

Cooperation Framework for Promotion of Japan-EU Two-Way Investment

Two-way flows of foreign direct investment reinvigorate economies by, inter alia, introducing new technologies and innovative managerial know-how, creating employment opportunities and thus brings enormous benefits to both sides. Today, Japan and the European Union therefore reaffirmed that further flows of foreign direct investment between them is of key importance in their economic relations.

Supporting this view, the private sector, through in particular the Business Dialogue Round Table, has called for measures to give a further boost to investment flows between Japan and the EU. In response, both sides will take the concrete steps described in the following paragraphs to promote two-way investment. These will be built on the efforts undertaken to date under the “Action Plan for Japan-EU Cooperation” and the “Japan-EU Initiatives on Investment” while maintaining close contact with the private sector. Both sides also recalled their common commitment on the appropriate way to move on the investment agenda in the WTO. Moreover, they took this opportunity to jointly remind their multinational enterprises of their recommendation to observe the OECD Guidelines for Multinational Enterprises, wherever they operate.

1. Dialogue and Cooperation between Regulatory Authorities

Japan and the EU recognized that the improvement of the investment and business environment in Japan, the EU and its Member States continues to be vital for the promotion of two-way investment. In this respect, they shared the view that all public measures of general application affecting trade and investment activities between them should be administered in a reasonable, objective, impartial and transparent manner.

Dialogues concerning the respective domestic regulations affecting investment are already undertaken in the High-Level Regulatory Reform Dialogue (RRD) as well as through specific high level consultations fora, including the Japan-EU Industrial Policy and Industrial Cooperation Dialogue, the Japan-EU High Level Consultation on Financial Affairs and the Japan-EU Economic Consultations. These will include the promotion of two-way investment as one horizontal objective. High priority areas for dialogue and cooperation in relation to investment promotion include: environment, health, sanitation, finance and commercial law/corporate law, IPR and government procurement. In this perspective, both sides decided to take the following courses of action:

(1) Promotion of Dialogues on New Regulations

Both sides will give higher priority to dialogue on new regulations by conducting informal exchanges of views, specifically on those regulations which may impact on investment activities.

(2) Improving Regulatory Transparency

Japan and the EU and its Member States will continue the Regulatory Reform Dialogue aimed at improving the general regulatory environment and transparency in regulatory procedures. This covers both the formation stage and the implementation phase of regulations and is based on concrete examples. The objective is, among others, to respond to business requests for clear and transparent regulatory decisions and for involvement in the consultation process that ensures that comments made are duly taken into account. The decision of Cabinet of Japan of March 2004 to engage in the implementation of the “No Action Letter” system and the “Public Comment” procedure in Japan as well as further implementation of the new “EU Better Regulation” package (including general principles and minimum standards for consultation of interested parties) are designed to improve regulatory transparency. Both sides will implement and monitor their respective measures concerning transparency with a view to achieving this objective.

(3) Cooperation on Standards and Conformity assessment

Both sides will take further steps to ensure that domestic technical regulations, standards and conformity assessment procedures do not become an unnecessary obstacle to investment and trade by taking the following measures:

(i) International harmonization and mutual acceptance of technical regulations and standards

Japan and the EU will advance their cooperation on international harmonization of technical regulations, standards and conformity assessment procedures. Furthermore, between themselves they will promote where appropriate, equivalence of technical regulations and standards. In this context, they 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.

(ii) Encouragement of utilizing the Mutual Recognition Agreement (MRA) and the potential extension of its areas of application.

Japan and the EU will encourage industry on both sides to utilize the existing MRA framework better (e.g.: the Sectoral Annex on Good Manufacturing Practice of Medical Products which has become applicable recently) and will assess whether there would be a need to include new areas in an MRA on the basis of equivalent regulatory regimes.

(iii) Acceptance of test results and data

Japan and the EU will promote the acceptance of test results and related data in appropriate areas, whenever possible, in order to reduce costs for business and facilitate market access, noting that neither Japan nor the EU is prevented from taking necessary measures for the protection of the environment, human safety and health.

(iv) Mutual recognition of professional qualifications

Japan and the EU will explore the possibility of establishing a framework leading to the negotiation of mutual recognition of professional qualifications in areas of common interest, taking into consideration the impact this may have on investment promotion and the views which may be expressed by the private sector.

2. Improvement of the Investment Environment on Both Sides

Useful elements to promote two-way investment are facilitating the movement of persons and products across national borders, developing a transparent and secure environment for investment through, for example, promoting appropriate taxation systems related to investment and good corporate governance, and improving the living conditions for foreign personnel. Both sides also consider 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.

Both sides will advocate appropriate review of tax conventions between Japan and EU Member States.

Both sides will advocate the conclusion of agreements on social security between Japan and EU Member States.

For its part, Japan will strive to advance the agenda in the Programme for the Promotion of Foreign Direct Investment in Japan as well as the Three-Year Plan for Promotion of Regulatory Reform and Privatization, in particular through:

(i) Improvement of the conditions for the movement of persons across national borders by

- Speeding up the immigration procedure for investors and business managers in accordance with domestic law and procedures, where appropriate

(ii) Creation of an environment designed to allow the smooth movement of goods by

- Promoting 24-hour opening of major ports and early conclusion of the Convention on Facilitation of International Maritime Traffic for the simplification of import/export and shipping procedures

- Further developing one-stop services for import/export and shipping procedures

(iii) Creation of a transparent and predictable investment environment by

- Improving flexibility in compensation for mergers and acquisitions, building on the revision of the Commercial Code, while taking due account of the decision made by the Japan Investment Council in March 2003 to examine related tax measures

- Implementing the “written reply” system (Bunsho-Kaito Seido) and facilitating business start-up for foreign entrepreneurs

(iv) Improvement of the living environment for foreign residents in Japan by

- Facilitating acceptance of medical practice of foreign residents’ doctors on reciprocal basis.

For its part, the EU will take steps in pursuit of the objectives of the Lisbon Process to enhance its economic competitiveness. On this basis, the EU will continue to make efforts to

(i) Strive for early adoption of a draft directive allowing offset of profits and losses across multiple EU Member States.

(ii) Ensure a workable solution for economic operators in relation to the new rule for customs information 24 hours before arrival.

(iii) Implement as early as possible the Community Patent System; accede to the Protocol Regarding the Madrid Agreement Concerning the International Registration of Marks; and consider Japan’s request concerning on “standard contractual clauses” in relation to the Data Protection Directive.

(iv) Create a legal framework at EU level allowing mergers across national borders.

(v) Further facilitate administrative procedures for Japanese residents, including efforts to ease procedures for visas, work permits and residence permits in EU Member States.

3. Cooperation on Investment Promotion

Japan and the EU will undertake the following activities to facilitate and promote the activities of the private sector, building on the implementation of the “Japan- EU Initiatives on Investment”.

(1)Development of Publicity Activities

Both sides will support publicity campaigns through organizing various events such as a symposium and seminar for the promotion of cross investment.

(2)Dispatch of Investment Promoting Missions

Both sides will encourage the dispatch of investment promotion missions (including those carried out by local government as well as by the private sector), and where possible, will make efforts to link such initiatives with publicity activities.

(3)Enhanced Exchange between Investment Promotion Bodies

Both sides will share their know-how and experiences of investment promotion through strengthening cooperation and exchange of information between their relevant ministries and investment promotion bodies. With that aim, a workshop will be held between their investment promotion agencies.

(4) Enhanced Exchange of Experts on Investment Promotion

Through enhancing the activities of the EU-Japan Centre for Industrial Cooperation, both sides will inter alia strengthen the exchange of experts on investment promotion.

4. Review

Both sides will review the progress of the aforementioned measures at future Japan-EU Summits as priorities under “the Action Plan for Japan-EU Cooperation”. This will be done in such a way as to support Prime Minister Koizumi’s call in January 2003 to double the stock of foreign direct investment in Japan within five years, which was welcomed by the EU at the Japan-EU Summit in May 2003, taking into account the views of the EU and Japanese business communities.