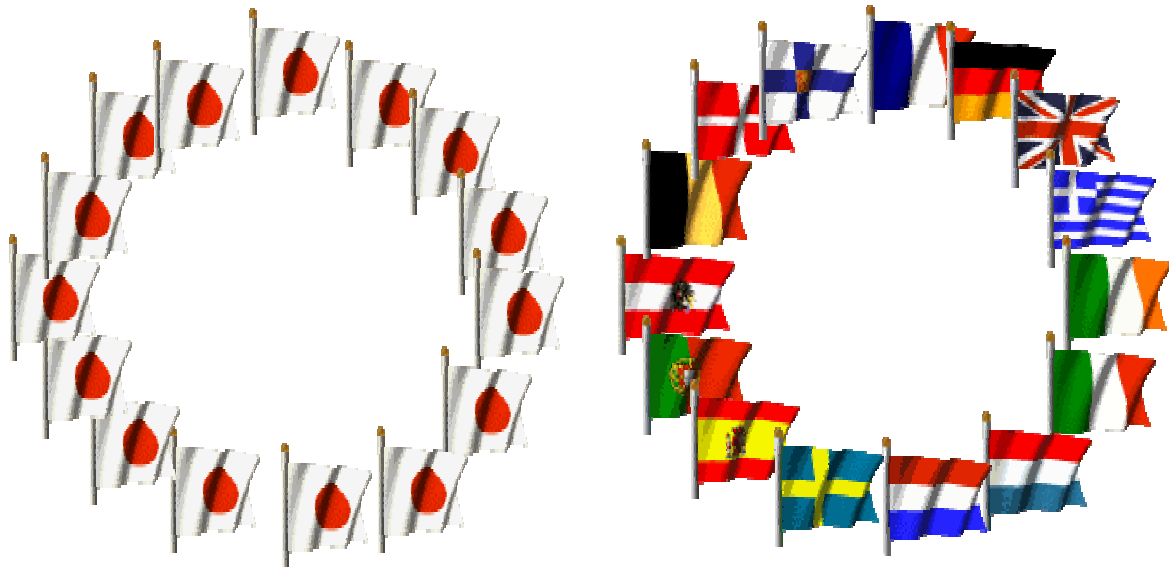


Japan's Supplementary Proposals For Regulatory Reform in EU

(Tentative Translation)



March 2003

Government of Japan

**Japan's (Supplementary) Proposals and for Regulatory Reform in the EU
and Related Japanese Comments**

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Note 1: This list of Japan's supplementary proposals was compiled by adding, to the list of Japanese proposals submitted in November 2002, modification in view of the development of events after November 2002 and newly submitted proposals. These proposals, and Japan's priority proposals (39 items in 13 areas) already presented at the Tokyo meeting of Oct. 25, 2002, jointly constitute Japanese proposals as a whole. This list of supplementary proposals contains 45 items in 14 areas. 11 of the 45 items are new items.

Newly added proposals are marked with a star (*).

1. Work and residence permits

(1) Improvement of procedures to obtain work and residence permits and visas in Portugal

The periods for the issuance and renewal of work and residence permits and visas in Portugal vary. It took for a short period of time in some cases, while it is reported that it took a year and half to obtain residence visas for family members in other cases. The GOJ requests Portugal to shorten the periods and make the procedure clearer by introducing such measures as public announcement of standard processing periods. Furthermore, the short application period for renewal of work permit (only for a week before the permit expires) poses a obstacle to a business trip. The GOJ therefore requests the application period be extended.

(2) Improvement of working holiday program in Germany

There is a 90-day limit on the period of employment for young Japanese who stay in Germany for a year under the system of Japan-Germany working program. According to the reply from Germany in April 2002, the limitation of the period of employment is based on the provisions under the Act on Residence. The GOJ understands this explanation given by Germany. Considering that there is no limitation of the period of employment for young Germans who stay in Japan under the same program, the period of 90 days is not sufficient for young Japanese to cover the necessary cost to stay as working holiday visitors in Germany for a year and therefore not desirable. The GOJ requests the period of employment be further extended.

(3) Work permits in the Netherlands

When applying for work permits for Japanese employees in Netherlands, information in writing on their vocational specialty, university education background, reason to work among others is required to submit. According to the Dutch reply in August 2001, work permits are issued within five weeks. In practice, however, it takes at least 3 months to obtain them in general. The GOJ requests simplification of the procedures and shortening of the period required to obtain work permits.

2. Driving Licenses

Issuance of international driving licenses in Belgium

Belgium is a signatory to both the Geneva Convention and the Vienna Convention, but it issues international driving licenses solely based on the Vienna Convention. Since Japan is not a signatory to the Vienna Convention, Japanese residents in Belgium are not able to drive within Japanese territory when they temporarily return to Japan. The GOJ has submitted its requests to the EU for immediate return of Japanese driving licenses at the time of the local licenses being issued, and the introduction of a simplified exchange system as a temporary measure in its priority proposals. In the stage in which these measures are not yet realised, the GOJ considers that current inconvenience experienced by Japanese residents in Belgium will be mitigated if, as a provisional step, Belgium can issue international driving licenses based on the Geneva Convention. In this regard, the GOJ continues to request that Belgium take domestic measures to enable the issuance of international driving licenses based on the Geneva Convention.

3. Commercial Laws, Business Practices, And Competition Policy

(1) Treatment of accumulated losses in Spain, France, and 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 themselves or reduce their capital. This Directive is likely to 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. There was no reply from Spain, France and Italy in September. The GOJ continues to request explanations and replies from these countries with this regard.

(2) Improvement of the credit and debt system in Spain (Commercial Transaction Law)

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 present 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 let them observe of payment deadlines and bear cost for delay in payment, and implement appropriate punishment by the authorities or banks.

According to the EU reply, EU directive on payment delay took effect in August 2002. The GOJ requests information on the legislation introduced in Spain based on the said directive.

(3) Simplification of the application procedures provided in the Commercial Law in 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 each time 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. 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.

(4) Amendment of the corporate statute in Germany

When a limited-liability company changes its statute in Germany, it is necessary to obtain a certificate by a German notary or consul, or a certificate by a Japanese notary with an Apostille affixed. In cases where major shareholders are corporations, a director representing the company that is the leading shareholder of that particular company is required to sign the document submitting the certificate of qualifications. In cases where it is done in Japan, the certificate of qualifications is also required to affix Apostille. It is quite troublesome 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.

4. Standards and Certification

(1) Machine tool inspections regime in the EU market

It is reported that, in several EU Member States, machine tools not bearing the CE mark are seen 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. While in some countries, government authorities conduct investigation every year and take such actions as prohibition of sales or recall of tools without CE marking, in many other Member States, no sufficient investigation or other control measures are being implemented.

Enterprises of Japan and other countries are abiding by the CE marking system based on their awareness of the need to enhance the safety level within the EU. The GOJ has been requesting 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 such efforts made by law-abiding enterprises. The EU reply in April 2002 did not respond to this point. The GOJ therefore would like to know the EU position on this issue.

(2) New Approach Directives

Under the so-called New Approach Directives, harmonization standards are frequently modified. Under such a situation, particularly when an enterprise adopts a self-recognition module, conformity reassessment is required very frequently. Taking into account the speed of technological renovation and requirements for safety, standard changes are unavoidable to a certain extent, but efforts should be made to avoid excessive burdens on enterprises. In its supplementary proposal in 2001, the GOJ requested that the EU explain its views on this matter, but there has been no reply from the EU on this issue. The GOJ continues to request the EU's explanation on this issue.

(3) The Protocols to the Europe Agreements on Conformity Assessment and Acceptance of Industrial Products (PECAs) between the EU and Central and East European countries

The GOJ requests EU's early conclusion of the PECAs with Central and East European countries. Also, some Central and East European countries require compliance with their national legislation in addition to the EU directives, which results

in increased costs for companies. The EU stated, in its reply of 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 candidate countries which are still fully sovereign states and third countries. Considering that Central and East European countries are expected to join the EU in the near future, it is important for a candidate country to adopt systems similar to those in the EU as soon as possible, or to faithfully conform to the PECA. In connection with the conclusion of PECA, the GOJ continues to request that the EU makes efforts to ensure that Central and East European countries integrate the related EU directives in the same manner and interpretation as EU countries.

(4) Additional Italian regulation of TV imports

To import TV sets produced outside the EU into Italy, including those already 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 long period of time to obtain the 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 abolition of the additional Italian regulation.

(5) Uniformity of sound pressure regulations for stereo headphones

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 constitute obstacles to trade, thus trying to justify the introduction of different standards to be established in France and Belgium. However, such divergence in regulations and standards within the EU will undermine considerably the merits of the Single Market.

In its reply 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, and 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 the 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.

(6) Improvement of the Inspection Procedure in the EU

As a result of safety standard 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 EU- level, neither the French authorities nor the European Commission has sent a notification of conformity (a notification that the order to stop shipment has been withdrawn) to the company which produced the microwave ovens. Therefore, the company has 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.

5. Tourism

In EU reply in September 2002, while there were no replies from Italy and Spain, the European Commission commented that it did not have any further comments to make in addition to those provided last year and that the profession of tourist guide was not regulated by EC law and therefore these matters should be raised against the relevant Member states.

However, the Regulatory Reform Dialogue, which is highlighted in the Action Plan for EU-Japan Co-operation, does not cover only issues that fall under the jurisdiction of the European Commission but also those under the jurisdiction of the EU's individual Member States and their local governments. Naturally, issues related to the latter would be the topics of discussion in the dialogue. In this context, the GOJ requests that appropriate actions be taken by the European Commission as well as the EU Member States concerned to address the following issues.

(1) Nationality requirements for tour guide licences in Italy and Spain

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

(a) The Spanish Government stated, in its reply in August 2001, that the authority to regulate tourist guide services was basically left to individual local governments. It also stated that the Secretariat-General for Tourism, in the framework of its responsibilities, would recommend the Autonomous Communities adapt their legislation to facilitate the reception of Japanese tourists. The GOJ would like to receive more information about the content of the above-mentioned recommendation and its current status in local government .

Furthermore, the GOJ requests that small groups with 9 or less people be exempted from employment of guides, which is currently forced irrespective of the number of tourists.

(b) In Italy, the Presidential Order of August 31, 1999 indicated the possibility of allowing non-EU nationals to obtain tour guide licenses. Nevertheless, Japanese nationals have not obtained the licences in practice. The GOJ, therefore, requests that the situation be improved and that updated information on current status be provided.

The GOJ also continues to request clear explanation about procedures and conditions for obtaining guide licences.

(2) Easing of excessive investigations of Japanese tour conductors by tourist police in Italy

The number of Japanese overseas tourists amounts to 17.8 million annually (in 2000), and most of them travel on package tours. A package tour from Japan is usually accompanied by a tourist conductor in addition to an interpreter. When these tourist conductors are giving explanations to Japanese tourist groups on time schedules or meeting places in Italy, they are often misunderstood as tour guides by tourist police. In some cases, excessive investigations were conducted and tour conductors were taken to local police offices and kept in detention, which hampers them in their work .

Regarding this issue, the GOJ asked, in its previous requests, for improvement by stopping the excessive local police investigation. The GOJ reiterates its request for the improvement regarding this issue.

(3) Improvement of the licence system for tour conductors in Italy

In Italy, to provide services as a tour conductor, it is necessary to pass examinations organized by each province and to obtain a courier licence. Under the current system, tour operators have to employ licenced tour conductors even when only escorting tourists from an airport to their hotels. However, the examinations organized by each province are held irregularly and infrequently. In addition, some provinces do not accept Japanese applicants. These facts cause great difficulty for Japanese nationals in obtaining courier licences.

The GOJ has requested improvement of the situation either by enabling Japanese nationals to take exams on a regular basis in all provinces or by exempting the escorting of tourists between the airport and their hotels from the licence requirement. The GOJ has also requested as temporary measures the regular submission of the schedule (venues and dates) of conductors' licence tests to be held in the near future and a chart showing provinces that accept Japanese applicants and those that do not. The GOJ continues to request the improvement in the above points and the submission of these documents.

(4) Ensuring transparency in tourist guide charges in Spain

In its reply in August 2001, the Spanish Government explained that guide charges 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 charges. In reality, however, guide associations are reported to be able to set charges exclusively, and actually determine the charges unilaterally in some cases.

To ensure transparency in fixing tour guide charges, the GOJ continues to request such measures as presenting clear standards, providing opportunities for consultations with interested parties and confirming the content of the consultations in writing.

6. Maritime Transport

(1) The 1% Sludge Rule in Germany

Under the criterion that vessels are assumed to produce sludge (remains contained in fuel oil) amounting to 1% or more of the fuel oil they consume, Germany inspects the fuel oil of incoming oceangoing ships. When the sludge left in the fuel oil is less than 1%, they are imposed large fines, since they are regarded as having dumped 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 operated flexibly, as seen in the arrangement that sludge residues of less than 1% are also accepted if vessels use new sludge treatment equipment to evaporate or reduce the water content of the sludge. Because the sludge generation ratio differs depending on various conditions, such as ship facilities designed for environmental conservation and types of fuel oil, however, there seems to be no rationality in the criterion that sludge of 1% or more shall be produced unless special equipment is installed.

In the EU reply in September 2002, the European Commission stated that the matter was a domestic legal problem of Germany, but the reply did not contain a reply from the German Government. In this connection, the GOJ continues to request that the German Government abolish the 1% sludge rule or amend the rule into a more reasonable one and, as a temporary measure, clarify standards for the equipment entitled for exclusion of the application of the rule. The GOJ also continues to request that the European Commission work on the German Government so that the latter will provide related information to the Japanese enterprises concerned.

(2) Review of maritime competition legislation concerning liner shipping conference

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), while the exclusion of applying these provisions is admitted in certain conditions in specific fields, including Liner shipping conference of maritime transportation which is a block exemption field (Block exemption for Liner shipping conference is provided for in the Council regulation 4056/86).

The GOJ understands that the EU has started a review of the Council regulation 4056/86, including the issue of whether or not Liner shipping conference shall remain the block exemption field. In this connection, the GOJ requests explanations about the issue's current status and expected schedule of the review.

7.Financial service

(1) Language proficiency of representatives of financial institutions in France

In France, French language proficiency of at least one of two representatives of financial institutions is required. Since this regulation impedes flexible personnel management, the GOJ requests the easing of the language requirement. The previous reply in August 2001 states that a certain level of French language proficiency is required of the branch manager, otherwise, he or she cannot fulfill the management responsibilities including submitting official papers required by the authorities. However, securing the compliance should be the work committed by a business organization as a whole and it does not necessarily rely on the language skills of the individual branch managers. Germany used to hold the similar regulation but deregulated recently. In addition, since there is no such requirement in Japan, in terms of reciprocity, the GOJ continues to request that the French Government improve the situation.

(2) Calculation of the minimum reserve for the European Central Bank (ECB)

Money raised in the countries joining the European System of Central Banks (ESCB) is totally deducted from the reserve base that is a basis of the calculation of the minimum reserve. Because the London interbank market is the center of interbank transactions in Europe, Japanese banks located within the Euro area mainly procure funds from London. Under the present regulations, funds procured from London are within the target of ECB minimum reserve calculations, requiring a fixed amount of deposit, which means a higher cost for these Japanese banks. On the other hand, banks headquartered in the Euro area mainly depend on procurement from their home countries, which is out of the calculation targets related to the minimum reserve. Therefore, cost differences virtually arise, depending on whether the location of headquarters is inside or outside the Euro area, the GOJ requests that regulations be amended so that the money raised in the U.K. will be deducted from the reserve base.

(3) Entries into credit card business in Austria

A banking licence is a prerequisite for starting a credit card business in Austria. In addition, the basic qualification for a banking licence is strict. (Capital must be no less than 70 million schilling, for example.) No other country has such a regulation and the regulation serves to protect domestic card operators. The GOJ requests the abolition of the requirement.

(4) Obligation to register changes of holders on the occasion of stock transfer in Spain

When settling stock transactions in Spain, securities companies must register new holders of securities transacted through stock exchanges and the concentrated securities storage organization. Because of this, registration of new holders must be implemented on each occasion of transaction, and the procedure is extremely troublesome. Therefore, the GOJ requests abolition of the new registration obligation.

(5) Abolition of the Nominee Registration System in Spain

Stockholder registration in Spain is executed by Sociedad de Compensacion y Liquidacion de Valores (S.C.L.V.), an organization engaged in delivery and production of securities transacted at a securities exchange, during the related delivery process. For this reason, transfer of stocks is possible only when sales are implemented or when the registered nominee of the said stocks is the same.

Specifically, if a customer C, holding Spanish stocks within Japanese securities company A, wants to change the holder of the Spanish stocks to a Japanese securities company B (stock transfer between foreign stock-related securities companies), it is necessary to change the nominee of the said stocks from A to B, because the nominee of the stocks in Spain is A. As stated earlier, however, transfer of the holder is executed only during the sales delivery process. This makes it necessary for either securities company A or security company B to implement nomination change by conducting cross transactions through brokers at a Spanish securities exchange. Because local commissions and other expenses related to such cross transactions are borne by either A or B, expenses related to stock transfer may expand.

The GOJ requests that the said Nominee Registration System be abolished, and that the system for transfer of stocks between nominee accounts be simplified. Specifically, the following steps are conceivable.

1. The system should be changed so that the registration nominee will be that of an organization participant, and concerning the substantial holder of stocks, the said organization participant will manage the said such holder within its ledger.
2. Regarding changes in registered nominees, a procedure not accompanied by transactions should be introduced. Specifically, a system should be introduced to allow nominee changes if documents certifying non-alteration of final beneficiaries are

submitted to the organization participant.

8. Automobile

(1) The EC's speedy decision-making regarding voting of draft amendment of ECE regulation or draft ECE regulation at the UN/ECE/WP29 (World Forum for the Harmonization of Vehicle Regulations)

On the occasions of voting regarding draft amendment of ECE regulation and draft ECE regulation based on the “1958 UN/ECE Agreement” at the UN/ECE/WP29, delays in voting have frequently occurred without specific objections, solely because of non-completion of a decision-making procedure within the EU. Because the “1958 UN/ECE Agreement” is acceded to by many non-European countries, the EU should behave suitably for “*World Forum*” with the aim of “*International Harmonization*” at UN/ECE/WP29. The GOJ requests that the EU accelerate its deliberations on such draft regulations, so that the UN/ECE/WP29 can immediately vote on these draft regulations once approved by working parties (GR).

(2) Regulation on normal competition rules regarding automobile distribution

In connection with the new regulation on normal competition rules regarding automobile distribution adopted in July 2002, the GOJ requests that the EU monitor the development in consumers' freedom of choice in automobile purchases and post-sales-services after the enforcement of new regulation, and that it publish the results of monitoring. The GOJ also requests that, if it should find out as a result of monitoring that situations detrimental to the interest of consumers have arisen, the EU study ways to further improve the new regulation.

(3) Adoption of ECE Regulations No. 94 and No. 95

Japan is studying the possibility of adoption of the ECE Regulation No. 94 (Offset frontal collision tests), while it has already adopted the ECE Regulation No. 95 (Side collision tests). Because the EC has not yet adopted the ECE Regulations No. 94 and No. 95, manufacturers are unable to utilize certification based on these regulations under the Whole Vehicle Type Approval system (WVTA).

In this connection, the GOJ requests that the EU promptly adopt these regulations to promote mutual recognition between Japan and the EU based on the “1958 UN/ECE Agreement” and that it amend the EC directive (70/156/EEC) to make these regulations

usable under the WVTA.

9. Employment

(1) Employment Problems in Luxembourg

Although the GOJ requested the following (a) and (b) in Japan's Supplementary Proposals for Regulatory Reform in EU in November 2001, the responses to these requests were not delivered. The GOJ continues to make these requests.

(a) Reduction of days of paid leave prescribed in national legislation in Luxembourg

In Luxembourg, national legislation as well as a labour-management agreement in the banking sector stipulates that paid leave per year is about 44 days (including 10 bank holidays) and that companies must guarantee 100% pay for sick leave up to three months. Most of the branches of Japanese companies in Luxembourg are small-scale financial institutions with a limited number of employees. Therefore, such scheme poses difficulties in their human resources management for them and they have to hire considerably additional workers to fill a vacancy on the staff on leave. According to the EU replies in April 1999 and in April 2000, the Government of Luxembourg does not plan to modify the legislation. The GOJ would like to point out again that this legislation constitutes a negative factor for business environment, causing losses to the business operations of Japanese companies.

(b) Flexible application of dismissal procedures in Luxembourg

The provisions of the labour law in Luxembourg make it extremely difficult for a company to discharge employees for its own reason, once they are formally employed. In general, competent employees tend to resign after a relatively short period for a better job, while less competent employees tend to remain. Maintaining employees of high quality is one of the most important prerequisites for a company to maintain its competitiveness. According to the EU replies in April 1999 and in April 2000, the government of Luxembourg does not plan to modify the labour law. The GOJ continues to request that the Luxembourg Government rectify this situation because it constitutes a negative factor for business environment, causing losses to the business operations of Japanese companies.

(2) Annual limit of overtime work in Spain

According to Spain's reply to Japan's request for deregulation of overtime work and holidays system the limit of 80 hours' overtime a year is not laid down in absolute terms and working hours can be flexibly organized in accordance with the provision of the Spanish Workers' Statute. In practice, however, the annual maximum overtime is virtually fixed at 80 hours, and companies must always provide vacations for their employees if their overtime work exceeds this threshold. Such a constraint makes it difficult for companies to flexibly 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 flexible production abilities and thus they are forced to operate inefficiently. Therefore, this regulation may make Spain a less attractive place for Japanese companies to do business. The GOJ reiterates its request for the introduction of a new flexible clause in relevant Spanish laws and regulations, which would allow overtime work hours to exceed the virtual limit in certain circumstances.

(3) Employment Problems in Belgium

Although the GOJ requested the following (a)(i), (c), (d) and (e) in Japan's Supplementary Proposals for Regulatory Reform in EU in November 2001, the responses to these requests were not delivered. The GOJ continues to request these matters.

(a) Dismissal system in Belgium

(i) "Claeys formula"

The dismissal of employees due to their incompetence is regarded as firing for a corporate reason. Companies are legally required to give notice of three months or longer prior to the dismissal. In reality, however, there is a customary practice called "claeys formula", under which companies are required to give notices, one year or longer in advance or to pay compensation tantamount to the payment for the advance notice period, depending upon the length of employment and annual salary of the employee to be dismissed. The GOJ continues to request that such practices that take precedence over legal obligation be abolished and the longest advance notice period be reduced to six months.

(ii) Regulation for protecting representatives of employees in Belgium

Companies cannot dismiss those employees who have run for election as employees' representatives until the next election four years later, even if their work performance is poor. According to Belgium's reply in April 2002, the reason for this protection is to shield candidates for such representative positions from undue pressure, this protection does not mean, however, that those employees cannot be dismissed under any circumstances, and "Belgian law provides that under certain circumstances, the employer can initiate a procedure to dismiss a protected employee for urgent reason, as provided for by law". Even so, 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 Belgium Government amend the regulations so that proxy and unsuccessful candidates be treated in the same way as ordinary

employees.

(b) The employment system in Belgium

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

(c) The wage system in Belgium

Under the present Belgian law, it is not allowed to cut the salaries of 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 Belgian authorities in April 2000 failed to fully explain the rationale for the obligation concerning the minimum rate of increase in wages and the GOJ received no response from Belgium to its request in October 2001. Therefore, the GOJ reiterates its request that the determination of wages of individual workers should be made by each company's own discretion.

(d) Work hours in Belgium

Belgian law restricts companies from letting employees work longer than 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 adjust temporarily by extending overtime work, and they have to hire new workers. They will face the problem of having an excessive workforce when work decreases again. The restriction on designated work hours is an obstacle to timely management of the workload. The GOJ requests that the designated annual work hours be increased.

As from January 2000, 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 further reduction of work hours and increase of paid holidays could discourage foreign investment.

(e) Laws and regulations concerning trade unions in Belgium

Corporate management is required to submit financial and business reports of their companies' monthly, quarterly, and annually at the law-designated management-labour council. The annual report must cover 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 organisations which might affect the settlement of accounts, labour conditions and employment. It also requests that the frequency of the council meetings be decided at the discretion of each company.

(4) Regulations of personnel management in Denmark

Since there was no response from Denmark to the following request, the GOJ continues to request this matter.

In Danish law (Aktieselskabsloven), at least half of the members of the board of directors and all members of the management board are required to live in the country. When a company operates internationally, its subsidiary in Denmark may apply for exceptional treatment. However, the qualifications and content of the exceptional treatment are not disclosed. The Danish authorities usually decide at the time of registration whether or not they give exceptional treatment to the company. This regulation hampers the freedom of personnel management in subsidiaries. The GOJ requests that the Danish Government clarify the qualifications and ease relevant regulations.

Also, according to its response in August 2001, the Danish authorities are working on analysis on best practices, the legal framework and foreign codes of conduct, including this matter. The GOJ requests an explanation by the Danish Government on the schedule of the work and how the requests of Japan have been taken into consideration in the process.

(5) Problems concerning employment in Germany

(a) Relaxation of Sunday/holiday work regulations

In Germany, Article 9 of the work hour act prohibits work on Sundays/holidays in principle, and permission of the Labour Bureau must be obtained for work on Sunday/holidays. Under this regulation, every time companies unexpectedly need Sunday/holiday work, they have to follow complicated procedures to seek permission. In some cases, companies cannot obtain permission after all. In other cases, companies cannot meet requests from their customers during a busy season, which puts Germany at a disadvantage compared with other countries and prevents new capital

investment.

The GOJ requests that the German Government relax the holiday labour permission regulations, by introducing such measures as simplifying the permission system, or by introducing of a notification system under certain conditions.

(b) Relaxation of the employee protection system

Under the German dismissal protection law, prior notification (Abmahnung) and consultation with a trade union are required in the case that an employee is to be discharged for reasons of insufficient business ability (inaccurate work, many errors, slow work, etc.). In addition, the content of work is restricted based on the labour agreement. Such an employee protection system has caused such problems as decline of morale and difficulties in labor force utilisation at suitable positions.

For this reason, the GOJ requests that the employee protection system in Germany be relaxed.

(6) Problems of employment in Sweden

(a) Last-in, first-out rule relating to dismissal

Many Japanese enterprises that do business in Sweden are small- and medium-sized enterprises and the number of employees is limited. On the other hand, these enterprises need capable employees who have advanced technologies, to meet the progress of high technologies including IT. Because of the last-in, first-out rule (the rule under which, when a company reduce its workforce, employees with a longer history of employment in the enterprise are protected over those with a shorter history of employment. An enterprise must fire employees having a shorter service history in the enterprise before firing those with a longer history), it is difficult to discharge persons who cannot deal with new technologies. Due to this rule, as well as the situation in which the size of employees cannot be increased much, Japanese enterprises are unable to secure qualified personnel. Such situation obstructs establishment of Japanese companies in Sweden as well as the expansion of business activities by Japanese companies in Sweden. The GOJ requests that this last-in, first-out rule be abolished, as soon as possible.

(b) Improvement of the system regarding employees on leave for self-education purposes

In Sweden, if an employee seeks voluntary work leave for self-education purposes,

the company must retain the original registration of the person unlimitedly under the Employee's Right to Education Leave Act (Studieledighet lagen). In the case of a long-term work leave, the company needs to employ a successor to the absent employee. But when the employee returns to the company, redundancy will naturally arise. This makes the corporate personnel employment plan and operational management difficult. The GOJ therefore requests the establishment of the maximum period for education leave, for instance, for one year.

10. Trade and Customs

(1) Tariff for copying machine toner

Regarding copying machine toner, under EU system to promote information technology, the import of toner cartridges is duty-free and the custom duties for the import of toner chemicals is exempted when applications are accepted. However, the process takes a considerable period of time, ranging from one year to one and a half. 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 difficult to use this provision in reality. The GOJ continues to request simplification of the application and shortening of the period for processing application for custom duties exemption, from the standpoint of promoting industry in the EU.

(2) Tariffs on audiovisual (AV) and household electrical appliances

Within the frameworks of WTO-ITA, tariffs on IT-related products have been eliminated in the EU. On the other hand, the tariffs on AV and household electrical appliances are 14% maximum, which are higher than those in other industrial countries (e.g. 0-4.9% in the US; 0% in Japan). Under the current situations, the countries whose exports of AV and household electrical appliances to the EU are large are put in a disadvantaged position as a result. 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 recent development of technology, an increasing number of AV and household electrical appliances can be connected to networks, 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.

(3) Simplification of customs clearance process when Japanese move into Spain

When Japanese expatriates move to Spain, an English translation of a change-of-address certificate issued by Japanese municipal authorities is required in customs clearance of their freight. Since Spanish residence permit (or application for a residence permit) is also required at the same time, the change-of-address certificate mentioned above seems to be unnecessary. According to the EU reply of April 2000, a change-of-address certificate is not included in the list of required documents. However, the decree on the value added tax in Spain (1624/1992) requires a change-of-address certificate. The GOJ continues to request that Spain abolish the requirement of a change-of-address certificate.

Furthermore, for customs clearance of freight, a residence permit must be presented to Spanish customs agents, and if the residence permit is not yet issued, a security fee or a letter of credit from a local bank must be deposited with *Caja General De Deposito*, Spanish ministry of economy, and that deposit slip must be taken to customs agents. The GOJ requests simplification of the process, through, for example, making the security fee unnecessary or making a letter of guarantee from the local subsidiary sufficient.

11. Information and Intellectual Property

(1) Copyright Law in Germany

In Germany's copyright law, basically copying for personal use is legal, as an exception to the copyright law. However, compensation is levied on "machines" (Section 54 and 54a) and "image and sound carrying media" (Article 54a). In the reply received from Germany in response to our previous request, in accordance with the above articles, for personal computers and peripheral equipment, (1) the charge of 30 euros per CPU is levied from January 1, 2001, and (2) the charge of 12 DM is levied on "CD writers." However, a provisional agreement has been reached with Hewlett-Packard that exempts "CD writers" with a copy guard features from payment of the charge.

Germany asserts that personal computers are included in the "machines" and "image and sound carrying media" for which the charge for copyrights is required. However, we consider it irrational to levy compensation on personal computers, which are not considered to be copy machines or devices dedicated to recording, and the GOJ requests further improvement of this system.

Furthermore, the GOJ would like to request that information be provided promptly as soon as the final result becomes known concerning the provisional agreement with Hewlett-Packard and the authors' rights societies. Also, we would like an explanation of the effects that agreement will have on other companies.

(2) Patent Registration System in Italy

The Patent agent in Italy takes time to confirm patents and patent registration fees. Consequently, it takes a long time to confirm the status of a patent, and Japanese companies may lose business chances utilizing their patents. According to the reply of the European Commission in September 2002, a new system is supposed to start operation in the end of 2002 in an earliest scenario. Therefore, the GOJ requests that the new system start as soon as possible and that information concerning the outlooks be provided.

12. Pharmaceuticals

(1) Deregulation of Labeling

The European Medicinal Evaluation Agency (EMA) rigidly regulates the company names that can be shown on the enclosed information (package insert) and on the packaging, and basically only the names of companies that have obtained marketing approval are permitted. The only exception is that the local representative may be printed in cases where marketing approval has been obtained through the Central (Review) Procedure. Consequently, even if co-marketing or co-promotion is conducted in the European Union, it cannot be understood from the labeling that such activities are conducted since the names of the companies engaged in such activities cannot be printed on the label or the box.

This kind of regulation is nonexistent in both the United States and Japan, where it is possible to print various information including sales partners, cooperative partners, the importer, etc., as far as the content is not against the fact. According to the reply of the European Commission in September 2002, there was no reference to this matter. Therefore, the GOJ requests further deregulation in labeling and information on the current status.

(2) Acceptance of Test Data According to JP Standards

When, Japanese companies conduct tests for acceptance tests, most are performed according to JP standards (i.e., standards involving monographs of reagents, test methods, chemical compounds in the Japanese pharmacopeia).

In the European Union, test data in accordance with EP standards (European Pharmacopoeia) or USP standards (US Pharmacopoeia) is required, in addition to test data derived in accordance with JP standards. This creates an obstacle to business operations. According to the reply of the European Commission in September 2002, there was no reference to this matter. Therefore, the GOJ requests further that data obtained through tests performed in accordance with JP standards be handled the same as those obtained from tests performed in accordance with EP standards or USP standards for import-export of pharmaceutical raw materials and products and that information on the current status be provided.

(3) Clarification of Cases Where Placebos May be Used in Comparative Clinical Trials

According to the reply of the European Commission in September 2002, there was no reference to this matter. Therefore, the GOJ requests further that consistency be ensured between the actual guidance of the examiners (EMA/CPMP) and the regulations of the law (Council Directive 75/318/EEC) with regard to the cases in which placebos may be used in comparative trials, and that information on the current status be provided. Considering the protocol of the most recent Helsinki Declaration, it should

be clearly agreed that placebo controlled clinical trials may be conducted only in cases involving areas where treatment methods are not established, while in all other cases it is desirable to use an active control.

(4) Abolishment of GMP Certificate Requirement for Bringing Trial Medicines Into Germany

GMP certificate is required for bringing trial medicines into Germany, though the certificate is not required for exporting trial medicines to the United States, etc. In the reply of the European Commission in September 2002 there was no reference to this matter. Therefore, the GOJ requests further that this regulation be abolished.

13. Construction

Regulations for Emission of gaseous and particulate pollutants from Internal Combustion Engines to be installed in non-road mobile machinery

Currently in EU Member States, based on the exhaust gas regulations for non-road combustion engines (EU Directive 97/68/EC), standard levels for exhaust gas from engines of construction machinery are set based on their output range, and certification is granted to engines that 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 of engines that have been certified in Japan when exported to EU Member States, costs of redundant work and inspections constitute a large burden for manufacturers.

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

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

14. Environment

• FR720 regulations in Netherlands

In March 2002, the Netherlands Government introduced regulations which ban the production, import, use, stock and supply of FR 720(CAS No 21850-44-2), which is a bromide flame retardant and products containing FR-720, without any transitional measures. The regulations have various problems, such as lack of scientific evidence or concern about violation of GATT, and have a far reaching impact on trade, including those not only between Japan and Netherlands but also among European countries. Therefore, the GOJ requests the Netherlands Government to abolish the regulations immediately.

(ATTACHMENT)

Taxation

The following issues on taxation are what the Government of Japan would like to let the EU know as matters pointed out by Japanese private companies and differ from the GOJ requests.

General comments: Harmonization of Taxation

It is hoped that the EU will establish middle- and long-term prospects for tax coordination. Although the harmonisation of prices is gradually in progress after the introduction of the euro, manufacturers might face pressure to lower their prices unless taxes, including VAT, are coordinated. In light of completing the Single Market in a real sense, steady efforts for completion of tax coordination, including unified interpretation of definition clauses of the Member States' taxation laws and the taxation bases are crucial.

(1) Abolition of capital tax in the three Benelux countries

The three 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 the previous reply from the EU, it conforms to the EU directive if the tax rate is 1% or lower. Since the business environment of the Benelux countries is excellent, with business infrastructures well-established and English language widely used, abolition of the capital tax would make the three countries more attractive for investment. It is, therefore, requested that the capital tax be abolished.

(2) Harmonization of the consolidated tax payment system in member states and introduction of the consolidated tax payment system in Belgium .

The introduction of harmonized consolidated tax payment system throughout the EU is requested. There are neither consolidated nor combined tax payment systems (profit and loss of domestic operation can be consolidated) in Belgium. Belgium is requested to establish these systems as soon as possible.

(3) Salaries of Japanese expatriates in Germany

There have been some cases in which salaries paid to Japanese expatriates from a parent company in Japan working at its subsidiary have been regarded by German tax

authorities as “hidden dividends to the parent company” for the part that exceeds the level of salaries for local employees and is not accepted as a loss in corporate tax calculation.

It is inappropriate that salaries to expatriates are not regarded as a loss just because they are higher than locally recruited employees. German authorities are requested to explain concrete terms the basis of its judgement to Japanese enterprises.

(4) Provision of Information Related to Each Country’s Taxation

Well-advanced provision of information on the direction and timetable of the tax system reforms scheduled in each EU country continues to be requested. It will be beneficial not only to existing Japanese companies but also to the entry of new companies into the European Union.

(5) Value added tax (VAT) on electronically supplied services

E commerce is a field that is expected to develop greatly in the future, and for the development of such form of transactions, creation of the most liberalized environment possible is required. According to the amended VAT directive (2002/38/EC), when a company outside the EU and a consumer within the EU conduct transactions of digital contents, the company outside the EU will be required different treatment depending on the country where the consumer resides. This will be a heavy burden for the company and could hinder the development of electronic commercial transactions across the borders.

Therefore, each EU Member State is requested to flexibly enforce the directive so as to lighten the burden of companies as much as possible by, for example, simplifying the procedure for confirmation of residential countries of consumers. The content of domestic laws to be enacted in this regard will be closely watched.

(6) Harmonization of automobile-related tax systems

Some EU Member States impose heavy taxes on registration and possession of automobiles. Such actions not only cause substantial obstruction to sales of automobiles but also hamper price harmonization of automobiles in the EU.

It is understood that, in September 2002, the European Commission issued a communication regarding taxes on passenger cars, aiming to phase out the registration tax and to harmonize automobile possession taxes among Member States of the EU. Steady implementation of the communication and provision of information on the progress of the implementation are requested.