EU.

2. Therefore, the GOJ would like to request the following measures aimed at expanding the distribution of Japanese television programs.

(1) Relaxing regulations on the quota system

Improvements should be made, for example, by relaxing regulations on the proportion of European works with respect to channels that primarily broadcast specialized programs. (e.g. a cable channel specializing in animation)

(2) Flexible definition of joint production between non-EU production companies and EU production companies

The guidelines for the monitoring the directive states that in order for a product made in collaboration with a non-EU production company and an EU production company to be regarded as a European work, the production must be supervised and actually controlled by producers established in EU Member States.

In order to promote joint production of programs by Japanese and European Producers, the GOJ requests the EU to consider more flexible definition of joint production that are recognized as European works. For instance, the EU could consider products, which a non-European producer and a European producer have produced as equal partners, as European works, at least.

(3) Harmonization of French regulations with the EU Directives

The GOJ understands that the CSA regulation stipulates that at least 50% of broadcast programs should be French television and at least 60% should be European. The EU Directives stipulate that European works should account for at least 50%. While the GOJ does not necessarily agree with the proportion set forth by the Directives, the GOJ requests that the provision of the directives that a majority proportion is reserved for European works be respected and the said proportion of 60% be lowered to 50% in France.

B5. Automobiles, Marine Transport and Air Transport

(1) Japan-EU cooperation in realizing international harmonization of regulations for pedestrian safety [EC]

Because regulations for the safety of pedestrians have effects on the basic chassis structure for automobiles (using a structure with an automobile hood to prevent serious damage from being inflicted on the head when automobiles or small trucks collide with pedestrians), the international harmonization of these regulations is highly important. In this regard, European, American and Japanese governments are cooperating with a view to establishing global technical regulations based on the 1998 Agreement of the UN/ECE/WP29 in 2005. Meanwhile, as a result of discussions at the Council of the European Union and European Parliament, its unique Directive for the protection of pedestrians was adopted and officially announced in December 2003.

The GOJ appreciates that the EU said last year that it would continue its efforts aimed at

the harmonization of regulations. However, it is most desirable that the EU adopt the global technical regulation from the viewpoint of international harmonization. Therefore, the GOJ requests the EU to revise the regulation in line with the global technical regulation at the next phase scheduled by the Directive for the protection of pedestrians.

(2) Adoption of ECE Regulations No. 94 and 95 【EC】

The GOJ has already adopted ECE95 (side crash testing) and plans to adopt ECE94 (offset frontal crash testing: currently proposing a revision to adopt this regulation in Japan) in the future. The GOJ understands that with the revision of the ECE regulations the inconformity with related EU directives has been eliminated and that there are no longer any technical problems in adopting these regulations. However, since the EU has not yet made the necessary adoption of these regulations, we cannot utilize certification based on these regulations under the Whole Vehicle Type Approval (WVTA) system. The GOJ appreciates the EC's intention to adopt a proposal on the aforementioned regulation within 2004. However, in order to promote mutual recognition between Japan and the EU based on the 1958 Agreement, the GOJ requests that the EU promptly adopt these regulations and revise the EC directive (70/156/EEC) to make these regulations applicable within the WVTA system.

(3) The EC's speedy decision-making regarding voting on draft amendment of ECE regulation or new draft ECE regulation at the UN/ECE/WP29 (World Forum for the Harmonization of Vehicle Regulations) 【★,EC】

Although there is no specific obstacle in the adoption of draft ECE regulation and draft amendment of ECE regulation based on the "1958 Agreement" at the UN/ECE/WP29, due to the adoption procedures in the EU, such as translating the new regulations into each language of the EU Member States, the adoption of these regulations has been delayed. Because the "1958 Agreement" is adopted by many non-European countries, the GOJ requests that the EU accelerate its consultation procedure to adopt the draft regulations so that the UN/ECE/WP29 can vote on these draft regulations immediately after the approval at the working party (GR) in the EU.

(4) Issuing and selling airline tickets through local travel agencies in Poland 【★,Poland】

In order to issue and sell airline tickets (participation in the BSP) at a local travel agency in Poland, it is necessary to establish a branch office or agent in the country. The GOJ requests that participation in the BSP be made possible without establishing a branch office or agent in Poland. The GOJ understands that as a case in point in the new Member States, establishing a branch office or agent is not required in the Czech Republic.

(5) The 1% Sludge Rule in Germany 【EC,Germany】

Based on the assumption that vessels will produce sludge (remains contained in fuel oil) more than 1% of the amount of the fuel consumed oil, Germany conducts the inspection to the fuel oil of incoming oceangoing ships. In case where the sludge contained in the

fuel oil is found to be less than 1%, they are penalized by fines, since they are regarded as having discharged sludge into the sea.

In its reply in May 2001, the German Government stated that the 1% sludge rule was the most suitable method to detect sludge discharge out of a ship, and that the rule was applied flexibly, as seen in the arrangement that the exemption of the application of the rule is admitted if equipment capable of limiting the sludge to below 1% is used. However, the sludge generation ratio differs depending on various conditions, such as the ship facilities designed for environmental conservation and the types of fuel oil. Thus, there is no reasonable ground to apply the uniform assumption that vessels with no special equipment produce sludge more than 1% of the amount of the consumed fuel oil.

In the EU's reply in September 2002, the EC stated that there was no EU legislation that covers this issue and that it was a matter presently within the competence of Germany. The EC said that it would forward Japan's concern to the German Government and ask for information. The GOJ appreciates the EC's cooperation in this regard. However, the GOJ has not yet received a reply from the German Government. Therefore, the GOJ continues to request the German Government to explain its position on this issue and requests that the 1% sludge rule be abolished or reviewed for a more reasonable one. At the same time, the GOJ continues to request that the German Government clarify the rules for the equipment that enables the exemption of the application of the said rule, as a temporary measure until the rule is abolished or amended. The GOJ requests the EC to continue asking for the German Government to provide information to the GOJ and the Japanese business concerned.

(6) Review of EU regulations on exemption of competition legislation concerning liner shipping services 【EC】

While the Treaty establishing the European Community provides for the prohibition of anti-competitive agreements and concerted practices (Article 81) and the prohibition of abuse of a dominant position (Article 82), the exemption of applying these provisions on certain conditions is admitted in specific fields, including the cases of liner shipping services of maritime transportation (the Council regulation 4056/86).

The GOJ understands that the EU is considering a review of the Council regulation 4056/86, including the issue of whether liner shipping services shall remain as an exemption field. The GOJ requested an explanation of the current status and of the prospect of the review in Japan's Supplementary Proposals for Regulatory Reform in EU in 2002. The GOJ reiterates the request, as the EU side has not yet responded thereto.

B6. Construction

(1) Emission regulations on internal combustion engines installed in off-road machinery 【EC】

The EU Directive 97/68/EC9 regulates emission of exhaust gas from internal combustion

engines for off-road construction machinery. The standards are set according to their output range, and certification is granted if the engines meet the standards.

Although the output range classifications and the standard for each range used in Japan are exactly the same as those used in the EU, the similar inspections are required again to engines that have been certified in Japan when exported to EU Member States and the costs of inspections constitute a heavy burden for manufacturers.

Regarding this matter, consultations were held between Japanese industrial representatives and the relevant officials of the DG Environment of the Commission in March 2002. The Commission reportedly stated in its reply to Japan's inquiries that because Japan's relevant measures and regulation methods on exhaust gas were at a sufficiently high level, the EU would study the possibility of harmonizing its regulations with those in Japan.

The GOJ requests explanations about the progress of the study and its prospect.

(2) Entry into construction work in Belgium 【★,Belgium】

In order for non-EU enterprises to register as construction contractors in Belgium, it is necessary for them to establish an office within the EU that has functions of headquarters (for instruction and managements).

If an enterprise is unregistered, the enterprise must make a prepayment of 15% of the construction fee as a tax and 15% as a social security payment, which amounts to 30% in total, in order to accept an order. This leads to disadvantages in competition.

Furthermore, the client who orders the construction work from a non-registered enterprise must guarantee a certain debt (for taxes and social security payment) of the non-registered enterprise. The GOJ believes that these obligations are excessive requirements.

It is difficult for Japanese construction enterprises to register since many of them do not have an office in Europe that has functions as headquarters. The GOJ requests that improvements be made to this system. If the enterprise is not registered, it will be treated unreasonably as described above when they receive an order.

(3) Enforced insurance system for construction work in France 【★,France】

In France, when carrying out building construction work, the contractor for the construction must accept liability for 10 years after the construction is completed (Article 1792 of the French Civil Code). The French Insurance Law (Article L241, Supplementary Provision I to Annex Article A243-1) provides for obligatory insurance in order to ensure that this liability is assumed. In the past, contractors were obliged to join an insurance to assume liability for buildings, but builders were not fully protected because it took an extremely long time to clarify where the responsibility lay due to the nature of compensation insurance. For this reason, insurance against damage to buildings, which does not mention the responsibility for compensation, was also included in the

obligatory insurance.

While the Government of Japan fully understands the need to protect builders, given that this obligatory insurance system is unique to France, there are very few insurance companies outside France that can provide the aforementioned insurance under appropriate conditions. Furthermore, since French insurance companies consider the past record of the construction company in France when calculating the insurance premium, construction companies from other countries than France such as Japan must pay higher insurance premiums compared to French companies and are in a disadvantageous position to compete for contracts. The Government of Japan therefore requests that France and the EU (the Commission) clarify their positions on this matter and take steps to rectify this barrier to entry.

B7. Health care and Pharmaceuticals

(1) Countermeasures for the parallel importing of pharmaceuticals 【★,EC】

Many parallel importers are active because the pharmaceuticals system in the EU allows imports and sales of pharmaceuticals without having to conclude licensing contracts with manufacturers. As a result, local pharmaceutical companies are suffering significant damages due to declines in profits, particularly in countries such as the UK and Germany.

The prices of pharmaceuticals are regulated according to the medical insurance system in each Member State. Since it is difficult for pharmaceutical companies to freely establish prices, the GOJ believes that it is inappropriate to guarantee the free movement of pharmaceuticals in the same way as other products. The GOJ asks the EU to explain its position on this matter and requests that pharmaceuticals be exempt from parallel importing.

(2) Rectifying the Pharmaceutical Price Regulation Scheme (PPRS) concerning profit margins 【★,EC,UK】

The Pharmaceutical Price Regulation Scheme (PPRS), which is an agreement concluded by the UK Department of Health and Association of the British Pharmaceutical Industry (ABPI), has discriminatory restrictions on profit margins according to the amount of investment on tangible fixed assets. This scheme results in the detrimental treatment of newly entering enterprises that lack a local production base and foreign enterprises that mainly engage in export and sale. The GOJ therefore requests the EU and the UK Government to explain their positions on this matter. Furthermore, the GOJ requests the authorities responsible to take measures to rectify this system since it serves as an unfair, and substantive barrier to non-EU enterprises.

(3) Reviewing the mandatory rebate system in Germany 【★,Germany】

In Germany, pharmaceutical companies have been obliged since January 2003 to give a mandatory rebate for pharmaceuticals to which the reference price system is not applied, and the percentage of the rebate was raised from the existing 6% to 16% in January 2004. This increase of rebate was made without considering the opinions of pharmaceutical

industry circles, which are the parties that assume this obligation, and has resulted in a significant burden on the pharmaceutical industry. Japan, the EU and EU Member States expressed their intention to increase the transparency of regulations in the Cooperation Framework for Promotion of Japan-EU Two-Way Investment issued at the Japan-EU Summit in June this year. Therefore, the GOJ requests the EU and the German Government to explain their positions on this matter. Moreover, the GOJ requests the EU and the German Government to establish an opportunity to have constructive discussions with pharmaceutical industry circles and review the aforementioned measure based on a consent between the government and the private sector.

B8. Tourism

(1) Issuing work permits to students who work in the tourism industry in the summer in Austria 【Austria】

Although Japanese tourism companies, restaurants and souvenir shops which mainly deal with Japanese customers wish to employ Japanese workers to maintain good services, these companies and shops are not allowed to employ Japanese workers who earn relatively low wages. The GOJ requests that improvement be made in this area. If it is difficult to issue long term work permits soon, the GOJ requests seasonal work permits be issued to Japanese workers including students, especially in the summer.

(2) Nationality requirements for tour guide licenses, obligation to have tour guides accompany tourists and ensuring transparency in tourist guide charges in Spain 【Spain】

(a) Nationality requirements for tour guide licenses

According to legislation on tour guides in Spain, only EU nationals can obtain tour guide licenses. While the EU explained that the nationality requirements for tour guides in Member States are covered by the GATS, Japanese tourists visiting Spain are compelled to hire local guides who do not speak Japanese, in addition to hiring Japanese tourist conductors who speak Japanese, and are thus forced to pay redundant costs. The GOJ requests Spain to allow non-EU citizens that can speak Japanese to serve as tour guides. In addition, as it has requested in previous proposals, the GOJ continues to request a clear explanation about procedures and conditions for obtaining guide licenses.

(b) Obligation to have tour guides accompany tourists

Spain makes it mandatory to have tour guides accompany tourists. The GOJ would like Spain to explain why this obligation is necessary. The GOJ requests Spain not to apply the obligation to have tour guides accompany tourists in all circumstances, but establish a scope where this obligation does not apply.

(c) Ensuring transparency in tourist guide fees in Spain

In its reply in August 2001, the Spanish Government explained that guide fees were set by tourist guides themselves, based on the market economy principle, and that neither the central government nor local governments could interfere with the setting of the fees. In reality, however, guide associations are reported to be able to set fees exclusively, and in some cases, they are reported to determine the fees unilaterally.

To ensure transparency in fixing tour guide fees, as it has requested in previous proposals, the GOJ continues to request the Spanish Government to take measures, such as presenting clear standards, providing opportunities for consultations with interested parties and confirming in writing the results of consultations.

(d) Encouraging local governments

The GOJ understands that each local government basically has the authority over tourist guide regulations. The GOJ would like the central government of Spain to encourage local governments to make improvements on the various points mentioned above in order to promote a greater visit by Japanese tourists.

(3) Concerning residence permit applications in Italy 【Italy】

According to the Immigration Law in Italy, all foreigners including those on short stays within three months for such purposes as tourism are obliged to apply for residence permits to the police within 8 working days and carry the permits during their stay in Italy.

Foreigners staying in Italy without going through the procedures to obtain residence permits were only notified in writing to leave Italy within 15 days and were basically not detained. However, the revised new Immigration Law enforced in July 2002 stipulates that persons who received orders to leave the country will be escorted to the border and placed in a facility in the meantime.

There has been one case where a Japanese national was detained by the local police in Trapani in Sicily on November 12, 2002 and another Japanese national was ordered to leave the country because of not carrying a residence permit in the Island of Elba, in April 2004.

Only a few tourists visiting Italy stay for more than eight days in the same city. These tourists do not have enough time to go to the police station where they are staying to obtain residence permits and it is nearly impossible to go through the procedures. For this reason, the Japan Association of Travel Agents (JATA) objected in writing to the Embassy of Italy in Japan, but the case raised by them was treated as a special one and the solution has not realized yet.

Since then, there have been no reported cases of Japanese nationals being detained. Nonetheless, the tourism trend among Japanese people has been changing year by year, from touring many places for a short period of time to staying for a long period of time in one place. In this light, it is expected that the number of Japanese tourists who will stay in Italy for more than eight days will increase even more in the future.

The Government of Japan appreciates the efforts being made by the Government of Italy to improve the situation and would like to request the Italian Government to make, for example, the following concrete measures.

1. A certificate of participation in the package tour issued by the organizing travel agency should be accepted as an alternative to a residence permit.
2. A copy of the return airline ticket should be accepted as an alternative to the residence permit.
3. The bilateral visa waiver arrangement should be applied for the exemption of Japanese tourists from the obligation to apply for residence permit.

The Government of Japan understands that the Government of Italy is carrying out a keen consideration of this matter. The Government of Japan thus requests the Government of Italy to prompt.

C. Environmental Regulations

(1) General comments

The GOJ appreciates the forward-looking approach attitude of the EU in tackling environmental issues. Particularly, with regard to the recycling issue, Japan shares common awareness with the EU. However, regulations in the field of environment may not only have a significant impact on non-EU enterprises including Japanese enterprises, but also have an unignorable impact on the EU's efforts to strengthen economic competitiveness in Europe based on the Lisbon Strategy. In this context, the GOJ believes that a sound balance should be ensured between the expected achievement in the field of environment and their effect on corporate economic activities, international trade and investments. The GOJ continues to request that such regulations should not impose an excessive burden on enterprises which could prevent sound economic activities and create trade barriers.

Furthermore, in the Cooperation Framework for Promotion of Japan-EU Two-Way Investment, the GOJ and the EU expressed their intention to continue dialogue in both the formulation stage and implementation stage of regulations with a view to promoting two-way investment. Given that the field of environment has been designated as one of the priority areas of this Cooperation Framework, the GOJ requests the EU to take a forward-looking approach to Environmental Regulations.

(2) New chemical regulations in the EU: Proposal for a Regulation of the European Parliament and of the Council concerning the Registration, Evaluation, Authorization and Restriction of Chemicals (REACH) (Request to the EC and EU Member States)

The new regulation of REACH system may substantially affect not only European manufactures and importers of chemical substances but also Japanese and other foreign companies operating within the EU and companies exporting substances or articles to the EU. For this reason, the GOJ has a strong interest in this new regulation. With regard to

the Proposal of Regulation adopted by the EC in October 2003, the GOJ requests that information be provided on the future schedule of discussions within the EU including the Council of European Union and European Parliament, and that the basic views and matters of concern of the GOJ be fully taking into consideration in the relevant discussions.

The GOJ has repeatedly conveyed its basic view and matters of concern on various occasions, such as at the Brussels meeting of the Japan-EU Regulatory Reform Dialogue held in February 2004 and in its comments submitted in response to the WTO/TBT notification concerning the EU's REACH Proposal in June 2004. In brief, the basic view of the GOJ is as follows:

(a) The basic view of the GOJ

(i) The REACH system should not impose excessive obligations or burdens on business operators to comply with the new legislation.

(ii) The REACH system should not impede exports to the EU market nor create unnecessary obstacles to international trade (in particular, with regard to the registration of substances contained in articles, and the provisions should not be inconsistent with the principles stipulated in WTO agreements).

(iii) The REACH system should be consistent with the international activities that aim to harmonize each country's regulatory schemes, which have been enforced or studied at the OECD and other international organizations.

(iv) Each Member State should ensure proportionality, transparency and fairness in the application of REACH system.

(b) Main articles with which the GOJ has concerns

(i) Registration of substances in articles (Article 6 of the Proposal)

(ii) Registration of monomer substances constituting polymers (Article 5, Paragraph 3 of the Proposal)

In addition to the above, the GOJ proposes that a separate experts' meeting be held early next year, as was the case last February using opportunities such as the Japan-EU Regulatory Reform Dialogue in order to hold discussions with the EU side on the GOJ's matters of concern including technical contents and the points to which the EU side has not yet sufficiently responded among the comments of the GOJ at the Internet consultations held by the EU in July 2003.

(3) “Directive on waste electrical and electronic equipment (WEEE)” and “Directive on the restriction of the use of certain hazardous substances in electrical and electronic equipment (ROHS)”

(a) With respect to WEEE and ROHS, both directives came into effect in February 2003, the GOJ understands that all Member States were in the process of legislating all the laws necessary to comply with both directives by the end of August 2004. However, the most Member States have not completed their legislative process yet, although the said deadline has already passed. The related industrial circles of Japan request that the EU inform the GOJ of the actual content and status of the legislation including domestic laws, government and ministerial decrees in Member States aimed at the enforcement of these directives in August 2005, and urge the Member States to complete their legislative

process at an early date. Furthermore, in case this process should not be promptly advanced in Member States, the GOJ believes that it would be necessary for the EU to consider measures such as delaying the enforcement of the two directives.

In any case, the GOJ continues to request the EU side to provide sufficient information.

(b) As for the WEEE, the GOJ is aware that there remain some problems, including its vague scope of parties that are obliged to comply with the items of the directive and its unclear scope of products subject to the directive. The GOJ is also aware that some problems remain regarding the ROHS. For example, the products subject to ROHS, the scope of the items of exemptions and their interpretation remain unclear, and the items of exemption are scheduled to change. Other problems include that the handling of Categories 8 and 9 as well as the threshold value of the maximum amount of banned chemicals permitted under the ROHS have not been determined and that the definition of the term “homogenous materials” (written in the public consultation document of December 2003) is unclear. The GOJ understands that considerations on the aforementioned problems with both directives are currently underway in the Technical Adaptation Committee (TAC) and requests that the EU provide an explanation on the most recent situation of such considerations.

Bearing in mind the lead time that companies exporting products from Japan to Europe require to develop products and introduce them to the EU market, the GOJ requests the EU to solve the aforementioned problems as soon as possible so that they don't become obstacles to Japanese enterprises in complying with the said directives. Moreover, given that the cost required to assess and measure the chemical content is reflected on the price of the product itself, the GOJ would like to reemphasize that the balance between the safety environmental protection is appropriately prevented.

Furthermore, the GOJ requests the EU respond flexibly when the Japanese industrial circles concerned, among others, raise individual requests on the solution to the aforementioned problems or on the said items to be considered hereafter.

(4) Directive on battery

(a) The GOJ welcomes that the articles that banned the use of nickel-cadmium batteries were removed from the draft directive, which was adopted by the EC in November 2003. However, in response to the said draft directive, the European Parliament submitted an opinion in April 2004 which proposed to ban the use of Ni-Cd batteries. Therefore, the GOJ supports the position of the EC to allow the use of Ni-Cd batteries. The GOJ continues to request, as it did last year, that the ban on the use of Ni-Cd batteries not be included in the draft directive.

(b) Lead is used in the negative electrode zinc can of manganese dry cells. From the viewpoint of production, lead is an indispensable substance that provides ductility and malleability when molding anti-corrosive compounds and zinc pellets into cans. The current proposal to revise the Directive on Battery has set a regulatory value of 40ppm for lead. However, it is impossible to manufacture manganese dry cells and various types of button batteries within this regulatory value. If it becomes difficult to

manufacture manganese dry cells and various types of button batteries and they disappear from the market, there will be grave consequences, such as restricted product selection and rising battery costs, on consumers including patients who use medical devices worked by these batteries and hearing impaired persons who use air batteries. The GOJ therefore requests the EC to reconsider the regulatory value of 40ppm for lead that is stipulated in the proposal to revise the Directive.

(c) Moreover, the GOJ requests an explanation on the purpose and cost-effectiveness of collecting and recycling primary batteries, which leads to an excessive increase in social costs. The GOJ continues to request that opportunities be offered to exchange information and opinions.

(5) Proposal for a framework directive for setting eco-design requirements for Energy-using Products (EuP)

(a) Since the EC's proposal for a framework directive for setting eco-design requirements for Energy-using Products (EuP) was adopted as a common position of the Council of the European Union in August 2003. The GOJ is aware that it is highly likely that this proposal will be enacted after a second reading by the European Parliament. Furthermore, following the enactment of the framework directive and the selection of products to be covered by this directive, the concrete items concerning regulations on individual products are scheduled to be adopted one by one as the Implementing Measures. The content of these regulations will have a substantial impact not only on European enterprises that manufacture and export EuP, but also foreign enterprises operating in the EU or exporting EuP into the EU. Therefore, the GOJ continues to request the provision of information on the status of discussions on the said framework directive in the European Parliament. Furthermore, the GOJ requests that opportunities be affected for relevant businesses from non-EU countries including Japan to submit and exchange opinions.

(b) The draft framework directive would obliges businesses to implement conformity assessments through internal design control or environmental management systems concerning the eco-design requirements of products. Meanwhile, approved methods of conformity include the acquisition of Eco-management and Audit Scheme (EMAS) registration or EU Eco-labels and the conformity with harmonized standards prepared by EU Member States.

Among the design systems, there are some provisions which cause concerns that only designated systems or evaluation systems prevalent in the EU would be accepted or treated preferentially. With respect to the conformity assessments, content and indicators of provisions on eco-design requirements, among other items, the GOJ requests that internationally standardized methods, indicators and others be prioritized in the concrete content of provisions, bearing international harmonization in mind, in order to ensure that this framework directive does not have a restrictive effect on trade.

The GOJ believes that if this framework directive is enacted without eliminating such concerns, it will have a significant impact on Japanese industrial circles that manufacture and export EuP.

D. Fundamental Matters Related to the Business Environment

D1. Work and Residence Permits

(1) Overview: Improving procedures for obtaining work and residence permits

【M.S. EC】

The first step in improving the investment environment in the EU is to enable business people and their families from non-EU countries including Japan to begin their new lives with a sense of stability and predictability in the place of their assignment. In the Cooperation Framework for Promotion of Japan-EU Two-Way Investment issued at the Japan-EU Summit this year, the EU expressed its intention to further facilitate administrative procedures for Japanese residents, including efforts to ease procedures for visas, work permits and residence permits in EU Member States. In this light, the GOJ hopes that improvements will be made in these various issues both at the EU Member State level and EU level.

Regarding issues at the EU member state level, lengthy periods are required for obtaining or renewing work permits, visas and residence permits. Consequently, Japanese companies operating in EU Member States have difficulty in transferring and employing their staff members in a planned and smooth manner. The business people also encounter difficulties in various kinds of procedures required for living after being transferred to their new work locations. Furthermore, in some Member States, there are cases where the handling of procedure differs depending on government officials; administrative procedures such as issuance guideline are unclear; and procedures are extremely complicated. For these reasons, the problems of work permits and residence permits have become the largest concern for business managers and employees operating in Europe as well as their family members. In fact, the requests related to this field are the largest in number among all the requests raised by the Japanese business. In the dialogue in FY2003, positive responses were given by some Member State representatives who attended, and the situation has been improved in some countries. However, as there are many countries in which problems persist, the GOJ requests that improvements be made in the items outlined below (Italy, Spain, France, Greece, Germany, Portugal, Ireland, the Netherlands, Austria, Denmark, UK, Czech Republic and Slovak Republic).

As for issues at the EU level, there are a growing number of cases wherein businesspeople from non-EU countries including Japan are transferred among EU countries as a result of the integration of the EU market and the globalization of business activity. Therefore, if the acquisition of work permits before entry into a new country of their designation is required, this will place a great burden on intra-corporate transferees, among others. Although the EC has said that it is continuing to make improvements in this field, such improvements have not been realized yet. The GOJ thus requests that Japanese business be permitted to apply residence and work permits after they have entered the country.

(2) Proposal for a Council Directive on the conditions of entry and residence of third-country nationals for the purpose of employment and self-employed economic activities 【EC, M.S. 】

The European Commission submitted the proposal for a Council Directive on the conditions of entry and residence of third-country nationals for the purpose of employment and self-employed economic activities in July 2001 with a view to simplifying the procedures to obtain residence and work permits and harmonizing such procedures at the EU level. The proposal was considered by the European Parliament and the Justice and Home Affairs Council, but it was not adopted. Bearing in mind that the simplification and harmonization of procedures to obtain residence and work permits is the biggest issue of concern for Japanese enterprises, the GOJ hopes that the European Commission will continue to work toward adoption of this directive and requests that it provide information on the status of progress to the GOJ.

(3) Proposal for a Council Directive related to the freedom to travel of third-country nationals in the territory 【EC, M.S.】

The European Commission proposed a draft directive related to the freedom to travel of third-country nationals in the territory in July 2001. There are concerns that if the proposal is implemented as it is drafted, it will have a significant impact on the trips to Europe by Japanese nationals that have been made under the reciprocal visa waiving arrangements between Japan and European countries. Therefore, the GOJ requests that the draft directive be carefully studied and particularly not undermine the reciprocal visa waiving arrangements between Japan and the Member States of the Schengen Convention, which had been made before the Schengen Convention entered into force.

According to the response given by the European Commission in FY2003, it proposed to Member States to allow the freedom to travel for six months within the Schengen zone. While the GOJ understands that this proposal was blocked by the European Council, it requests that a concrete conclusion be reached.

Furthermore, the GOJ is aware that the European Council is considering making the stamp with the date of entry mandatory for entry from a third country into the Schengen zone. However, since there has been much discussion on the proposal to treat persons without the stamp as “overstays,” the GOJ requests that the European Council give careful consideration.

(4) Expanding the quota, facilitating the acquisition of work permits, expediting the process of delayed issuance of residence permits and improvement of procedures for ban on departure from the country while waiting to obtain residence permits in Italy 【Italy】

(a) The GOJ is aware that the Italian Government is currently considering extending the term of validity from two to five years for the system of non-quota work visas and work permits that can be issued without waiting for the establishment of a quota (i.e., limits to the number of permits to be issued) in order to improve convenience for Japanese business people. The GOJ requests that these changes be realized at an early date and that quota visas (without restrictions on the term of validity) continue to be issued until the changes are implemented. In addition, according to the explanation of the Italian Government regarding the issuance of non-quota work permits, it is legally required to prove that the salaries of Japanese business people had been paid by the parent company

until they were dispatched to Italy. However, it is actually required in application forms to prove that the parent company pays salaries to them even after they were dispatched to Italy. Considering that most business people are dispatched from the parent company and their salaries are paid from the local affiliate, the GOJ requests that the Italian Government change the application forms and the changed procedure be practiced at each local office in order to make the actual situation correspond to the said explanation of the Italian Government.

(b) It takes a lengthy period from the application to the issuance of residence permits (It takes about one year in Rome.), which considerably hinders the corporate activities and the daily life. The GOJ understands that the Italian Government is making efforts to improve the situation and it requests the Italian Government issue residence permits smoothly. Furthermore, in case where a person leaves Italy while waiting to obtain residence permits, his/her application of residence permit becomes invalid, causing inconveniences in business activity. The GOJ therefore requests that this measure be rectified. The GOJ is aware that Italy issued a notice allowing citizens of non-EU countries temporarily to enter and depart Italy for the purpose of returning to their home countries between July and the end of September 2004 while waiting for their residence permits to be renewed. The GOJ requests that the Italian Government go beyond such temporary measures and make further improvements.

(5) Expediting the process of issuing and renewing residence and work permits in Spain 【Spain】

The GOJ requests that residence and work permits be promptly issued and renewed. In order to apply for residence and work permits, the applicant must reserve the date of application in advance by telephone or e-mail to local offices of the Government of Spain. However, while applications are not accepted over a month before the expiration of the current permit, cases are reported that it takes two months to receive responses to e-mail. Furthermore, some Japanese enterprises have reported cases where the date of reservation indicated in the response is six months away. The GOJ requests the Spanish Government take measures, such as establishing a special counter for business-related applicants, in order to avoid such situations.

(6) Expediting and simplifying the process of issuing and renewing residence and work permits in France 【France】

The GOJ requests that residence and work permits be promptly issued and renewed. There have been reports from Japanese enterprises that almost the same cumbersome procedures are required for the renewal of residence and work permits every year as for the initial registration. In addition, the process is delayed when the persons in charge of these permits are absent for vacation or other reasons. The GOJ therefore requests that the French Government resolve these systemic and administrative problems.

(7) Expediting and simplifying the process of issuing residence and work permits in Greece 【Greece】

While there have been some reports that the time for the issuance of residence and work permits has been shortened, others still say that the situation has not been improved. Since this shows that the treatment of individual visa offices varies widely, the GOJ requests the Greek Government to promptly issue residence and work permits and to simplify the procedures to renew residence permits across the board.

(8) Expediting the process of issuing work permits in Germany 【Germany】

Concerning this matter, the Japanese Embassy and German relevant authorities are preparing the process for a consultation. Thus, the GOJ wishes the situation will be improved by both parties.

(9) Expediting and simplifying the process of issuing residence and work permits in Portugal 【Portugal】

Applications for renewing work permits are accepted one week before its expiration. As this period of one-week is too short and it is just before its expiration, the GOJ requested in 2003 that this period be prolonged. In its written response last year, Portugal stated that it was waiting for a reply from the Serviço de Estrangeiros e Fronteiras (SEF, Immigration Service). The GOJ would like to request a prompt response since Portugal has not yet provided an official response. Furthermore, as it is reported that it took over six months to obtain a work permit, the GOJ requests Portugal to expedite its issuance process.

(10) Resuming the suspended application of the Intra-Company Transfer Scheme in Ireland 【Ireland】

The Intra-Company Transfer Scheme (ITS), which is a work permit requirement exemption system introduced in April 1999, allowed corporate manager-level persons and highly skilled workers to enter Ireland without work permits by presenting a letter from the company or group headquarters to the immigration officer upon entering Ireland. However, this system has been suspended since October 2002 due to abuse by immigrants from certain countries. Although temporary measures have been taken since then, Japanese business circle has expressed their dissatisfaction over the lack of transparency and consistency of these measures. The GOJ therefore requests that the Irish Government fully resume this system.

(11) Relaxing the work permits issuance standards in the Netherlands【Netherlands】

(a) Since work permits could only be granted to managerial personnel receiving an annual salary of 50,000 Euros or more, it was difficult to employ younger Japanese who do not yet possess advanced techniques. However, the GOJ understands the criteria for work permits was amended this October concerning those employees younger than 30 whose annual salary is more than 32600 Euro and those older than 30 whose annual salary is more than 45000 Euro. The GOJ appreciates this amendment. While there are no requests concerning the criteria for work permits from Japanese enterprises, the GOJ wishes Netherlands to continue improving business conditions for Japanese enterprises.

(b) Exemption from the obligation to join the optional medical insurance plan in the Netherlands (★, Netherlands)

When their residence permits are issued, Japanese business people who earn over a certain amount of income are obliged to join the optional medical insurance plan on their own, instead of the public health insurance system in the Netherlands. The co-payment per person to private insurance companies is about 3000-4000 Euros a year, which results in a burden on enterprises.

Some Japanese enterprises have a scheme where their headquarters pay the medical fee if it exceeds a certain amount (i.e., welfare insurance system). Given the aforementioned scheme, the GOJ requests that Japanese workers in the Japanese subsidiaries be exempt from the obligation to join the optional private Dutch medical insurance plan.

**(12) Relaxing the issuance criteria for residence and work permits in Austria
【Austria】**

The tourist industry in Austria targeting Japanese tourists needs to increase employment in specific period, especially in the summer. For this reason, the GOJ requests that Austria issue work permits to students and others for temporary employment. In its reply last year, Austria stated that Japanese enterprises wishing to employ a foreigner must demonstrate their willingness to employ Austrian citizens if they meet the conditions. The GOJ requests that Austria permit the employment of Japanese citizens on a seasonal basis and hopes that Austria will respond in a flexible manner.

(13) Extending the term of validity of student visas in Denmark (Japanese schools in Denmark) 【★、Denmark】

Currently issued student visas have a term of validity of one year and it requires an enormous amount of work to annually renew every student's visa. In addition, students face inconveniences since they do not have their passports at hand while their visa applications are being processed. Given these circumstances, the GOJ requests the Danish Government extend the term of validity of student visas from one year to cover the entire period of schooling.

(14) Extending the period that students are allowed to work under student visas in the UK 【★、England】

A special category for student work during summer vacation has been established to allow university students to work 40 hours a week. However, this does not apply to students for a short period of time, such as students studying at language school. The GOJ is aware that with the legal amendment in autumn 2003, the payment for a visa renewal, which ranges from 400 to 500 pounds, has been made mandatory since October 2003. This amendment is imposing a burden on the cost of living for many language students. In view of such a change of circumstances, the GOJ requests that the UK establish a special category, similar to that for university students, that allows language students to work during summer vacation.

(15) Expediting and simplifying the process of issuing residence and work permits

and extending their term of validity in the Czech Republic 【★、Czech】

The GOJ understands that the Czech Republic has simplified the visa process to a certain extent since May 1 as a result of the accession to the EU. The GOJ, however, requests that the Czech Republic facilitate and expedite the process of issuing long-stay visas and extending the term of validity from a maximum of one year to three years. Moreover, visa applicants must go to the police for foreigners to extend their visas and confusion sometimes occurs since there are few counters. The GOJ thus hopes that the Czech Republic will improve the situation by, for instance, increasing the number of counters.

(16) Expediting the process of issuing residence and work permits, extending their term of validity and standardizing the administration in Hungary 【★、Hungary】

The GOJ requests that residence and work permits be issued smoothly and that the period required for the application process be shortened. Given that the term of validity of residence and work permits is one year, the GOJ requests that renewed work permits have a longer term of validity. Moreover, the GOJ requests Hungary to standardize its administration since there are many cases where officials in charge respond differently.

(17) Expediting and simplifying the process of issuing work permits in the Slovak Republic 【★、Slovakia】

The GOJ is aware that foreigners working in the Slovak Republic usually need both a residence permit and a work permit. However, there are complicated steps in the process of obtaining these permits and it takes several months, thereby placing a substantial burden on enterprises. The GOJ requests the Slovak Republic to simplify the process and reduce its required time.

D2. Driving Licenses

(1) General Comments

The acquisition of a driving license is one of the most fundamental requirements for representatives of Japanese enterprises and their family members to reside and conduct business and other activities in Europe. It is desirable that Japanese driving license can be exchanged for to one of the member state of the EU. In addition, it is necessary for the representatives of the Japanese enterprises and their family members to be able to drive cars in Japan with their Japanese driving licenses, when they temporarily return home for business or private reasons.

From the viewpoint of preventing illegal actions arising from the possession of more than one driving license of the Community model within the EU region, the European Commission requires through the Council Directive on Driving Licenses (1991/439/EEC), in exchanging licenses issued by third countries (non-EU nations including Japan) for Community model licenses, the applicants to surrender their licenses issued by their home country. As a result, this has caused a problem where Japanese representatives and other Japanese nationals who have exchanged their driving licenses

can not drive cars in Japan when they return home, as they have surrendered their Japanese licenses.

The GOJ has requested as the best solution to this problem that the Japanese driving license be returned immediately and directly to the license holder when exchanging it for that of the EU Member States. Meanwhile, the European Commission proposed this year that “when Japanese citizens exchange their Japanese driving licenses for those issued by the EU Member States, the authorities of the EU Member States return the surrendered Japanese driving licenses they received to the Embassy of Japan in that EU Member State.” At the Japan-EU Regulatory Reform Dialogue held in Brussels on February 19-20, 2004, the GOJ replied to the EC that it would like to examine this proposal positively.

Given the abovementioned EU Directive does not preclude the authorities of the EU Member States from returning the Japanese citizens’ driving licenses they received when Japanese citizens exchange their Japanese driving licenses for those issued by the EU Member States, this may be one of the solutions to this problem and the GOJ would like to accept the EU side’s proposal accordingly.

However, in terms of the procedural details, the GOJ would like to consult with each of the EU Member States.

(2) Problem of exchanging driving licenses in Greece

The Presidential Order issued in March 2001 enabled Japanese driving licenses to be exchanged for Greek driving licenses. As the exchanging procedures, Greece demanded the submission of certificates of correct translation issued by the Greek Ministry of Foreign Affairs or by a lawyer registered in Greece. However, as neither the Greek Ministry of Foreign Affairs nor Greek lawyer handle the translation of the Japanese language into Greek, it was virtually impossible to obtain a certificate of correct translation. Meanwhile, in its written reply in FY2003 concerning this issue, Greece stated that in accordance with Ministerial Decree No. 3744/398, the certificate of correct translation issued by a consular office in Greece will be also accepted. The GOJ appreciates the efforts that have been made by the Greek Government.

On the other hand, the aforementioned Ministerial Decree requires the authority that issued driving licenses in the said country to issue a document certifying the validity of driving licenses which are to be exchanged and stipulates extremely complex procedures after the issuance of such document. As a result, this procedure constitutes a major obstacle to smooth activity in Greece by non-EU enterprises including Japanese. Since EU countries other than Greece are allowing exchange of driving licenses without requesting the issuance of such documents, this problem in Greece is a negative factor that damages Greek attractiveness as business location. In regard to this issue, in the Cooperation Framework for Promotion of Japan-EU Two-Way Investment issued at the Japan-EU Summit this year, the EU expressed its intention to work to further facilitate the administrative procedures for Japanese residents with a view to improving investment environment.

The GOJ therefore requests the Greek Government to consider the situation explained

above, adopt measures to abolish the requirement to submit the certification document and make further improvements concerning this issue.

D3. Social Security

Eliminating the problem of double payment for social security 【EC,MS (excluding UK, Germany, France, Belgium)】

Although the GOJ recognizes it as a field where Japan-EU cooperation is progressing, the double payment for social security imposes a great burden not only on companies already operating in Europe, but also on companies planning to extend their business in Europe hereafter. As such, the GOJ hopes that both Japan and the EU will continue to make their efforts in this field since this problem has a negative impact on investment in Europe.

At the meeting of the Japan-EU Regulatory Reform Dialogue in FY2003, it was confirmed that this problem should be resolved by the conclusion of bilateral agreements between Japan and each of the EU Member States. With this respect, Japan has already concluded social security agreements with Germany and the UK, and negotiations are smoothly underway with France and Belgium to conclude such agreements. The GOJ intends to advance the exchange of information with a view to launching negotiations to conclude social security agreements with EU member States in order of priority according to the situation of human exchanges and other factors,

D4. Others (Developing an investment environment)

Measures to deal with extremist groups against animal testing 【★,EC,MS】

In “the Cooperation Framework for Promotion of Japan-EU Two-Way Investment” issued at the Japan-EU Summit in June 2004, Japan and the EU reaffirmed that two-way investment is vital for their economic relations and recognized the importance of developing an investment and business environment in Japan, bearing in mind that two-way direct investment will bring substantial benefits to both sides, including economic revitalization and creation of job opportunity.

Since ensuring the safety for Japanese enterprises operating in EU is vital for the investment and business environment, it is a major concern for Japan and the EU that animal rights extremists (ARE) typified by Stop Huntingdon Animal Cruelty (SHAC) are staging violent and antisocial protest against local Japanese pharmaceutical companies, particularly in London. Japanese pharmaceutical companies and the Embassy of Japan have requested administrative authorities, among others, to take countermeasure as such activities have frequently occurred since March 2003. The Government of the UK has taken measures to improve the situation. For example, the court has issued injunctions to stop the said organizations from holding protests and the police authorities have tightened their control. The GOJ appreciates these efforts made by the UK authorities.

On the other hand, the protest activities still occur frequently and extremist activity is spreading to other EU countries. Under these circumstances, Japanese companies will be forced not only to restrain new investment, but also to withdraw the existing investment.

The GOJ therefore requests the UK to resolve this issue and hopes that appropriate measures will be taken at the EU level.

Attachment: Taxation

Taxation

The following issues on taxation are, unlike other requests of the GOJ, the introduction of matters pointed out by Japanese private companies (hereinafter referred to as the Japanese business).

(1) General comments: Harmonization of taxation

The Japanese business requests that corporate tax systems in the EU are harmonized and unified as soon as possible. The EC is looking into the harmonization of corporate tax systems. However, there is inconsistency among the tax systems of the EU member states with regard to, among others, transactions across national borders within the EU, which imposes tax burdens and administrative burdens for companies which are operating in the EU.

(Specific examples)

- There are unclear points in the Treaty Establishing the European Community and tax system regulations of each EU member states.
- Harmonization of transfer pricing taxation
 - Documented regulations on transfer pricing are not unified in each EU member states. The EU Joint Transfer Pricing Forum was established in 2002 including Member States and company representatives. The Japanese business would like to be informed of the latest status of the forum's progress reports. Furthermore, the Japanese business hopes that through this forum a policy to virtually reduce the observance cost of the transfer pricing taxation will be formulated at an early date.
- The Japanese business understands that the harmonization of VAT systems in the EU is an area in which progress is being made. However, the unification including in the field of practical business, the simplification of refund procedures and the acceleration of operations are still in progress.
 - The Japanese business highly evaluates the efforts of the EC in this area. The Japanese business hopes for the early realization of the EC's proposals for the further simplification of taxation areas for services between companies across national borders and the reduction of cases in which Japanese companies must seek value-added tax refunds.
 - With regard to value-added tax (VAT) on e-commerce of digital contents etc., amended VAT directive (2002/38/EC) requires different treatment of companies outside the EU depending on the area in which the consumer resides, and this could impose a heavy burden. The Japanese business requests each EU Member State to flexibly implement the directive with a view to lightening the burden of companies to the utmost extent by, for example, simplifying the procedure for confirmation of residential countries of consumers. The Japanese business also hopes the provision of information on related laws within the EU.
- Provision of information related to taxation of each country's taxation
 - The Japanese business hopes well-advanced provision of information on the

direction and timetable of the tax system reforms scheduled in each EU member state. It will be beneficial not only to existing Japanese companies but also to the entry of new companies into the European Union.

(2) The merger directive of 1990 to be applied to mergers, transfer of assets, stock transfer, etc.

The merger directive of 1990 to be applied to mergers, transfer of assets, stock transfer, etc., provides for taxation steps for deferring evaluation in cases where reorganization of a body is carried out within the EU. In October 2003, the EC presented a proposal to extend the applicability of the directive, and the directive was partially amended as a result of consultations with the Member States. The proposal, which is aimed at updating, clarifying and expanding the scope of the merger directive, should be highly evaluated. The Japanese business therefore hopes for its early adoption and implementation.

On the other hand, as unified handling is not assured in implementing the directive within the EU, enterprises considering reorganization of their groups in Europe must take the differences into consideration in the different handling in each EU member State. This imposes a significant burden on them in terms of work and cost, hampering simplification of organizations. Specifically, some EU Member States require maintenance of shares obtained in exchange for assets for several years. As a consequence, even when all assets are converted into shares, and the company becomes an empty company, it is required to maintain that company to hold the shares. In this case, the company has to bear expenses for the maintenance. Furthermore, it is required to give part of dividends from the European Head Office through empty subsidiary, so that the company is likely to pay excessive withholding tax on dividends. The Japanese business, therefore, requests that their rules for obligatory possession of the shares do not impose substantial obstacles to restructuring of companies.

(3) The tax imposition on transfer of goodwill beyond national borders

Quite a few Japanese enterprises operating in Europe are engaged in reorganization in order to adapt their structure to the single market. In making their structure pan-European, optimal placement of various functions is very important, and in many cases some management assets are required to be transferred beyond national borders. The merger directive provides for steps to defer tax imposition that may occur in such a transfer of assets beyond national borders. In October 2003, the European Commission proposed an amendment to expand the scope of the directive, and the directive was partially amended as a result of consultations with Member States. In the proposal, the transfer of goodwill beyond national borders is still not included as an object of deferred taxation. In case of reorganization of Japanese enterprises, there are many cases in which goodwill is required to be moved beyond national borders. For this reason, there is a possibility that substantial tax imposition will occur, depending on the case. Because of the effects of this possible tax imposition, some companies have given up implementation of reorganization. This situation constitutes an obstacle to reorganization.

In the annex of a European Commission's communication announced in October 2001, the European Commission recognized the problem that tax imposition on goodwill

transfer will not be an object of deferred taxation based on the merger directive. Highly evaluating the recognition by the Commission, the Japanese business requests that the Commission and the EU Member States promptly amend the system so that taxation on goodwill transfer on the occasion of reorganization will be an object of deferred tax imposition, while the authorities' power to impose tax remains in the country that the goodwill is transferring from. The Japanese business also requests that the Commission and Member States continues to explore expanding the scope of deferred taxation based on the merger directive to real estate transaction tax and to other intangible asset transaction taxes, which may often arise in the course of reorganization.

(4) Unification of the company taxation basis based on International Accounting Standards (IAS)

Under the regulation of the European Parliament and the European Council (Regulation/EC/1606/2002), listed enterprises in the EU are required to formulate their consolidated financial statements in accordance with International Accounting Standards (IAS) from 2005. Under the regulation, however, it depends on each Member State whether IAS will be applied to unconsolidated settlement of accounts or statement of accounts of unlisted companies, such as subsidiaries of many Japanese enterprises. As a result, while listed companies will be able to formulate a single set of financial statements based on the same accounting standards, unlisted companies that operate in multiple countries, including those that do not recognize IAS, will have to formulate multiple sets of financial statements, based on multiple accounting standards. They will, therefore, be forced to bear larger financial statement formulation expenses. This means that different treatment will be made between listed and unlisted companies concerning expenses for preparing financial statements. For many companies which have world headquarters outside the EU, including Japanese companies, it is exceptional to have their European subsidiaries listed on stock exchanges in European countries. It is strongly requested that, the companies, whether they are listed or not, be able to select the formulation of settlement of accounts based on IAS within the single EU market.

At the same time, the EU is currently studying the unification of the company taxation basis. The importance of the unification of the company taxation base is also confirmed in the Communication "Towards an Internal Market without tax obstacles: a strategy for providing companies with a consolidated company taxation basis for their EU-wide activities (COM(2001)582)," released in October 2001, and the Communication "An Internal Market without company tax obstacles: achievements, ongoing initiatives and remaining challenges," released in November 2003. Such initiatives show the continued efforts of the EU to unify the market. Since the unification of the company taxation basis will signify great improvement in the EU business environment also for Japanese companies, so the Japanese business look forward to seeing further progress in this field.

Furthermore, it has been proposed to use IAS-based financial statements as a starting point for the company taxation basis. As stated above, under the present situation, it is up to the policy of each EU Member State whether IAS-based financial statements are recognized for unlisted companies. As a result, it is pointed out that there is a possibility that some of unlisted companies will be excluded from the benefits of the unified company taxation basis. In this regard, the Japanese business would like to stress that the

IAS-based financial statements should be accepted for all companies, whether they are listed or not, within the EU. While it appears that some Member States are moving toward recognizing the application of IAS to all companies, and the Japanese business requests that such moves be spread to other Member States and European-wide. The Japanese business also requests that the company taxation basis be unified at an early date.

(5) Harmonization of passenger car taxation

Some EU Member States impose a high amount of taxes on registration and ownership of automobiles. Such actions not only cause substantial obstacle to sales of automobiles, but also hamper price harmonization of automobiles in the EU.

It is understood that, in September 2002, the EC presented a communication on the taxation of passenger cars, aiming at the gradual reduction and future abolition of the registration taxes and the harmonization of the vehicle-related taxation systems among Member States. The Japanese business requests steady implementation of the communication and provision of information on the progress of the implementation.

Furthermore, The Japanese business also requests the Member States which have adopted the passenger car taxation related to the acquisition of new car to change their tax system into ownership tax system.

(6) Abolition of capital tax in the Benelux countries

The Benelux countries impose capital tax at the time of incorporation or increase of capital. Such tax, being an impediment to investment, should be abolished to promote firms investment. According to a past reply from the EU, it conforms to the EU directive if the tax rate is 1% or lower, and in the Netherlands, the tax has been reduced to 0.55%. Since the business environment of the Benelux countries is excellent for Japanese industries, the abolition of the capital tax would make these countries more attractive for investment. It is therefore requested that the capital tax be abolished.

(7) Exemption of international transport corporations from the obligation to submit documents to the tax authority in Italy

Under Article 8 of the Japan-Italy Taxation Convention, international transport corporations of a contracting state is exempt from tax on gains acquired in the other contracting state. However, Japanese international transport corporations in Italy are being requested to submit tax returns and financial statements based on Italian taxation laws to the Italian tax authority although they are among the corporations exempt from corporate tax. The Japanese business thus requests that they be exempt from the obligation to submit these documents.