

*The Third-Year Dialogue of the Japan-U.S. Regulatory Reform
and Competition Policy Initiative*

SUMMARY OF RECOMMENDATIONS

(Please visit MOFA's website to find the text of recommendations: [http://www.mofa.go.jp/area/usa/...](http://www.mofa.go.jp/area/usa/))

In general:

The United States still has some regulations and systems that are: **1) unique to the United States and not harmonized with international standards; 2) inconsistent with the principle of free trade; and 3) impeding fair competition.**

The issue of special concern for Japan in the third-year dialogue is **a series of U.S. regulations under reinforcement for the enhancement of counterterrorism.** Japan apprehends that it might **unreasonably hinder bilateral trade relationship and mutual visits by both nationals.** Japan aspires to conduct constructive and productive discussions with the U.S. under the Reform Initiative on **how security requirements and smooth economic activities can coexist.**

Items of request:

1. Consular Affairs

In general: The following requests aim at securing smooth movement, living and business activities of the Japanese nationals who visit and stay in the U.S. It also benefits the U.S. economy itself to maintain the incentives of the Japanese to visit and stay in the U.S. by eliminating negative impacts of the regulations concerned.

- > **Clarify**, as soon as possible, the criteria by which the U.S. Government assesses the programs of the respective countries to introduce biometric passports for the purpose of granting the Visa Waiver Program (VWP) and decide whether each of such countries remain under the VWP.
- > **Clarify** tangible measures for the strict control of personal information and prevention of congestion at airports on commencing the collection on biometric identification from visitors with visas in accordance with the US-VISIT Program.
- > **Drastically reduce** the burden currently borne by Japanese applicants of U.S. visas resulting from obligatory personal appearance on visa application.
- > **Resume** visa extension procedures at the U.S. establishments in Japan by post, or enhance efficiency in extending visas at the Department of State.
- > **Enable** the dependents of Japanese business people in the U.S. to obtain social security number (SSN) and quicken the processing of its issuance. Improve the situation in state of Illinois, where those without SSN cannot obtain driver's licenses at all.
- > **Swiftly process** the extension of permission for stay (I-94).
- > **Work together** with the states where the driver's license of foreign residents is valid only until the expiry date of their visas to make the system more convenient to foreigners.

2. Distribution

- > **Prevent** the U.S. measures for transport security from impeding smooth distribution through such

measures as simplification of some procedures, continued consultation between the two countries, and effective distribution control by utilizing frontline technology.

- > **Shorten** the period of customs liquidation to eliminate uncertainty in trade transactions that importers and exporters are facing.
- > **Terminate** unreasonable requirements imposed by the Federal Maritime Commission (FMC) on foreign maritime carriers based on the Merchant Marine Act of 1920 (the Jones Act).
- > **Abolish** enormous subsidy for U.S. maritime carriers.
- > **Eliminate** regulations concerning the shipping of Alaskan crude oil, particularly the obligatory use of U.S. ships.
- > **Remove** FMC's unilateral regulations on pricing practices of foreign shipping firms.

3. Trade/Investment-related Measures

- > **Expand opportunity** for high-quality and low-cost foreign products to be procured by the federal and state governments, by the abolition or modification of the Buy American Act and other related rules.
- > **Ensure consistency** with the WTO agreements in applying antidumping and safeguard measures.
- > **Ensure transparency and consistency** with the WTO agreements in the U.S. Government examining foreign direct investment that may threaten U.S. national security according to the Exon-Florio provision.
- > **Improve** the patent system unique to the U.S. which are causing instability of patent-holders' legal status as well as bringing unreasonable loss to patent users.
- > **Adopt** the metric system as the international standard of weights and measures both in the U.S. public and private sectors.
- > **Exempt** Japanese importers from the application of the U.S. re-export control, and, as temporary steps until then, reduce the burden they must bear to comply with the regulations.
- > **Improve** the unreasonably burdensome import tariff calculation method and labeling requirements of origin for clocks and watches unique to the U.S.

4. Sanctions Act

Implement sanctions act with prudence in a manner consistent with international law, and refrain from applying them to third countries' enterprises. Specifically:

- > **Provide, with articulation**, Japanese companies with the treatment tantamount to what has been granted to European enterprises in terms of the application of the Iran-Libya Sanctions Act.
- > **Lengthen** the period of suspension of Title 3 of the Cuban Liberty and Democratic Solidarity Act.
- > **Improve predictability** for private companies by clarifying licensing and other criteria of the ban on (re-)export of financial services from the U.S. to Myanmar under the *Burmese Freedom and Democracy Act*.
- > **Continue works** with state and municipal authorities to ensure consistency of local sanctions acts with federal foreign policy.

5. Competition Policy

- > **Keep reviewing** exemptions of the application of the federal antitrust laws and abolish any unreasonable limitations.

6. Legal Services and Other Legal Affairs

- > **Accept** foreign lawyers as foreign legal consultants (FLCs) in every state. (Currently only 23 states and District of Columbia do.)
- > **Reduce** requirements on the period of practicing experience and review its calculation formula to be qualified as FLCs.
- > **Promote** actions towards the improvement of the U.S. product liability law which are currently imposing excessive burden on companies.

7. Public Works

- > **Introduce** swift and smooth dispute settlement measures such as arbitration for public construction works in state and municipal governments.

8. Telecommunications

- > **Eliminate** the threshold of foreign direct investment ratio in licensing radio stations. (Japan has already abolished the corresponding requirement.)
- > **Remove or clarify** unreasonable or unclear criteria in licensing entry into the U.S. market by foreign telecommunications businesses.
- > **Harmonize** regulations among states whose differences are impeding inter-state level telecommunications businesses.
- > **Eliminate** the disparity among three types of access charges for better environment for competition.
- > **Enhance efficiency** in licensing the export of commercial satellites by the Department of State as well as clarify licensing criteria.
- > **Terminate** the 1990 Exchange of Letters between the two countries on Network Channel Terminating Equipment (NCTE).

9. Information Technology

- > **Reinforce** copyright protection for the items which are not sufficiently protected in the U.S., such as live performances and video games rental.
- > **Enhance cooperation** between Japan and the U.S. to combat piracy of digital content.

10. Energy

- > **Thoroughly investigate** the causes of the power outage in the northeast region of North America and improve network reliability.
- > **Streamline** electricity regulatory authorities, which are currently split between the federal and state governments, as well as harmonize regulations among states.

- > **Take actions** for an early approval at the Congress of the Comprehensive Energy Bill which includes the repeal of the Public Utility Holding Company Act (PUHCA).
- > **Reassess** the status of publicly-owned entities promptly, and study future policy direction for their freer and fairer competition with private companies.
- > **Harmonize** the design of generation and transmission facilities in realizing the Standard Market Design (SMD) at national level.
- > **Provide** parties concerned with sufficient opportunities of hearing before the Federal Energy Regulatory Commission (FERC) publicizes draft rules.
- > **Verify** the effectiveness and efficiency of price cap regulations in the wholesale market as a means of preventing dominant electricity companies from abusing their market power.

11. Medical Devices/Pharmaceuticals

- > **Observe** internationally agreed and harmonized standards concerning drug tests and other related procedures for the reduction of burden borne by the industry, in light of the divergence of the U.S. regulations from international standards.
- > **Launch** substantial consultations for the mutual recognition of Good Manufacturing Practices (GMPs) and Good Clinical Practices (GCPs)