

(Provisional Translation)

Japan's Proposals For Regulatory Reform Dialogue



December 18, 2007

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

December 2007

◆: New Proposal EC : Proposal to EC M.S. : Proposal to Member States

Introduction

A. Cross-sectoral Issues

1. Investment Environment within the EU

- (1) Overview
 - (a) General remarks
 - (b) Review of regulations on incoming investment [◆, Germany, EC]

- (2) Commercial Laws and Business Practices
 - (a) Overview
 - (b) Cross-border offset of profits and losses [EC]
 - (c) A Directive on cross-border mergers [EC, M.S.]
 - (d) Statute for a European Company [EC]
 - (e) Costs for the cancellation of an agent contract [◆, EC, France]

- (3) Movement of People
 - (a) Overview (including the signing of social security agreements) [EC, M.S.]
 - (b) Work and residence permits 【Czech Republic, Italy, Poland, Portugal, Romania, Slovakia, Belgium, Slovenia and UK】
 - (c) Driving licenses [EC]
 - (d) Tourism [EC, Spain]

- (4) Employment
 - (a) Overview [EC, M.S.]
 - (b) Ensuring flexibility in the labour market [Spain, Czech Republic and Hungary]

2. Standards and Certification

- (1) Overview [EC]
- (2) Integration of conformity assessment procedures [EC]

3. Trade and Customs

- (1) Overview [EC]

- (2) Imposition of duties on IT products [EC]
 - Liquid crystal display monitors for PC
 - Digital multifunctional printers
 - Set-top boxes [EC]
 - Ink cartridges
- (3) 24-hour prior notice Regulation on 24-hour prior notice requirement for marine container freight information [EC]

4. Intellectual Property Rights

- (1) Overview [EC, M.S.]
- (2) Improvement in the patent system in Europe
 - (a) Basic view
 - (b) Realisation of international harmonisation of patent system [♦, M.S., EC]
 - (c) Integration of the patent system (Early establishment of the Community Patent) [EC]
 - (d) Reduction of patent translation costs (An early entry into force and the universalisation of the London Agreement designed to reduce the burden of translation required concerning a European Patent) [EC, non-ratified countries (Ireland, Italy, Estonia, Austria, Cyprus, Greece, Sweden, Spain, Slovakia, the Czech Republic, Hungary, Finland, France, Bulgaria, Belgium, Poland, Portugal, Malta, Lithuania and Romania)]
 - (e) Improvement in the judicial system (An early entry into force of the European Patent Litigation Agreement (EPLA)) [M.S., EC]
- (3) Copyright protection in a digital environment (copyright levy reforms in the EU) [EC, M.S. (Italy, Estonia, Austria, the Netherlands, Greece, Sweden, Spain, Slovakia, Slovenia, the Czech Republic, Denmark, Germany, Hungary, Finland, France, Bulgaria, Belgium, Poland, Portugal, Latvia, Lithuania and Romania)]
- (4) Maintaining the design protection for spare parts [EC]

5. Maritime Policy

- (1) Maritime Policy of the European Commission [EC]

6. Environment

- (1) General Comments [EC, M.S.]
- (2) Specific Issues [EC, M.S.]
 - (a) Operational improvement of the Public Consultation system ♦
 - (b) REACH (chemical regulations)
 - (c) RoHS Directive (Directive on the restriction of the use of certain hazardous substances in electrical and electronic equipment)
 - (d) WEEE Directive (Directive on waste electrical and electronic equipment)
 - (e) EuP Directive (Directive of a framework for the setting of Eco-design Requirements for Energy-using Products)

- (f) Proposal for Mobile-Air-Conditioning (MAC) Directive, a related proposed directive on greenhouse gases
- (g) Requests concerning the legislation of Europe's fuel consumption standards ♦
- (h) Regulation on certain fluorinated greenhouse gases (F-gas regulation) ♦
- (i) Energy Performance of Buildings Directive (EPBD) ♦
- (j) Commission Decision as regards the classification of the reaction-to-fire performance of construction products (2006/751/EEC) ♦
- (k) An early legislation of the national land and use plan [♦, Greece]

B.Sectoral Issues

1. Information and Communication Technologies (ICT) and Audiovisual Media Services

- (1) Overview (State of Japan-EU cooperation) [EC]
- (2) Specific issues [EC]
 - (a) Mobile telephone services 1: Facilitation of international roaming ♦
 - (b) Mobile telephone services 2: Adequate application of the upper limit regulation of international roaming rates for mobile phones ♦
 - (c) Regulation concerning new communication services 1: Application of unbundling regulation to fibre-optic networks
 - (d) Regulation concerning new communication services 2: Application of competition safeguard measures to the provision of FMC services
 - (e) Importance of non-discrimination in media services: Enhancing international distribution of contents (relaxation of the majority proportion provision for Europe-made programmes)

2. Financial Services

- (1) General Comments [EC, M.S.]
- (2) International Financial Reporting Standards (IFRS)
- (3) Financial standards to be used for individual financial statements [EC, M.S.]

3. Construction

- (1) General remarks [EC]
- (2) Specific requests: Information disclosure on the new EU regulation for noise emission applicable to construction equipment [EC]

4. Health Care and Pharmaceuticals

- (1) Overview
- (2) Reinforcement of measures to prevent intrusions of counterfeit drugs accompanying parallel importation [EC, M.S.]
- (3) Review of the classification of X-ray film for direct medical radiography [EC]

5. Food Safety

- (1) Overview [EC]
- (2) Request of lifting the ban on the export of Japanese meat and meat products to EU countries [EC]
- (3) Equivalency approval of the organic JAS standard with the EU organic product certification standard [EC]
- (4) New regulations relating to the export of fish oil [EC]

6. Taxation

- (1) General Comments

- (2) Harmonization of taxation [EC, M.S.]
 - (a) Transfer Pricing Taxation
 - (b) VAT
 - (c) Passenger car tax system
 - (d) Provision of information related to each country's taxation
- (3) The Merger Directive – Deferred taxation on unrealized goodwill
- (4) The Merger Directive – Shareholding requirements
- (5) Common consolidated corporate tax base

INTRODUCTION

(1) Value of the Japan-EU Regulatory Reform Dialogue

The Japan-EU Regulatory Reform Dialogue marks its 14th year in FY2007, after its launch in 1994 as a framework for dialogue designed to enhance trade and investment relations between the two sides through the improvement of the business environment. As of 2006, Japan and the EU account for about 40% of world gross domestic product (GDP), about 40% of global trade and about 50% of direct investment, and together constitute one of the cores of the world economy. As such, Japan and the EU are responsible for contributing to the development of the world economy and the creation of global-scale standards, through advancing their commitments to regulatory reform and further expanding two-way trade and investment.

The EU which is open to all foreign companies including Japanese ones will not only benefit foreign businesses in the EU but also advantage EU consumers and EU corporations themselves which can remain competitive through healthy rivalry with foreign investment. Moreover, simple, consistent and transparent regulation in the EU is a source for the growth in the Single Market which will certainly allow foreign as well as internal firms to flourish. In this regard, we have to make sure that those regulations should be adequate to maintain a competitive environment but never become excessive. The GOJ is in full support of the EU in bringing forward these two principles in each regulatory policy field.

From the above perspective, the GOJ strongly believes in the value of continuing commitments by Japan and the EU to this comprehensive and highly transparent Dialogue. It is equally significant for the two economies to advance their cooperation on regulatory reform and harmonisation and deliver concrete results.

(2) Commitment to reform by Japan and the EU

As advanced and knowledge-based economies, Japan and the EU both face issues such as responding to declining birth rates and aging societies, and the maintenance and enhancement of international competitiveness through innovation. These issues demand further promotion of structural reforms. The EU is advancing its commitment to regulatory reform in various fields under the Lisbon Strategy launched in 2000. In particular, the GOJ is paying attention to the EU's commitment to "better regulations," under which the EU will cut the costs of regulation by 25% by 2010. The GOJ expects further endeavour by the EU side to this end. On the other hand, the GOJ is committed to reform under the principle of "Continuing to Advance Reform and Achieving Stable Growth" set forth by the administration of Prime Minister Yasuo Fukuda. It is beneficial for Japan and the EU, both of which are moving in the direction of regulatory reform, to strengthen their various autonomous commitments on regulatory reform by means of actively and frankly exchanging opinions, with the aim of motivating moves to fulfill such commitments.

(3) Objectives and key points of the GOJ proposals

From these points of view, the following four groups of fields are emphasised in the GOJ requests in its proposals for this fiscal year:

- (i) The fields which the GOJ believes the EU should emphasise in promoting regulatory reform in the process of deepening its integration (such as the movement of people, commercial laws and business practices);
- (ii) The fields which may potentially hinder smooth business activities and where achievement of “better regulations,” is insufficient due to unnecessary or excessive regulations (such as standards and certification, commercial laws and business practices, etc.);
- (iii) The fields in which the EU is expected to play more leading roles including the possibilities of creative systems and measures (such as the movement of people, employment, information and communications technology, and taxation); and
- (iv) The fields that are deemed to require high levels of transparency in the regulatory decision process (such as the environment; trade and customs; construction; maritime policy).

The GOJ makes requests paying attention to issues such as the distinction between matters under the competence of the EU and of its Member States, the degree of policy harmonisation between the EU and its Member States, and the degree of progress in the transposition of EU directives by Member States.

(4) Input from business circles

These proposals are made based on the results of broad and timely questionnaires given to over 3,000 Japanese companies, industry stakeholders who are interested in the EU regulatory trends, economic organisations, related ministries and agencies. The proposals also carefully reflect the development of each request referred to in past annual proposals. Therefore, the GOJ requests that the EU advances its reform efforts by sincerely acting on the views of Japanese stakeholders presented in the proposals and adequately reflecting their requests in its ongoing and future policies. Furthermore, the need to enhance Japan-EU cooperation in regulatory reform and other matters was referred to in the proposal paper entitled “Joining forces for competitiveness and sustainability” issued to the leaders of Japan and the EU in June 2007 by the Japan-EU Business Dialogue Round Table (BDRT) held by Japanese and European business circles. All these underpin the importance of continuing our joint efforts for regulatory reform and harmonisation.

(5) Importance of transparency

The GOJ highly values the EU's broad implementation of public consultations and public hearings in the policy consideration process of the EU for ensuring transparency, an important element of the commitments to regulatory reform. The GOJ intends to be continuously and actively involved in this process in each field.

(6) Conclusion

This Dialogue is operated based on principle of reciprocity. Therefore, the implementation of Japanese proposals needs forward-looking and swift responses by the EU side. Sufficient attendance and replies by relevant departments of the Commission and Member States for the Brussels Meeting is also essential. From this point of view, it is a strong wish of the GOJ that the EU will continue to take initiatives and present even more active responses than in the previous year.

A. Cross-sectoral Issues

1. Investment Environment within the EU

(1) Overview

(a) General remarks

The GOJ supports EU's initiatives in regulatory harmonisation in the process of deepening integration. While these commitments may include creative regulatory instruments, they should be based upon the principle of better regulations, through review of excessive or unnecessary regulations, reduction in regulatory costs and enhancement of legal predictability. The GOJ endorses those efforts as good instruments to facilitate economic activities of both internal and external corporations, thereby making the EU as a single market even more attractive and competitive.

In this connection, EU regulations should be (i) adequate to maintain competitive environment but least excessive, and (ii) simple, consistent and transparent. In our view, those two elements constitute essential source for innovation, thereby contributing to secure benefits of EU economies as a whole including foreign businesses.

Based upon the above-mentioned understanding, FY2007 Japanese proposals introduce three specific areas of focus, in which the GOJ requests the EU to further make efforts for internal harmonisation. They are (i) commercial laws and business practices, (ii) the movement of people, and (iii) labour and employment.

With regards to recent positive development in the UK regarding the issue of animal rights extremists (ARE), on which the GOJ has requested the improvement in its proposals concerning investment environment, the GOJ commend the efforts made by the EU, in particular the UK. On the other hand, the GOJ would like to remind the EU of requests submitted by Japanese companies regarding this matter. Hence the GOJ would like to request that the EU keep paying enough attention to the Japanese interests.

(b) Review of regulations on incoming investment

Further increasing mutual investment between the EU and Japan will lead to a further strengthening and deepening of economic relations between the two parties. In recent years, however, there has been a trend to tighten regulations on incoming foreign investment in EU Member States for security reasons. While the GOJ fully recognizes the importance of investment regulations for security reasons in general, the GOJ is concerned that such regulations may impede the investment activities of Japanese companies by exceeding the level of their original intent.

(i) Moves to review inward investment regulations in EU Member States [◆, Germany]

In recent years there has been an ongoing trend among EU Member States to review regulations concerning inward investment by foreign countries, with the United Kingdom, Germany and France undertaking reviews of their regulations in 2002, 2004, and 2005 respectively. In addition to these reviews, the GOJ understands that Germany is considering the amendment of its legislation governing inward economic investment with a view to introducing across-the-board investment regulations similar to those under the United States' Exon-Florio Amendment.

In the past, Japan has conveyed its views regarding regulations on inward investment of this nature by the United States Government, citing its concerns with respect to the clarity of the concept of "security," the legal stability regarding the scope of investment that may be the target of investigation, and transparency in processes such as presenting reasons for the commencement of investigations or the results of examinations.

The importance of ensuring transparency and predictability with respect to the government regulation of inward investment was also affirmed by both the OECD Investment Committee and the G8 Summit in June 2007.

In view of the above, the GOJ urges the German Government to adopt those measures which will ensure the maximum level of transparency and fairness on the part of the Government in processes for examining individual inward investment applications.

(ii) Consideration of common EU regulations for inward investment [◆, EC]

In a speech in June this year during Germany's EU Council Presidency, Chancellor Merkel made a statement to the effect that a common regulatory system across the entire EU should be considered as a means of regulating corporate takeovers by investing entities which are owned by foreign governments. The GOJ understands that there are plans to consider a legislative proposal by the autumn of this year. The GOJ will pay attention to the effects such regulations may have not only on such investors but also on investors in EU countries in general.

The GOJ urges the European Commission to make known the legislative proposal which is being considered at present. In addition, the GOJ requests that the Commission ensures that the investment activities of Japanese companies will not be unnecessarily hindered by the introduction of such regulations, and that the Commission provides stakeholders with the opportunity to express their views when regulations are being introduced.

(2) Commercial Laws and Business Practices

(a) Overview

The GOJ recognises that the harmonisation and integration of commercial laws and business practices in the EU will be beneficial not only for Japanese companies which have entered the EU market but for EU companies as well.

Differences in the systems in each EU Member State place additional burdens on companies engaging in business in the EU. Therefore, the GOJ requests that the European Commission demonstrate initiatives for the realisation of an integrated system at an early stage.

(b) Cross-border offset of profits and losses [EC]

The GOJ understands that the EU attaches importance to the cross-border offset of profits and losses in the EU with a view to reinforcing the EU Internal Market. This is also a matter of great importance for companies of Non-EU countries operating in the EU.

The GOJ also regards that Commission's communication (COM (2006) 824) on the handling of cross-border losses were prepared by the European Commission based on the judgment of the Marks & Spencer case by the European Court of Justice (ECJ). The GOJ expects the European Commission to take strong initiatives to adopt early the draft of the directive which reflects the communication above

In addition to the adoption of draft directive, as the inconsistent application of the Directive by each Member State would harm the consistency of the Internal Market of the EU, the GOJ requests that the European Commission provide information on progress of implementation and response by the Member States to realise consistency of policy in the EU Internal Market.

(c) A Directive on cross-border mergers [EC, M.S. (same as last year)]

A directive on cross-border mergers was adopted at the Council in October 2005 and entered into force in December. This directive makes cross-border mergers easier for limited liability companies by overcoming obstacles caused by different national laws. The GOJ welcomes the adoption of this directive, and urges that EU Member States swiftly adopt national laws to comply with the provisions of the directive (by the deadline being set on December 15, 2007). The GOJ also would like to know the progress and prospect of the adoption.

(d) Statute for a European Private Company [EC]

In the EU, the European Company Statute entered into force in October 2004, which enables companies to establish a SE (Societas Europaea) in a Member State to operate on a EU-wide basis without setting up a subsidiary company in each Member State. However, most Japanese companies in Europe – particularly those in the UK, Germany, and the Netherlands – take the form of a private company. Unless they are converted as public companies, they cannot establish SE through a merger or conversion of existing businesses, which is allowed only for public companies.

According to the results of the consultation published by the European Commission, many respondents from the business community answered that this issue should be addressed as a high priority. The GOJ continues to request the early introduction of a European Private Company (EPC) statute system after consideration of necessary matters including a study of the impact of regulations, and would like to know its future prospect.

(e) Costs for the cancellation of an agent contract [EC, France]

The GOJ understands that the cancellation of contracts with sales agents in EU Member States is provided for under the legal systems of respective EU Member States in accordance with the Directive for the harmonization of laws concerning independent commercial agents. It is customary to pay compensation to a sales agent when a party cancels a contract with an agent. This is particularly so in France where the judicial precedents are established to pay an amount equivalent to gross margins over a two-year period in compensation, although this is not explicitly stated in Statutory law.

Legislation based on the Directive for the harmonization of laws concerning independent commercial agents in the respective countries and legislation mentioned above are measures aimed at protecting agents. Furthermore, the GOJ understands that a report on the status of the implementation of the Directive in each country including France has been published by the European Commission.

As the heavy burden of this regulation is pointed out by the Japanese businesses operating in the EU, the GOJ strongly requests that the French government reviews the regulation to avoid overprotection of agents which may result in hindering the restructuring of business.

(3) Movement of people

(a) Overview (including the signing of social security agreements) 【EC, M.S.】

- (i) To promote Japanese investment in the EU, further efforts on the part of the EU are required for the smooth movement of people from Japan to the EU as well as the facilitation of the movement of people of non-EU countries including citizens of Japan within the EU. The GOJ appreciates efforts the EU is making in relation to the liberalisation of the movement of people in the EU Internal Market. At the same time, the GOJ urges the EU to be as non-discriminatory as possible in its initiatives for persons of non-EU countries including Japan, to clearly differentiate intra-corporate transferees of Japanese companies operating in the EU from persons defined as economic immigrants by the EU, and to reflect appropriately the views of stakeholders of non-EU countries including Japan in decision-making processes of the EU as well as of Member States.
- (ii) In agreeing to the Cooperation Framework for Promotion of Japan-EU Two-Way Investment in 2004, Japan and the EU made a commitment to further strengthen their efforts to establish a business environment for promoting two-way direct investment. To further facilitate administrative procedures for Japanese residents, including efforts to ease procedures for visas, work permits and residence permits in EU Member States is stated as a goal of the framework in terms of specific measures for the improvement of the investment environment on both sides.
- (iii) The GOJ urges that the Policy Plan on Legal Migration promoted by the EU proceed with transparency in securing equality between within and outside the EU. The GOJ has significant interest in the directive proposal relating to intra-corporate transferees in particular and would like to be actively engaged in future deliberation processes.
- (iv) To protect the interests of Japanese stakeholders, including the business sectors, and to further promote investment, the GOJ makes specific requests relating on (1) work and residence permits, (2) driving licenses, and (3) tourism as the priority items concerning the movement of people.
- (v) Furthermore, the elimination of the problem of double contributions in the social security system as a result of the signing of social security agreements between the GOJ and the EU Member States will contribute to facilitating the movement of people, and the GOJ accordingly recognises this as an area where cooperation between Japan and the EU is making progress.

(b) Work and Residence Permits

I. Overview 【EC, and M.S. mentioned below】

Improving procedures for obtaining work and residence permits continues to be the most prominent issue of concern in the movement of people for the management of Japanese companies in Europe, their employees, and the employees' families. The GOJ also attaches great importance to this area from the viewpoint of improving the infrastructure of the investment environment.

Therefore, the GOJ would like to request that priority be given to the issues stated below concerning the acceleration and simplification of the obtaining of work and residence permits in EU Member States, stressing that intra-corporate transferees of Japanese companies in the EU are clearly different from persons the EU defines as economic immigrants. Furthermore, the GOJ would also like to take up the matter relating to the widening of the scope of application of the Schengen Agreement to encompass additional countries in December 2007.

With regard to its requests for improvement in individual countries (below), the GOJ has narrowed its focus to countries where significant concerns remain despite its approaches and countries where new concerns such as the addition of language proficiency requirements are emerging. Therefore, the need for definitive responses to concerns on this occasion is more pressing than in the past.

At the same time, improvement is evident in a number of areas such as the shortening of the period required for the issue of residence permits in Greece, the extension of the duration of work permits in Hungary, the resumption of the Intra-corporate Transfer Scheme (ICT) in Ireland, the establishment of a Japan Desk at the competent authorities in the Netherlands, and the shortening of the period required for the issuance of work and residence authorization and the granting of visas in Spain. The GOJ appreciates these efforts by the Member States and the cooperation of the European Commission in encouraging the efforts of the Member States in these areas.

Furthermore, in France, the signing of "an acceptance and integration contract," which includes mandatory French language lesson, is now required for obtaining a residence permit in that country since the start of 2007. However, the GOJ appreciates the prompt response by the French government in exempting business transferees and their family members from this contract through a newly introduced "salarie en mission" residence permit. While improvement is evident in the systems of these countries, there have been cases of operational problems noted, but for the time being the GOJ will simply keep a close watch on the operational aspects of these systems.

The GOJ appreciates the efforts of the many Member States to attend the Brussels Meeting

in fiscal 2006. The GOJ also requests the attendance in fiscal 2007 of the many representatives who take seriously Japan's sensitivity to various issues. The GOJ particularly requests the Member States where improvement is being requested in their individual countries as matters of priority to ensure attendance of representatives from their governments.

II. Policy Plan on Legal Migration 【EC】

(i) Under the Policy Plan on Legal Migration published in 2005, the European Commission is to submit a draft directive on procedures regulating the entry into, temporary stay and residence of intra-corporate transferees (ICT). The GOJ urges the European Commission to promptly proceed with processes for enacting this draft directive with appropriateness and transparency. The GOJ requests that the application procedures for intra-corporate transferees and their families be unified across all Member States and that the residence permit and work permit systems within the EU be harmonised and unified through these directives. The GOJ would like to be informed of the progress to date and the prospects for the future.

(ii) In relation to this, the GOJ is paying attention to the fact that the European Commission is engaging in deliberation on the harmonisation and unification of the immigration system in areas such as the establishment of the EU Blue Card, which is a residence and work permit based on a common standard for persons who wish to immigrate, and a single application procedure. The GOJ believes that intra-corporate transferees and economic immigrants defined by the EU who should be clearly differentiated. The GOJ welcomes the visible progress towards integration and unification of the systems in the EU.

III. Requests to Member States on obtaining work and residence permits 【M.S.】

In view of the progress since FY 2006 dialogue, Member States categorized as “countries in need of prompt improvement” and “countries in need of prompt improvement due to the emergence of new problems” are as listed in the table below.

Countries in need of prompt improvement	Czech Republic, Italy, Poland, Portugal, Romania and Slovakia
Countries in need of prompt improvement due to the emergence of new problems	Belgium, Slovenia and UK

(i) Acceleration and simplification of procedures for obtaining work and residence permits 【Czech Republic, Italy, Poland, Portugal, Romania and Slovakia】

Among “countries in need of prompt improvement,” Japanese companies operating in those countries invariably made requests for the acceleration and simplification of procedures in relation to work and residence permits, such as speeding up the issuance of permits, the extension of their duration, and the simplification of documents that need to be submitted. The GOJ therefore urges the governments of the Member States to exercise maximum effort in improvement. In Italy in particular, the issue of residence permits continues to be a problem. At present, the issue of the residence permits is much delayed due to the congestion in administrative procedure within the government following a change in application methods for residence permits in December 2006. Consequently, a situation continues where corporate transferees are not only unable to give notification of their receipt of a residence certificate or open a bank account but also unable to complete procedures to have their family members join them, register with a home doctor or travel to other EU countries freely. In Portugal too, adequate improvement has not been observed despite receipt of a written response subsequent to the fiscal 2006 Regulatory Reform Dialogue indicating that from October 2006 onwards the Regional Directorates have been instructed to treat as urgent the handling of requests of visas by Japanese nationals. Therefore, although the GOJ appreciates efforts by the governments of both Italy and Portugal in improving procedures for work and residence permits, the GOJ requests further improvement.

(ii) LIMOSA system and work and residence permits in Belgium 【Belgium】

With the introduction of the LIMOSA system in April 2007, persons going from Japan to Belgium on business for a period of 21 days or longer are now required to register their intention to stay beforehand. While the GOJ understands that the purpose of this system is to create a common database among government organisations, this is an added burden for Japanese companies with business interests in Belgium. The GOJ urges the Government of Belgium to extend the period of exemption of LIMOSA to 90 days to coincide with the period of exemption for business visas between Japan and Belgium. Furthermore, the submission of a health certificate and police certificate are required for obtaining a work and residence permit, and the considerable burden placed on applicants in securing these documents has not yet improved. Therefore, the GOJ continues to urge the simplification of documents required for submission.

(iii) Residence permits for families of business workers in Slovenia 【Slovenia】

In Slovenia, according to provisions of Article 36 of the Aliens Act, which was amended in October 2006 following EC directive 2003/86/EC, resident employees of foreign companies from non-EU countries cannot apply for residence permits for their families unless they have been resident in the country for at least one year. Many Japanese companies conducting business in Slovenia have expressed strong dissatisfaction regarding this regulation. To force a prolonged separation of one year upon families is a humanitarian issue and the GOJ strongly urges improvement by either amending this regulation or

applying it more flexibly. The written reply from the EU side regarding discussions at FY 2006 Japan-EU Regulatory Reform Dialogue expressed the view that as far as family reunification is concerned, the EC directive 2003/86/EC was not applicable to third-country workers not having reasonable prospects of obtaining the right of permanent residence, thus it was not applicable in case of ICT (temporary residents by definition). Therefore, Slovenia's action is inconsistent with the position of the EU.

(iv) Work and residence permits and visas in the UK [UK]

Regarding the new points-based system to be introduced through a series of phases by early 2009, the GOJ appreciates the proposal itself as an initiative that could lead to simplified and more transparent system. On the other hand, upon the introduction of the points-based system, a new English Language Requirement will be imposed in Tier 2, the category applicable to the majority of Japanese workers in Britain. The English Language Requirement, which currently is not a precondition to obtaining work and resident permits, will place an unproportionally high burden upon Japanese workers who seek to enter the UK as intra-corporate transferees of Japanese companies. They are unlikely to seek settlement, and do not need extensively high English proficiency in their workplaces. The GOJ considers this requirement to be out of balance and therefore urges that workers seeking to work in the UK through intra-corporate transfers be exempt from the English Language Requirement. Concurrently, the application process for English language test administrators to have their test approved as a proof of proficiency in Tier 1 has begun. The GOJ expects positive consideration to be given to applications submitted by Japanese organisations.

Furthermore, at the previous dialogue, the GOJ requested improvement in the exceedingly high application fees for work and residence permits (335 to 500 pounds), however a reply in the form of a written response have not been received. Therefore, the GOJ reiterates its request for a reply.

In addition, since the commencement of biometric data collection in November 2007, applicants for entry clearances are required to visit the Visa Application Centre in either Tokyo or Osaka (only two locations) in person. This is extremely inconvenient and the GOJ would like to know whether there are plans to establish any additional Visa Application Centres in other cities.

(v) Preservation of the agreement on mutual visa exemption between Japan and new applicable states of the Schengen Agreement [EC]

From December 21, 2007 the scope of application of the Schengen Agreement will expand to include nine additional Member States that acceded to the EU in 2004. The GOJ would like to confirm with the European Commission that the bilateral agreements on mutual visa exemption which Japan signed with these countries individually will maintain the

precedence following their inclusion in the scope of application of the Schengen Agreement.

(c) Driving Licenses 【EC】

The EU requires through the Council Directive on Driving Licenses (2006/126/EC) that Japanese nationals living in the EU Member States surrender their Japanese driving licenses when exchanging them for driving licenses issued by EU Member States. If Japanese nationals temporarily return home to Japan having surrendered their Japanese driving licenses, they cannot drive in Japan, which hampers their smooth economic and social activities.

The European Commission made a proposal in February 2004 that when any Member State issues driving licenses to Japanese nationals in exchange for the surrender of their Japanese driving licenses, the authorities of the EU Member State concerned will then return the surrendered licenses to the Japanese Embassy in that State. The GOJ accepted this proposal and the return of driving licenses has taken place in many countries. The GOJ appreciates the ongoing contribution of the relevant Member States and the European Commission in this matter. Discussions with the governments of Hungary and Slovakia are currently in progress aiming for an exchange of Japanese driving licenses through bilateral agreements. While the GOJ appreciates efforts by the governments concerned, the GOJ expects the early realisation of an exchange.

On the other hand, there are still some Member States such as Belgium and Spain where the return of driving licenses to the Japanese Embassy has not been put into practice. The GOJ would like to stress that this remains an issue concerning the investment environment of Japanese companies in these Member States. Therefore, the GOJ requests that the European Commission again urges these Member States which are not moving forward for the exchange and return of the driving licenses to do so and to report the results accordingly.

(d) Tourism

I. General remarks [EC]

In the Action Plan for Japan-EU Co-operation agreed in 2001, Japan and the EU stated their commitment to the promotion of human and cultural exchanges as an objective. Tourism is the most accessible means of exchange for people in general. Eliminating unreasonable impediments in tourism is in the interests of both sides.

The procedure for obtaining residence permits for short-term visitors to Italy, an area where Japan has made requests for simplification of the procedure in the past, has been replaced by a notification procedure through the law amendment in 2005. Japan appreciates that the law amendment will make a significant contribution to promoting exchanges between the two countries. While the GOJ believes that there is still a need for further improvement of the new procedure, such as familiarizing the Border Police with the new procedure and giving notification to short-term visitors at airports even by the arrival from Schengen countries, the GOJ will first pay attention to progress in the implementation of this new procedure.

II. Nationality requirement for tour guide license and obligation to engage an accompanying local guide in Spain [Spain]

- (i) Tour guides operating in Spain are required to hold nationalities of EU countries (including Spain), the EEA countries, or signatory countries of a reciprocity agreement in this field. In requests made until FY 2006, Japan urged improvement in this situation through the abolition of the above nationality requirement on the grounds that it compelled Japanese tour companies to hire local guides who usually do not speak Japanese and consequently placed an unnecessary burden on those tour companies. As a result, Spain responded in 2006 by indicating its plans to abolish the nationality requirement in the city of Madrid. The GOJ sees this as a positive move and appreciates the efforts on the part of the authorities concerned. At the same time, the GOJ would like to receive information from the Government of Spain regarding the status of the lifting of this requirement in Madrid and its prospects for the future.
- (ii) In other regions outside Madrid, the nationality requirement for guides continues to remain in place. This regulation is not only preventing capable Japanese from becoming tour guides without just reason but is also in fact having a significant impact on the large number of Japanese tourists who visit Spain. Therefore, the GOJ urges an early of the nationality requirement.
- (iii) This year Japan wishes to raise a new issue regarding tourism in Spain. In some of regions in Spain, a local tour guide is, at present, required to accompany tourists and it is so even when tourists are take a stroll in the town. The GOJ views that the imposition of this obligation to engage an accompanying local guide is an excessive restriction on

tourists. Furthermore, in view of the fact that most of the local guides do not understand any Japanese, this regulation is simply an inconvenience placed on Japanese tourists.

(iv) With the understanding that the above issues are problems which pertain to local government authorities, Japan urges the Government of Spain to make an appeal to local government authorities to refrain from unnecessarily restricting the employment opportunities of capable Japanese tour guides and at the same time to refrain from imposing unnecessary costs on travelers and travel companies by abolishing the nationality requirement for tour guides and the requirement to have an accompanying guide.

(4) Employment

(a) Overview [EC, M.S.]

The GOJ is aware of the EU position that existing EU legislation in the employment and social field lays down only the minimum requirements, and that many of the issues raised in Japan's list of proposals fall within the exclusive competency of the Member States. The GOJ is also aware that employment has a sensitive aspect stemming from the historical background of labour practices and labour law that are unique to each Member State.

Nonetheless, the employment systems and customs in many EU Member States are rigid, thus productivity commensurate with the quality of the workforce has not been reached. To be specific, there is a noticeable lack of flexibility in areas such as dismissal from employment, working hours, and salary, and these factors are obstacles in the launch and operation of enterprises. Furthermore, the GOJ understands that similar points have been raised not only by Japanese and non-EU enterprises, but also by enterprises of EU Member States. Therefore, the GOJ is convinced that listening to the voices of these enterprises and addressing the problems will promote labour productivity in the EU and investment to the EU by other countries including Japan. Furthermore, in light of the goals advocated by the Lisbon Strategy to achieve growth and job creation through economic revitalization and the strengthening of competitiveness, the GOJ believes that there is significant importance in the EU's careful consideration of the requests of both EU and non-EU enterprises, including Japanese enterprises.

Therefore, the GOJ requests the EU side to make efforts towards improvement of the employment market at both the EU and Member State levels, from the viewpoint of improving business and investment environment. Furthermore, it requests the European Commission to indicate the direction of how the latter intends to balance between flexibility in the labour market and security of the employment which Flexicurity advocates.

(b) Ensuring flexibility in the labour market

- Deregulation of compensation for dismissal [Spain]

Compensation for dismissal in Spain places an enormous burden on Japanese enterprises. Therefore, the GOJ continues to request that the Spanish Government further reduce compensation for dismissal.

According to the explanation from the EU side (Spain), a new act in 2006 aimed at fostering permanent contracting provides for a reduction in compensation for dismissal under various conditions and also makes further reduction possible depending on the size of the enterprise and the upper limit of the daily salary, which are used as criteria for calculation. Nevertheless, compensation for dismissal remains an enormous burden in the

adjustment of production in the manufacturing industry, which needs to modify its production system in a flexible manner. To maintain the attractiveness of Spain as a production site, there is a need to establish a labour market that is easier to utilize. Therefore, the GOJ requests further reduction of dismissal compensation.

- Reducing the percentage of workers on sick leave [Czech Republic]

The GOJ has until now been making requests to the Czech Government to make efforts for improvement in this issue, pointing out to the Czech Government that a high sick-leave rate is a serious problem for Japanese companies, that health insurance benefits are a significant burden for companies, that the sick-leave rate in the Czech Republic is extremely high among European countries including Central and Eastern European countries, and that if the high sick-leave rate continues there is a likelihood that it will have an adverse effect on companies seeking to enter the Czech market in the future.

In this regard, the president of the Czech Republic signed the relevant amendment bills in October 2007 which had been passed in the parliament. According to the explanation from the EU side (the Czech Republic), it is expected that these new legislations will lead to a reduction in the sick-leave rate and in burden for employers through a decrease in health insurance benefits. The GOJ understand that these bills are to come into force, one after another, as from January 1st, 2008, so the GOJ requests the Czech Government to implement these bills steadily so that these bring about the anticipated results.

- Improvement to the abuse of sick-leave system [Hungary]

Japanese companies operating in Hungary continue to point out that employees often seek to use all of their annual 15-day sick-leave grant, while doctors tend to easily issue medical certificates allowing for employees to make sickness claims. Since sick leaves are designed to be used for medical treatment when employees are sick or injured, using sick leaves as if they were part of ordinary paid leaves is a problematic practice and thus requires improvement. Therefore, the GOJ continues to request that the Hungarian Government continues to make improvements to address this problem.

According to the explanation from the EU side (Hungary) in relation to this issue, Government Decree regulates the medical assessment of incapacity/capacity to work and related supervision, and the sick-leave can be demanded on the basis of the medical assessment, carried out according to the professional guidelines, so Hungary does not concur with the overly sketchy remark about “doctors tending to easily issue medical certificates”. However, in view of the fact that there has not been any considerable improvement in this problem, it should be pointed out that in case that the current situation persists it will adversely affect companies seeking to enter the Hungarian market. There is no doubt that the rights of sick employees must be guaranteed, but an abuse of the sick-leave system should be prevented. Therefore, the GOJ requests that the Hungarian Government take specific action to prevent abuse of the sick-leave system, such as

strengthening the guidelines.

2. Standards and Certification

(1) Overview

The EU's New Approach and Global Approach aimed at the free movement of goods in the EU through technical harmonisation in the area of manufacturing have played an important role in reducing trade barriers in the EU in various ways such as the issuance of directives defining merely essential requirements to be met in each product area, the framing of a conformity assessment system into modules, and the introduction of CE marking.

On the other hand, the GOJ understands that in these two approaches there have been (a) cases where manufacturers are imposed excessive burdens because a practical system for implementing conformity assessments has not been established, and (b) cases where manufacturers are forced to assume additional costs due to the existence of individual systems of standards and certification of Member States despite the promotion of the integration of standards in the EU. These are cases which contradict the view that these approaches are "better regulations," and therefore improvement aimed at the abolition or reduction of excessive or unreasonable regulations is necessary.

In FY 2007 Japan-EU Regulatory Reform Dialogue, the GOJ takes up the points stated below with regard to (a) above as a priority request. Furthermore, the GOJ continues to have concerns regarding additional regulations on TV imports to Italy, an issue which it has taken up previously as a problem in relation to (b) above, as well as the regulation on the shape of plugs and sockets for electrical outlets and telephone lines. Therefore, the GOJ expects efforts for improvement by the European Commission and Italy.

(2) Integration of conformity assessment procedures

The implementation of conformity assessments, the issuance of declarations of conformity, and the display of CE markings are required when products are being sold in EU markets. The problem is that because directives have been issued in stages for different product areas, there are many cases where a number of directives apply to a single product and where procedures differ under each directive, placing a tremendous burden on manufacturers.

For example, the Machinery Directive, the EMC (Electromagnetic Compatibility) Directive, and the Simple Pressure Vessels Directive apply to cranes. While the Machinery Directive and the EMC Directive allow self-assessment, the Simple Pressure Vessels Directive does not and requires a third party assessment by an organization recognized by the government of the Member State. Although the simple pressure vessel in cranes is used only for the brakes to stop the driving of the machine, the requirement of a third party assessment of that part alone places the burden of an additional cost on crane manufacturers. Consequently, Japanese manufacturers in particular are forced to pay enormous costs, due also to the fact that the Simple Pressure Vessels Directive limits the third party assessor to a

third party assessment organization based in the EU.

While the GOJ understands that technical requirements for each directive vary, the GOJ believes that it is impractical to have basic procedures which are not uniform. Therefore, from the viewpoint that unnecessary costs should be eliminated and regulations should be reasonable, the GOJ urges the European Commission to make improvements through the integration of conformity assessment procedures.

3. Trade and Customs

(1) Overview [EC]

The GOJ takes up two issues as priority issues in the area of trade and customs in FY 2007 Regulatory Reform Dialogue. The first is the imposition of duties on IT products by the EU, and the second is the 24-hour advance notice requirement for marine container freight information prior to loading which the EU is planning to introduce. Both of these measures are impediments to the smooth development of trade between EU and non-EU countries including Japan, and the GOJ strongly urges that the EU, which plays an important role in the World Trade Organisation (WTO), take into careful consideration the request of the GOJ to make efforts for improvement in this area.

The EU has been levying high taxes on some IT products on the grounds that certain products, previously agreed to be exempt from duty in 1996 under the Information Technology Agreement (ITA) subscribed to by some of WTO Member States, have become multi-functional and more advanced in nature than at the time of the agreement as a result of technical innovation. The EU, as an original participating member of the ITA, is in a position to lead the development of industry and society through promotion of the permeation of IT products, and the GOJ perceives measures of this nature by the EU as a problem. Therefore, the GOJ continues to take up this issue in FY 2007 Regulatory Reform Dialogue and request improvement as stated in (2) below.

The GOJ appreciates the decision of the European Commission to suspend investigation procedures with respect to the anti-dumping investigation of Japanese-made Television Camera Systems (TCS) raised in FY 2006, and to retract existing anti-dumping tariffs in July 2007, in response to Japan's request.

(2) Imposition of duties on IT products

(a) Liquid crystal display monitors for PC [EC]

The European Commission classifies liquid crystal display (LCD) monitors for PCs with DVI (Digital Visual Interface) port as video monitors (CN8528.59.10 or CN8528.59.90) and imposes a 14% duty on these products except for products where a temporary suspension of tariffs applies. Although LCD monitors for PC with DVI port may have limited element capability to be connected to a DVD video playback device via a DVI port, the GOJ believes that on the basis of their technical and structural features these products should be considered products of a kind solely or principally used in an automatic data processing system. Therefore the GOJ urges the European Commission to make LCD monitors for PC with DVI port exempt from tariff.

(b) Digital multifunctional printers [EC]

The European Commission classifies digital multifunctional printers (fax/printer/scanner/copier) capable of producing more than 12 copies per minute as CN8443.31.91 and imposes a 6% tariff on them. The GOJ urges the European Commission to exempt digital multifunctional printers from tariff regardless of copying capability.

(c) Set-top Boxes [EC]

The GOJ understands that in March 2007 the European Commission made a decision on the Explanatory Note which classifies set-top boxes with recording function as video devices under the category CN8521.90.00 (13.9%). This Explanatory Note has not yet been made public but customs in some of the EU Member States have commenced imposing duties in line with this Explanatory Note, which is already having a certain effect. The GOJ urges the European Commission to exempt set-top boxes with recording function from tariff.

(d) Ink cartridges

The European Commission classifies ink cartridges for ink jet printers as ink under the category CN3215.90.80 when they are being exported to the EU and imposes a tariff of 6.5% on them. Based on the technical and structural features of this product, it should be considered as part of a printer. Therefore, the GOJ urges the European Commission to exempt ink cartridges from tariff.

(3) 24-hour prior notice

The GOJ understands that as part of its anti-terrorism measures the EU plans to implement a 24-hour advance notice system for the submission of marine container freight information prior to loading in July 2009 similar to that of the United States. This system, in accordance with the European Council Regulation 648/2005 (EC Customs Law) and European Commission Regulation EC/1875/2006, will require freight information of international marine container cargo to be submitted to customs of the export zone at the port of departure 24 hours prior to departure. There is concern that the introduction of this new system will considerably lower the efficiency of the distribution of goods from Japan to the EU, and place a significant burden on businesses. The GOJ therefore urges the European Commission to engage in adequate consultation with GOJ authorities prior to the implementation of this system and to adopt appropriate measures such as relaxing of requirements and exemption of application of the system, to minimize the negative effects the introduction of this system may have on the smooth trade between Japan and the EU.

4. Intellectual Property Rights

(1) Overview [EC, M.S.]

At the June 2007 Japan-EU Summit, the leaders of Japan and the EU agreed on the Japan-EU Action Plan on IPR Protection and Enforcement and made a decision to deal jointly with various issues in areas such as patents, copyrights, trademarks, and measures against counterfeiting and piracy. This agreement is an expression of the shared interests of Japan and the EU as advanced knowledge-based economies.

As for patent among those listed above, the GOJ would like to emphasise the importance of international harmonisation of patent systems which is gaining increasing recognition in recent years. The GOJ has expectations for strengthened Japan-EU cooperation towards the realisation of patent harmonisation. To introduce the developments since last year's dialogue in 2006, both the upper and lower houses of France's National Assembly approved the ratification of the London Agreement, which addresses the issue of translation costs at the time of obtaining a European Patent. The GOJ welcomes France's approval. The GOJ also welcomes the indication of positive developments in various EU countries with respect to the Patent Prosecution Highway. A pilot programme between Japan and the UK commenced in July 2007 and the launch of a pilot programme between Japan and Germany is also expected in the near future. In view of these developments, Japan has expectations for the European Patent Office's participation in this program. Concerning the piracy damages of Japanese-made contents in Italy, the GOJ also welcomes the agreement of cooperation in May 2007 between the Japanese organisation ACCS (Association of Copyright for Computer Software) and Italy's copyright protection organisation SIAE to exchange information. At the same time, the GOJ reiterates its request that the Italian authorities and the European Commission continue to make active efforts to control damages arising from piracy of Japanese-made contents and to provide appropriate information to relevant Japanese authorities regarding these damages.

In view of the aforementioned developments, the GOJ makes specific requests at this year's dialogue regarding the issues below.

(2) Improvement in the patent system in Europe

(a) Basic view

Patent systems in Europe include national patent systems in respective European countries and the European Patent System which the European Patent Office (EPO) supervises. The establishment of a Community patent system which is directed to all EU Member States is under consideration. The Community Patent System is expected to not only establish a single patent right which is common to all EU Member States but also coexist with national patent systems as well as the European Patent System. To create an environment which

promotes innovation in a single EU market more efficiently, the GOJ requests an early establishment of a unified Community patent system.

In the meantime, as a more practical issue, there is a need to improve the patent system which exists at present in Europe, in other words, there is a need for improvement in European Patent System. In April 2007, the European Commission published a Communication (COM (2007)165) in which it indicated its vision for the improvement. As problems related to patent system in Europe, this document indicated that improvement in the patent system is important for innovation, and pointed (1) the high costs of obtaining a patent in comparison with costs in Japan and the United States (a European patent designating 13 countries is 13 times as expensive as a Japanese patent and 11 times as a US patent), (2) the need to reduce translation costs in particular and increase the legal stability of patents in terms of the court of jurisdiction, and (3) the need to expedite the examination process and the importance of cooperation among patent authorities in the mutual utilisation of examination results.

The GOJ shares this vision of the European Commission. At the same time, the GOJ requests the Commission to maintain a high level of transparency in the process of implementing its vision and specifically requests the provision of detailed information to non-EU stakeholders including the GOJ and Japanese companies, and to ensure their participation in an open examination process.

Based on the understandings mentioned above, the GOJ specifically requests the European Commission and the relevant EU Member States to address (1) international harmonisation of patent systems, (2) unification of the patent system in Europe, (3) reduction in patent translation costs, and (4) improvement in the judicial system as this year's priority issues.

(b) Realisation of international harmonisation of patent systems [M.S., EC]

In light of the ongoing globalisation of corporate activities and the growing number of international applications, the international harmonisation of patent systems is vital in promoting the smooth acquisition of rights.

Deliberation on the approach to patent system harmonisation has been underway at WIPO (World Intellectual Property Organization) since 1985. As a means of alleviating differences of positions at WIPO, deliberation focused on a limited number of main topics by Japan, the United States, Europe and others has been in progress since 2005.

There have been positive developments in patent harmonisation in 2007. At heads-of-state level meetings such as the EU-US Summit (Framework for Advancing Transatlantic Economic Integration Between The European Union and the United States of America) in April, the Japan-EU Summit Meeting (Japan-EU Action Plan for IPR Protection and Enforcement) in June, and the G8 Summit (Growth and Responsibility in the World

Economy) in June, the importance of international patent system harmonisation was confirmed. Furthermore, at the Japan-EU Business Dialogue Round Table (Cooperation for Competition and Sustainability) in June, there was a strong request from leaders of the business world to promote the international harmonisation of patent systems.

If patent system harmonisation is realised, there will be significant merits for both the Japanese and EU business worlds, which operate in a global business environment. The predictability and legal stability of patent acquisition for users in every country will improve and it will result in a reduction in costs. The GOJ is also aware that in Europe in 2008 the EPO will host a meeting among developed countries (the Group B+ member countries) on international patent harmonisation. Therefore, the GOJ requests the European Commission, in cooperation with Member States, to take an active initiative in deliberation to achieve international harmonisation of patent systems.

(c) Integration of the patent system

Early establishment of the Community Patent [EC]

In March 2003, the Council reached a political agreement on the establishment of the Community Patent System existing in parallel with the patent system of each Member State. It is regrettable that since then no drafts for related EU regulations have been adopted.

The integration of patents in Europe through the introduction of a Community Patent System will result in a reduction in costs for patent applications and maintaining patent rights in Europe. The system is also expected to help speed up as well as simplify the procedures of obtaining patents and legal actions pertaining to patents in Europe.

In this connection, the European Commission held, from January to March 2006, a public consultation concerning future patent policy, aiming at gaining momentum to adopt the Community Patent. In response, Japan submitted a comment calling for an early establishment of the system. Taking into consideration the results of the consultation, the European Commission submitted to the European Parliament and the Council a communication entitled "Enhancing the patent system in Europe" in April 2007, in which it followed up its calls for pursuing the establishment of the Community Patent as a measure to reduce total costs (including translation costs and annual fees) and increase legal stability.

The GOJ welcomes these initiatives of the European Commission and continues to request the early establishment of the Community Patent System. In addition, the GOJ requests the European Commission to proceed with its deliberations of the system taking into adequate account the views of countries outside the EU including Japan, and additionally requests that the Commission indicate prospects of future initiatives in the establishment of this system.

(d) Reduction of patent translation costs

An early entry into force and the universalisation of the London Agreement designed to reduce the burden of translation required concerning a European Patent [EC, non-ratified countries (Ireland, Italy, Estonia, Austria, Cyprus, Greece, Sweden, Spain, Slovakia, the Czech Republic, Hungary, Finland, France, Bulgaria, Belgium, Poland, Portugal, Malta, Lithuania and Romania)]

According to Article 65-1 of the current European Patent Convention (EPC), when the European Patent Office (EPO) judges to grant a patent and the applicant for the patent wishes the patent protection to apply in EPC member countries, the EPC member countries may prescribe that the applicant for the said patent shall supply a translation of the specifications of the aforementioned patent in official languages of the countries (official languages designated by the 32 EPC member countries). This provision incurs extensive translation costs that heavily strain patent applicants including Japanese companies. This system, which complicates and delays the procedure for a European Patent, is seen to be discouraging the utilisation and prevalence of the said patent.

On 17 October 2000, the London Agreement (the Agreement dated 17 October 2000 on the application of Article 65 of EPC) was adopted by several member countries of the European Patent Convention (EPC), namely, the United Kingdom (UK), France, Germany, and seven other countries (the Netherlands, Monaco, Luxemburg, Switzerland, Sweden, Denmark, and Lithuania), aiming to reduce the burden of submitting translations concerning a European Patent. The agreement will take effect when ratified by eight or more EPC member countries, including the UK, France, and Germany. Already nine countries including the UK and Germany have done so. In France, ratification of the agreement was approved by the upper and lower houses of the National Assembly in 2007 and the agreement is expected to be ratified in the near future.

On the other hand, Japan wishes to indicate that 20 EU Member States including Italy and Spain have not yet ratified the agreement. Of these, the GOJ understands that Sweden and Denmark have already completed the necessary procedures in their respective legislatures and are awaiting ratification. The GOJ welcomes the initiative of these countries and also expects further efforts on the part of the other countries that have not yet ratified the London Agreement, since its universality depends on their ratification.

The GOJ also understands that the informal EU Summit Meeting in Lahti in October 2006 discussed the benefit of the London Agreement. The GOJ reiterates its request to those of the above-mentioned 20 countries which have yet to ratify the London Agreement to immediately move ahead with internal procedures for ratification. The GOJ would also like to receive information of their future prospects with respect to ratification.

(e) Improvement in the judicial system

An early entry into force of the European Patent Litigation Agreement (EPLA) [M.S., EC]

The European Patent Office (EPO) has been deliberating on the European Patent Litigation Agreement (EPLA) since 1999 as part of the harmonisation of the legal systems in Europe. The deliberation is aimed at unifying the litigation system of the European Patent (patent rights granted under the European Patent Convention (EPC)), which is currently different among Member States, and at enhancing the efficiency and legal stability of the patent protection. In the meantime, the GOJ understands that the European Commission proposed in the communication which it released in April 2007 (COM (2007)165) a unified patent litigation system which would encompass the Community Patent as well as the European Patent.

The EPLA will contribute to the activities of not only EU companies but also companies outside the EU including Japanese companies by providing greater legal stability to the European Patent and by simplifying and reducing costs of litigation procedures. In addition to requesting the early establishment of the Community Patent as a future issue to be addressed, the GOJ also requests EU Member States which are members of the EPC and the European Commission to join in more vigorous efforts to bring the EPLA into force at an early stage with a view to realising an efficient and stable patent judicial system as early as possible in the Europe, irrespective of the progress in the above Community Patent. At the same time, the GOJ would like to inquire about plans for future initiatives for bringing EPLA into force.

(3) Copyright Protection in a Digital Environment

Copyright Levy Reforms in the EU

[EC, M.S. (Italy, Estonia, Austria, the Netherlands, Greece, Sweden, Spain, Slovakia, Slovenia, the Czech Republic, Denmark, Germany, Hungary, Finland, France, Bulgaria, Belgium, Poland, Portugal, Latvia, Lithuania and Romania)]

The copyright levy system was introduced as a means of charging compensation fees for reproductions of copyrighted works for private use at a time when the analogue equipment was commonly used to make copies. With the prevalence of digital technology today, however, digital instruments and media account for the majority of items covered by copyright compensation. To respond appropriately to progress in technology of this nature, deliberation is currently underway in countries all over the world and includes a review of the copyright levy system in general.

In addition, the GOJ would like to point out some cases where sufficient agreements are not in place between stakeholders in terms of their decisions on the ratio as well as targets of levy pertaining to photocopying of copyrighted works. As a result, there are concerns about cases where copyright levies are charged to those instruments with an extremely small possibility of being used to reproduce copyrighted works, and other cases where unreasonably expensive copyright levies are charged to those instruments whose prices

have already been lowered due to technological progress.

Taking into consideration such environment, the European Commission has formulated a road map (2006/MARKT/008) for the harmonisation of the levy system in the EU relating to reproduction for private use and is proposing as a future policy option the indication of guidance on the usability of digital rights management (DRM) technology as an alternative method of protection, and guidance for ensuring transparency with respect to the application, collection and distribution of copyright levy.

The GOJ requests the EC's initiative will enable the adoption of a fair and transparent levy system for copyright owners and copyright organisations, as well as manufacturers of instruments and media and consumers. In this connection, however, the GOJ is not satisfied with replies from the EU side to requests in fiscal 2006 because: (1) the replies do not provide with sufficient information nor do they supply an explanation regarding current directive review processes since 2004, and (2) there has been no submission of replies from relevant Member States which implement a copyright levy system. Therefore, the GOJ reiterates its request to the European Commission and the relevant Member States for the submission of adequate, detailed replies to its requests this fiscal year.

(4) Maintaining the design protection for spare parts [EC]

Since 2004, the EU has been examining a Commission proposal (COM (2004)582final) amending Article 14 of the existing EC Directive 98/71 on the legal protection of designs with a view to ending design protection for spare parts. In response, the GOJ has requested in its past proposals including the one in FY2005 that design protection on spare parts of automobiles be sustained. As the European Parliament has recently adopted in its first-reading held on 20 November 2007 the EC proposal on the amendment, the GOJ wishes to express its intention for active involvement in the aforementioned examination process in the EU from the viewpoint that fair and sufficient collection of investment returns must be ensured through the design protection for spare parts. Therefore, on the following grounds, the GOJ would like to reiterate its request for maintaining the design protection for spare parts.

It should be emphasised that proportional amounts of reward need to be ensured against the background of long-term and large-scaled investment for development including design developments. This is especially the case for such industries as automobile industries where there is a need for extremely high quality and security. The GOJ also views that such a guarantee in the long run encourages research investment by companies and thereby enhances innovation and contributes to the market as a whole including consumers. In addition, against the background of recent diversification and differentiation of products, corporations are facing more demands for investment in design developments. On these grounds, the GOJ believes that further careful examination needs to be done whether, as explained by the EU, mere protection for design rights of a new car indeed turns out to be

sufficient to ensure fair and adequate collection of investment.

In light of the aforementioned reasons, the GOJ considers it difficult to find rational grounds for ending design protection for all spare parts. The GOJ requests the Commission to proceed with its deliberation of the amendment proposal taking into adequate account of the request of the GOJ as an important stakeholder. From the viewpoint of transparency, the GOJ also requests that the Commission provide with detailed progress reports on recent deliberations and indicate prospects of future initiatives.

5. Maritime Policy

(1) Maritime Policy of the European Commission [EC]

Overview

In addition to a proposed package of seven directives on maritime safety in November 2005, aimed at strengthening the control of vessels that fail to meet required standards, the European Commission also presented in June 2007 the “Green Paper for Maritime Policy (SEC(2006)689)” in which it made clear its intention to formulate a comprehensive maritime policy of the EU that horizontally covers maritime transportation, the maritime industry, coastal areas, energy, fisheries, and the marine environment, etc.

Ensuring maritime safety is a matter of interest for Japan, which is also a maritime state. Japan’s maritime policies are also to be integrated in accordance with the Basic Act on Ocean Policy, which came into force in July 2007 and which provides for a competent minister for maritime affairs. In view of progress in this area, therefore, Japan has been paying attention to trends in the integration of maritime policies in the EU and the Government of Japan has made comments in this regard.

In addition, in October this year the European Commission released the so-called Blue Paper entitled “Communication from the Commission: An Integrated Maritime Policy for the European Union” (COM(2007)575) and the accompanying document “Commission Staff Working Document” (COM(2007)1278) in which it set out specific plans regarding the direction of EU maritime policy integration and an operational plan for its realization. The GOJ continues to request that the European Commission (1) ensure that integration of EU maritime policy does not conflict with the international maritime legal order through an excessive increase in coastal control, given that the international maritime legal order is established in a delicate balance to meet various requirements such as ensuring the use of the seas and freedom of navigation as well as protection of the marine environment and preservation of marine living resources, and (2) ensure that the EU maritime policy is not intended to serve as any new discriminatory legal control over commercial vessels of non-EU countries including Japanese ones, in terms of the maritime navigation of vessels in territorial waters and EEZs of EU Member States and access to ports of EU Member States.

Specific Issues

(a) Directive packages relating to maritime safety

The GOJ has for some time been requesting an explanation regarding the system whereby the European Commission’s inspectors have the access to the ships which have already been granted safety certifications, as a means of verifying whether or not International Shipping Safety Certificates have been issued by a classification society following relevant

criteria, i.e. If areas which are under the sovereignty of non-EU countries are also envisaged as sites for EC inspections, such inspections may be regarded as de facto extraterritorial application of executive jurisdiction even though classification societies are addressees of the regulation which ensures this system (article 17, draft amendments to the Directive on Ship Inspection). Japan has yet to receive a response regarding this matter and therefore requests an explanation from the European Commission.

(b) Blue Paper (Note: COM=COM(2007) 575, SEC=SEC(2007)1278)

With respect to the sustainable use of the seas, Japan shares the view with the EU that it is essential to ensure that maritime activities do not threaten sound marine ecosystem health to achieve the sustainable growth of sea-related activities (COM4.1.). Furthermore, Japan welcomes the European Commission's intentions (SEC2.2.) to simplify and streamline regulations, through development of a list of regulations which become barriers to the sustainable use of the seas, as this may potentially benefit countries outside the EU including Japan.

- (i) The European Commission plans to propose an Implementing Agreement of the UN Convention on the Law of the Sea (UNCLOS) on marine biodiversity in areas beyond national jurisdiction (COM4.4, SEC7.4.). Japan believes that, as for the designation of marine protected areas on the high seas, purposes of the designation and contents of necessary means for protection should be considered in a detailed and careful manner from the viewpoints of the scientific grounds and the consistency with the international law. In 2008, the second UN Ad Hoc Open-ended Informal Working Group on marine biological diversity beyond areas of national jurisdiction will be held also with the participation of specialists on international law. Therefore, the GOJ requests that the EU explain concrete details on and necessity of the Implementing Agreement of the UNCLOS and lead sufficient discussion at the Working Group.
- (ii) The GOJ requests the European Commission not to unilaterally impose new burdens on third countries in relation to reduction of pollution and greenhouse gas emissions from ships (COM4.1., SEC4.5.) and to engage in sufficient discussion with stakeholders including countries outside the EU and in the international arena such as the International Maritime Organization (IMO) as stated by the European Commission.
- (iii) The European Commission plans to propose a new port policy as it takes account of the multiple roles of ports and the wider context of European logistics, and thus facilitates the development of maritime transport and the simplification of administrative and customs formalities for intra-EU

maritime services (COM4.1.). In this regard, the GOJ requests that the European Commission ensure that these proposals will not result in new discriminatory regulations or complicate procedures for commercial vessels of non-EU countries including Japan that makes much of freedom of navigation.

(c) Other

On the issue of environmental problems accompanying the dismantling (recycling) of ships (COM4.1. SEC4.6.), the GOJ believes that the early adoption of the relevant convention (Ship Recycle Convention) which is currently being prepared by the IMO, rather than original regulations in a region, will be an effective method of resolving this problem and expects to cooperate with the EU on discussions at the IMO. Furthermore, as the European Commission will present a Communication on ship dismantling in mid 2008, related to possibilities for technical assistance to developing countries, promoting research on ship dismantling, etc., the GOJ requests the European Commission to ensure opportunities whereby stakeholders including Japanese ones can submit their comments on the Communication.

6. Environment

(1) General Comments 【EC, M.S.】

The GOJ appreciates the EU's efforts for taking the lead in tackling environmental issues, and with regard to many challenges in this field, such as the recycling issue, Japan shares common awareness with the EU. On the other hand, regulations implemented by the EU in the field of the environment would not only have significant impact on non-EU companies including Japanese ones, but also have an effect which is not negligible on the EU's efforts to strengthen European economic competitiveness based on the Lisbon Agenda. Therefore, the GOJ believes it is necessary to give due consideration to striking an appropriate balance between the environmental goals and their effect on corporate economic activities, international trade and investments.

Based on these ideas, the GOJ continues to request that the EU make sure that environmental regulations do not impose an excessive burden on enterprises, impede sound economic activities or create trade barriers.

Furthermore, concerning new regulations implemented in recent years, problematic aspects are sporadically observed, such as vagueness in definitions and applicable scopes, and significant delays in preparing detailed operational rules. These aspects make it difficult for a number of Japanese companies to adequately comply with the regulations even after they have been implemented. Japanese companies also experience confusion which is caused by vagueness of legal interpretation and operation as well as inconsistency among EU Member States or among related organizations within a State. To sweep away these obstacles, the GOJ requests the European Commission to make every effort to ensure, well before the implementation of new regulations, to prepare and make public their detailed operational rules, and their consistent operation and application in all Member States. The GOJ, furthermore, requests each Member State to simplify the procedures for not only EU regulations but also its own regulations including environment-related approvals, and to ensure the smooth operation of these regulations.

(2) Specific Issues 【EC, M.S.】

(a) Operational improvement of the Public Consultation system ◆

Concerning the Public Consultation system, the EC developed a communication on "Towards a reinforced culture of consultation and dialogue – General principles and minimum standards for consultation of interested parties by the Commission" (COM(2002)0704) in 2002, followed by the publication of the Green Paper on "European Transparency Initiative" (COM(2006)194) in 2006, in which the EC asked stakeholders for opinions about minimum standards. Furthermore, in March 2007, the EC announced a communication concerning the follow-up of the said Green Paper (COM(2007)360). The

GOJ welcomes all these efforts made by the EC for the refinement and smooth operation of the Public Consultation system.

On the other hand, the GOJ would like to point out that in the legislation process in the environment field in particular, there are cases in which all comments submitted were not publicized and neither were all responses to such comments, and cases in which responses and announcement to submitted comments were largely delayed (For example, comments by Japan Automobile Manufacturers Association (JAMA) are uploaded on the website for consultation on regulation to CO2 emissions: http://ec.europa.eu/reducing_co2_emissions_from_carsconsultation_en.htm, but the announcement of the response has been delayed). Therefore, the GOJ requests that the European Commission further ensure the transparency and fairness of the legislation process, as suggested in the above-mentioned communication of 2007, by means of strengthening and improving the application of the consultation standards through the Website in particular.

(b) REACH (chemical regulations)

After implementing REACH (Registration, Evaluation, Authorization and Restriction of Chemicals) in June 2007, the EC is advancing preparations for its full-scale operation in 2008. The GOJ requests the EC, as mentioned in the general comments, to strive to ensure consistent operation and application of the regulations in all EU Member States. In addition, the GOJ requests the EC the following:

- The GOJ has concern about the fact that the elaboration process of guidance documents for the REACH regulations (especially the RIP3 Series for the industry) has been delayed rather than originally expected. After preliminary registrations from June 2008, concrete preparation will be necessary towards official registrations. However, unless EC provides appropriate guideline at appropriate time, non-EU companies cannot prepare in time, which leads to confusion, thus these companies will face the risk of not complying with the REACH regulations properly. So, the GOJ requests the EC to engage in developing the guidance documents as soon as possible.
- Industries of each country may be considerably affected by the contents of the guideline, e.g., categorizing substance/preparation or article, clear definition and examples of substance which is intended to be released, criteria for substance to be exempted from registration, etc. Therefore, the GOJ requests the EC to ensure opportunities for non-EU stakeholders to make comments, before the EC finishes contents on those issues.
- The EC is considering the fees and charges proposal for application of REACH regulation. However, charging policy, ground of charging and calculation criteria of charges are unclear. Therefore, the GOJ requests the EC to disclose the relevant

information and to ensure the level of charge that would not impede trade and distribution nor impose an excessive burden on enterprises.

- Concerning the “Only Representatives,” to be used for registration by non-EU companies, there are concerns among Japanese companies, especially SMEs, which do not have any juridical person on the spot, as to whether they can ensure credible representatives. Expecting preliminary registrations from June 2008, there are possibilities that the activities of companies are impeded for the reason that they cannot find appropriate representatives, if the current situation is unchanged. Therefore, the GOJ requests the EC to engage in establishment of the support system for companies to secure qualitatively and quantitatively eligible “Only Representatives” (capacity building for representatives, publication of the list of companies and offices which can be credible representatives, etc.) in order to avoid any possibilities for non-EU companies to incur any disadvantages.
- According to Article 33 of the REACH regulation “Duty to communicate information on substances in articles”, suppliers of articles shall provide a consumer with information including the names of substances of very high concerns, upon request by the consumer and within 45 days of receipt of the request. However, subject to articles or substances, the suppliers may need to inquire other suppliers in upper supply chain, and in that case, it is actually impossible to provide the relevant information in such a short time. Therefore, the GOJ requests the EC to allow a moratorium period to business entities, so that these rules will apply after the deadline (the end of May 2011) for reporting to the European Chemicals Agency (ECHA) on substances to be notified in articles.

(c) RoHS Directive (Directive on the restriction of the use of certain hazardous substances in electrical and electronic equipment)

The RoHS Directive came into force in July 2006 and is already in operation in each EU Member State. As suggested in the general comments, the GOJ requests the EU to strive to ensure consistent operation and application of the Directive in all EU Member States. In particular, the GOJ requests the EC the following:

- When exemptions are terminated as a result of reviews, etc. of the RoHS Directive, some periods will be necessary for changing the manufacturing processes to introduce alternative technologies and ensuring the credibility of such technologies. Therefore, the GOJ requests the EC to arrange a sufficient transition time frame for such process.
- Even after possible terminations of exemptions as a result of reviews, etc. of the RoHS Directive, the EC is requested to maintain the exemptions for spare parts for the relevant articles. In particular, concerning the scope of exemptions for spare parts, it is requested to add “spare parts that meet the RoHS requirements at the

time they are put into the market” to “spare parts put on the market before 1 July 2006”;

- Since the RoHS Directive provides no definition of being “put on the market,” each EU Member State defines and interprets this concept differently, which forces business entities to take responses which would be unnecessary, e.g., to submit certificates for conformity in different languages in the state where articles are unloaded and in the state where articles are distributed. The GOJ thus urges the EC to clarify this concept and create a system that can correct its differences among EU Member States;
- Concerning ways to prove conformity with the RoHS, different EU Member States require different methods, which results in redundant procedures for the same purpose and incurs a huge waste of time and costs. Thus, the EC is requested to create a single guidance for the entire EU region. In this regard, in light of the fact that the guidance already issued by the UK Department for Business, Enterprise and Regulatory Reform (DBERR) is clear in its contents and referred to by many companies including Japanese ones, and that there is no other similar guidance, the EU is requested to refer to this guidance as sources for a EU single guidance.
- No research and development for alternative technologies will be carried out and no cost-consuming alternative technologies will be introduced, unless incentives are available, such as an expansion of the market share. To promote the replacement of substances subject to the RoHS regulation, the EC is requested to concretely present clear rules concerning exemptions and the terminations of exemptions. It is also necessary to create rules concerning the screening of exemptions for new products and present them clearly, so that incentives will not be lost for developing products and manufacturing methods to improve remarkably energy conservation and recycling.

(d) WEEE Directive (Directive on waste electrical and electronic equipment)

The WEEE Directive came into force in August 2005 and is already in operation in each EU Member State. As suggested in the general comments, the GOJ requests the EC to ensure consistent operation and application of the Directive in all EU Member States. In particular, different EU Member States interpret the Directive in different ways (examples: definition of words such as fixed installations and large-scale stationery industrial tools). Thus, EU Member States have different scopes of the regulation, some of which include certain products, while others do not, forcing business sector to respond differently. Given these situations, the GOJ requests the EC to establish a system that can correct differences among Member States.

(e) EuP Directive (Directive of a framework for the setting of Eco-design Requirements for Energy-using Products)

Concerning this issue, while the reply was made by the EC in the previous year, there has been no concrete progress. Therefore, the GOJ continuously requests the EC to ensure transparency in developing implementation rules and harmonized standards, and to ensure consistency with international standards as well as existing frameworks concerning harmonized standards and ways to examine equipment in the scope and ways to use articles.

(f) Proposal for Mobile-Air-Conditioning (MAC) Directive, a related proposed directive on greenhouse gases

The GOJ would like to note that despite its request concerning Europe's refrigerant regulations in FY2006, no improvements have been seen so far. The EU's reply on this matter can be summarized as: i) the assessment results are based on the leakage of 53 g/year; ii) the EC cannot modify the decision to ban HFC134a adopted by the Council and the European Parliament; iii) the assessment procedures are needed for the interim period during which HFC134a is still tolerated and this Directive only concerns the release of refrigerants; and iv) new adequate alternative refrigerants will soon be commercially available. The EU's claims, however, are partly based on results taken by yet-to-be established evaluation methods and thus based on scientifically weak grounds, which gives impressions that conclusions are too hastily sought at the time consideration is being made at international venues concerning scientific measurement methods for refrigerant leakages.

The EU states in its response that the EU can ensure that whenever an international standard is adopted, it will examine it with an open mind. Given this position, the GOJ continuously and strongly urges the EU to address the following three points, as it did in FY2006, and requests the EU to report the results to the GOJ:

- Concerning Europe's mobile-air-conditioning directives, the leakage of refrigerant from a vehicle in motion is 53 g/year, as estimated in an environment assessment, conducted by the EC. However, according to field tests conducted by the European Automobile Manufacturers Association (ACEA: Association des Constructeurs Européens d'Automobiles) and the Japan Automobile Manufacturers Association (JAMA), the leakage of refrigerant is 8 to 12 g/year. To consider environmental impacts, a comprehensive assessment is necessary that refers not only to the warming due to refrigerant leakage, but also to CO₂ emitted by power consumption for running air conditioners. However, no unified methods have been established in current environmental assessments, which instead have been done spontaneously by different countries and organizations. Against these trends, the Society of Automotive Engineers (SAE) and JAMA proposed the "harmonization of the Life Cycle Climate Performance (LCCP)" assessment at the 8th SAE Automotive Alternate Refrigerant Systems Symposium in July 2007. This proposal obtained agreement among stakeholders from Japan, the USA and Europe. Therefore, the GOJ strongly urges the EU to re-implement the environmental assessment in accordance with the agreed

LCCP method.

- As shown above, international harmonization for air conditioning systems is being pursued by industry parties of these three countries/regions through the SAE symposium and other opportunities. In this regard, the GOJ requests the EU to respect the internationally harmonized assessment methodologies, avoiding the polarization of refrigerants (co-existence of two systems without compatibility between those used for the EU and elsewhere) , also by taking into consideration excessive economic burdens and consumer services.
- Concerning the efficiency improvement of air conditioning systems, being reviewed as a supplementary measure for automobile CO2 regulations, technological discussions are underway for alternative refrigerant among Japanese, US and European stakeholders. Therefore, the GOJ requests the EU to fully consider the results of these reviews.

(g) Requests concerning the legislation of Europe’s fuel consumption standards ♦

The EC is currently working on the legislation of automobile fuel consumption standards as a response to global warming and is expected to prepare a legislation proposal within 2007 or at the latest by mid-2008. In this connection, Japan is successfully operating comprehensive measures to reduce CO2 in its transportation sector, that consist of the introduction not only of fuel consumption standards, but also of measures for fuels and traffic and incentives. Furthermore, Japan’s fuel consumption standards are facilitating the improvement of fuel efficiency for every automobile class without imposing an excessive burden on industries, while ensuring fairness among auto manufacturers (the gist of Japan’s commitments was already explained to the EC at the end of September 2007 through the Mission of Japan to the EU). The GOJ requests that the EC, in preparing the legislation proposal for fuel consumption standards, design a fair and feasible system, taking into consideration Japan’s commitments.

(h) Regulation on certain fluorinated greenhouse gases (F-gas regulation) ♦

The EU’s F-gas regulation was promulgated in June 2006 and implemented on July 4, 2007 (when the banning measures were put in place). In nearly one and a half year since the promulgation, no formal detailed operation rules have been established, while the F-gas regulation committee only adopted drafts of subjects such as leakage checks and labelling formats on October 12, 2007. That makes it difficult for Japanese companies trading with EU firms. Therefore, the GOJ requests the EC for swift responses specifically with regard to the following matters:

- Article 3: Containment
This regulation stipulates that by July 4, 2007, the European Commission will need to

have established the leakage checking requirements pursuant to the procedures set forth in Article 12, Paragraph 2. As mentioned above, no timing has been set to implement specific checking procedures and thus no regular leakage checking has been conducted despite being required in the regulation, which means that even the first step to achieving the main purpose of the F-gas regulation (minimization of refrigerant leakage) has not been implemented. Therefore the GOJ requests the EC to swiftly establish specific procedures and also to allow an ample moratorium period ahead of the implementation.

- **Article 5: Training and Certification**

This regulation stipulates that by July 4, 2007, the EC will specify the minimum requirements on training programme and certification and that by July 4, 2008, Member States will have to adopt their own training and certification requirements, on the basis of the said minimum requirements. The F-gas regulation committee is scheduled to begin discussions on these issues on December 7, 2007, while no formal effective date for the minimum requirements has yet been set. Therefore the GOJ requests the EC to develop them as soon as possible.

(i) Energy Performance of Buildings Directive (EPBD) ♦

The EPBD Directive (2002/91/EC), implemented in January 2003, sets forth a goal to reduce energy consumption by about 22% by 2010, targeting newly-built and existing buildings. In a framework to achieve this goal, the Directive requires Member States to implement domestic law and establish systems to fulfill its requirements by January 4, 2006, a measure deemed to consider domestic circumstances of Member States. However, concerning Article 7 (Energy performance certification) and Articles 8 and 9 (Inspection of boilers and air-conditioning systems), the Directive allows for an additional moratorium of three years before the implementation, from the consideration of the training of specialists that require certain lengths of time. Along with these moves, ten Member States have already enacted domestic laws to implement the EPBD. Even in these countries, however, Articles 7 to 9 remain in moratorium, except in some countries like Denmark. Therefore, the GOJ urges these countries taking the moratorium to swiftly legislate these Articles.

To support the smooth implementation of the EPBD Directive, the European Committee for Standardization (CEN) is considering the standardization of methods of calculation, evaluation/certification/indication, and inspection, under CEN's five technical committees. But since high degrees of discretion are given to governmental organizations of the committees' Member States, which, due to the nature of this decree, results in inconsistent approaches among Member States to improving energy efficiency. Thus each Member State has a different idea about products' applications, which cause concerns that companies need to offer different specifications for different countries. Therefore, the GOJ urges the EC to arrange unified standards across the EU, as the current moves would make it highly difficult for companies to meet each of these differences.

(j) Commission Decision as regards the classification of the reaction-to-fire performance of construction products (2006/751/EEC) ♦

The EC's Directive related to the categorization of construction products (89/106/EEC) regulates methods of examination for fire resistance of construction products to ensure safety in case of fire, etc. In 2005, based on the purpose of the Directive, the EC newly included PVC coated cables as a subject to be regulated, aiming at prevention of deaths caused by failure to evacuate due to incapacitation in case that acid gasses such as hydrogen chloride are generated.

However, according to the experimental data, the incapacitation by hydrogen chloride cannot be acknowledged as a real problem in case of fire, because the concentration of carbon monoxide or hydrogen cyanide will reach well above a fatal level, before incapacitation by hydrogen chloride occurs. On the other hand, the PVC has the advantage of self-extinguishing property, preventing to ignite and to be ignited, which indicates that PVC contributes to reduction of fire risk. Therefore, the GOJ has expressed its concern to the EC at the TBT Committee and requested to the EC to submit scientific grounds, stating that the introduction of acidity testing is not scientifically grounded and may not only constitute an unnecessary trade barrier to no purpose, but also bring about misconception about PVC.

Under such circumstances, the EC adopted the "Commission Decision as regards the classification of the reaction-to-fire performance of construction products" (G/TBT/N/EEC/92) on 27 October, 2006. Since the concern of the GOJ has not been cleared yet, the GOJ requests to the EC for submission of scientific grounds and for arrangement of coordination on this basis, while the GOJ continues to request to the EC to re-examine this issue to exclude the acidity testing for PVC coated cables from the scope of the regulation.

(k) An early legislation of the national land use plan [♦, Greece]

Eurus Energy Hellas, a Japanese-affiliated company, has been seeking to launch two wind power generation projects in the southern part of the Peloponnesus Peninsula. However, these projects have been kept frozen for about seven years due to the lack of the needed legal system in Greece.

The problem is caused by a lack of the establishment of new laws related to the national land use plan, where the company, which once received approvals for the projects, has been denied the legitimacy of these approvals by the court, because they were issued under the former legal framework. Thus, to an early legislation of the said plan is required to resolve the problem.

While the GOJ acknowledges the efforts toward the establishment of the said legislation by the Government of Greece, the fact that such legislation is yet to materialize and the above-mentioned projects were kept frozen for long years cannot be overlooked. This issue affects to the reputation of Greece as an investment destination. Success of the projects would be deemed to benefit the Greek economy and domestic energy supply in particular. Based on these ideas, the GOJ requests that the Government of Greece further strive for an early legislation of the national land use plan law, to approve the said projects.

B. Sectoral Issues

1. Information and Communication Technologies (ICT) and Audiovisual Media Services [EC]

(1) Overview (State of Japan-EU cooperation)

Japan and the EU are partners sharing strategies to transfer themselves to a knowledge-based society, and players bearing major responsibilities for the global development of the sector of information and communication technology (ICT). From this point of view, it is deemed significant that authorities of both sides are continuing to exchange opinions, through bilateral meetings including the Japan-EU ICT Dialogue, on: (i) safe and secure use of ICT; and (ii) Japan-EU cooperation on research in the ICT field.

The GOJ appreciates the fact that the EU is advancing its efforts to promote ICT under the banner of “i2010 - A European Information Society for growth and employment” by means of: (i) the establishment of the Audiovisual Media Services Directive; (ii) review of the regulatory framework for electronic communications; and (iii) the promotion of ICT Research and Development through the Seventh Framework Programme (FP7).

Convenience of European users in ICT fields, development of European industries and level playing fields for activities of foreign corporations including Japanese ones are to be secured. For those purposes, it is getting even more important that the EU should implement adequate regulations for ensuring an appropriate environment for competition and continue to review and correct when necessary the condition of competition with a view to avoiding excessive regulations.

From these perspectives, the GOJ requests the EU to take proactive actions on the following aspects: (i) securing adequate environment for competition in mobile phone and convergent service segments; (ii) ensuring adequate environment for competition in the next regulatory framework of electronic communications; and (iii) fair treatment of non-European-made contents, including Japanese ones, in the Audiovisual Media Services Directive.

The GOJ would like to take this opportunity to welcome the fact that the EU took into due account of views of stakeholders including Japan and decided not to apply the so-called majority provision (quota system) for European works to non-linear services.

(2) Specific issues [EC]

(a) Mobile telephone services 1:

Facilitation of international roaming ♦

In order to provide roaming service for users of Japanese-made mobile telephone terminals in Europe, the Japanese terminal equipment manufacture in question must acquire a

certificate in Europe, according to the current EU regulations. This is a business obstacle that imposes an excessive regulation on Japanese operators seeking to respond to the needs of Japanese people traveling to Europe by developing convenient terminals and offering adequate services.

By contrast, Europe-made 3G mobile phones certified in Europe, of W-CDMA (including HSDPA) systems, can be used in Japan (via roaming services) without additional certification procedures, due to the regulatory framework in Japan.

From the perspectives of vitalizing person-to-person exchanges and investment between Japan and EU through enhanced convenience for consumers, and in light of reciprocity in business environments, the GOJ requests the EU to take measures including making rules on facilitation of international roaming and implementing necessary exchange of views. In more detail, the EU should allow mobile phone terminals certified in Japan to be temporarily brought into Europe and used there without additional certification in Europe, like the measures taken in Japan and to the extent such measures do not hinder radio wave control in the EU region.

(b) Mobile telephone services 2:

Adequate application of the upper limit regulation of international roaming rates for mobile phones ♦

The international roaming rate regulations, put into force by the EC on June 30, 2007, sets upper limits on wholesale and retail prices for roaming calls between EU Member States.

This can leave possibilities that EU mobile network operators, forced to cut rates within the EU by this new regulation, seek to arrange padded rates when concluding roaming relation contracts with non-EU operators including Japanese ones. Hence the GOJ is concerned about possible negative impacts of the said regulation.

The GOJ views that it is essential that the EU implement the said upper-limit regulation in such a manner to lower entry barriers to the international roaming market for mobile phones, making the market more competitive and further protecting the interest of users outside the EU. From these perspectives, the GOJ requests the European Commission, upon implementing the said regulation, to take adequate measures including safeguard arrangements for competition that ban or curb unfair or discriminative pricing by EU mobile network operators for their non-EU counterparts.

(c) Regulation concerning new communication services 1:

Application of unbundling regulation to fibre-optic networks

In its Proposal of FY2006, the GOJ referred to cases where dominant operators of the electric communication market newly develop networks such as fibre-optic networks building on their existing networks, and requested the EU to apply strict regulation on this

type of new investment and provide a fair competition environment. The GOJ appreciates that the EU made a forward-looking reply that it is possible to apply appropriate regulatory obligations to dominant operators, including obligations to ensure access for other competitors, in cases where there remains significant market power.

In November 2007, the EC amended its existing regulations and referred to the application of competition regulations on networks using new technologies, including fibre-optic networks in the revised “Recommendation on Relevant Markets” and the regulatory framework for electronic communications (draft). In this regard, the GOJ requests the EC to confirm that, in the revised “Recommendation on Relevant Markets,” the reference to “wholesale (physical) network infrastructure access (including shared or fully unbundled access) at a fixed location” is defined as including the obligation to ensure access to optic-fibre and other networks.

(d) Regulations concerning new communication services 2:

Application of competition safeguard measures to the provision of FMC services

In its Proposal for FY2006, the GOJ said that fixed-mobile convergence (FMC) itself is welcome since it meets consumers’ convenience by offering convergence of fixed and mobile phones. At the same time, based on the concern that dominant operators in fixed communication market may unfairly expand their existing market power to the mobile communication market through tie-ups with their affiliate mobile telecommunication operators under their controls, the GOJ requested the EC to establish safeguard measures against dominant operators’ possible competition-hampering exertion of market power.

In its Response for FY2006, the EU side explained that for the time being neither Member States nor the EC recognised the fixed-mobile market to be subject to ex ante regulation, although there remained possibilities for close investigation to be held concerning whether or not the said market should be subject to ex ante regulation. Furthermore, the GOJ understands that the revised Recommendation on Relevant Markets adopted in November 2007 also does not identify the FMC service market as a market where ex ante regulation on dominant operators is to be in force.

However, in reality, in Member States such as Germany and France, dominant operators in the fixed communication service market provide mobile communication services through their affiliates, etc. in addition to catering to fixed services on their own. These operators offer special rate lists to those customers who have signed up for both services. In light of preventing the market power abuse by dominant operators, the GOJ reiterates its request that the European Commission consider safeguard measures to avoid market power in the fixed market to be unfairly exercised to the mobile market.

(e) Importance of non-discrimination in media services

Enhancing international distribution of contents (relaxation of the majority proportion provision for Europe-made programmes)

The Audiovisual Media Service Directive maintains a restrictive provision in Article 4, Paragraph 1 that broadcasters reserve for European works a majority (more than 50 percent) proportion of their transmission time, which was originally set forth in Article 4, Paragraph 1 of AMSD's precedent directive, "Television without Frontiers" Directive (89/552/EEC, revised by 97/36/EC).

The GOJ, in its past proposals, requested relaxation of this restrictive regulation, based on the recognition that cultural diversity should be achieved through active exchanges of cultures and that both Japan and the EU will benefit from securing opportunities to appreciate quality contents without mutually excluding them.

The EU side emphasised that each Member States has its discretion in implementing ways to promote cultural diversity, citing the expression "where practicable and by appropriate means" provided in Article 4, Paragraph 1 of the AMSD, as part of the response the EU made for FY 2006, in the similar way as it did in FY2005.

However, the issue raised by the GOJ is not whether or not Member States are given discretion in implementing the measures set forth in this article, but that Member States are given no discretion concerning the ratio of broadcast hours, under the requirement of this paragraph that Member States "shall ensure" the reservation of "a majority proportion of" broadcasters' "transmission time." Article 4 Paragraph 3 of the AMSD requires each Member State to provide a report on its achievement and the reasons in the case of the failure of the achievement. In reality, too, more than a majority of broadcasting hours are covered by European works on the average for Member States, according to an EC report of August 2006.

In all, these references indicate that the existence of this system can still hamper cultural exchanges between Japan and the EU. The GOJ reiterates its requests that this quota system be relaxed from the perspectives of promoting international distribution of quality contents and ensuring opportunities for mutual cultural exchanges.

The AMSD provides that the Commission submits a report every three years to the European Parliament on the application of the AMSD and that if necessary, the EC should make further proposals. The GOJ requests that the EC takes these occasions to consider the abolishment or relaxation of the level of the "majority proportion" set forth in Article 4, Paragraph 1 of the AMSD.

The GOJ views that from the viewpoint of promoting cultural diversity a quota system may possess certain rationality as long as it is imposed on a broadcasting service in its entirety. However, imposing a quota system to every single channel despite the fact that viewers are given a sufficient range of choice is beyond such a rational scope. Therefore, it should be regarded as an excessive regulation. In particular, the GOJ requests that under the current circumstances where a number of channels coexist, multi-channel broadcasts including

satellite broadcast, CATV, or IPTV should be explicitly excluded from the scope of the said restrictive regulation. Alternatively, the GOJ requests that the regulation allows Member States to take flexible measures such as opting-out from the restrictive provision in question.

2. Financial Services

(1) General Comments [M.S., EC]

The GOJ welcomes the initiatives evident in the integration of financial services in line with the White Paper on Financial Services Policy (2005-2010) issued by the European Commission in December 2005. The GOJ also urges the European Commission to continue to promote further integration of the EU financial services market.

The GOJ continues to urge that the EU introduce a system that would make activities, products, licenses and other matters approved by one EU Member State automatically approved in other Member States with no additional procedures required, or only with reporting, as the introduction of such a system would be effective for creating an attractive single market for non-EU countries. With regard to the documents required to be submitted to the authorities, the GOJ urges that each Member State promptly prepare forms in multiple languages for the convenience of foreigners, including Japanese nationals, because such an arrangement is considered to be a quick and effective step to improve the business environment in the EU.

The GOJ believes that it is cumbersome to file reports with different content and form from country to country, and considers that the current arrangements have room for improvement from the viewpoint of efficiency for businesses. The GOJ asks for the harmonisation of the contents and form of report. The GOJ recognises that the European Commission is aiming at unifying regulations and systems of financial transactions and their settlements in the EU Member States under the Financial Services Action Plan. The GOJ expects continued efforts for such integration by the European Commission.

(2) International Financial Reporting Standards (IFRS)

Under the Prospectus and Transparency Directives, the European Commission will require, from January 2009, companies from Japan, the US, Canada, or other third countries, which have made or will make public offerings or listings within the EU, to prepare their consolidated financial statements in accordance with the International Financial Reporting Standards (IFRSs) or other accounting standards equivalent to the IFRSs. In this respect, the GOJ understands that the European Commission will make a final decision on the equivalence of accounting standards (or GAAPs) of Japan, the US, and Canada in mid-2008. The GOJ accepts this as a very important issue in relation to the international credibility of Japanese GAAP, which has rapidly been improved through the “Accounting Big Bang” of the late 1990s, and is now consistent with IFRS. The issue is also important for the 170-strong Japanese companies which are currently financing in the EU countries, to ensure their continued access to the EU capital market.

In the process of equivalence assessment, the Committee of European Securities Regulators

(CESR) gave its technical advice to the European Commission on 5th July 2005, suggesting that three sets of GAAP (i.e. those of Japan, the US, and Canada) are considered to be equivalent to IFRS taken as a whole, pointing out the need for some remedies. While the GOJ welcomes the overall assessment by the CESR to evaluate Japanese GAAP as equivalent to IFRSs, the GOJ still has a serious concern over the possible imbalance between the costs and benefits involved in adopting the suggested remedies, and their implications for market participants.

If additional costs to Japanese companies arising from such remedies outweigh additional benefits for European investors, these extra costs will eventually be passed on to European investors. Besides, this might lead Japanese companies to withdraw from the EU market, as many of them have announced this possibility, which would also result in a decrease of investment opportunities for European investors, and an eventual decline of the attractiveness of the EU markets. The GOJ believes this to be an unwelcome consequence for the EU market, considering its global and open nature.

Furthermore, in October 2006, the Accounting Standard Board of Japan (ASBJ) formulated and published a convergence schedule which focuses on the 26 items as indicated by the CESR, to carry out its work towards convergence. In addition, in August 2007 the ASBJ, jointly with the International Accounting Standard Board (IASB), announced the Tokyo Agreement, aimed at accelerating the convergence process. Furthermore, both boards have embarked on a joint project to eliminate differences between the two standards towards international convergence. Six meetings have already been held by September 2007.

The GOJ recognises that the convergence of accounting standards would best be achieved through market forces, and as long as each standard is considered to be equivalent overall, these accounting standards, including Japanese accounting standards, should be allowed to coexist and not be excluded from European markets.

Therefore, the GOJ considers this issue extremely important and strongly encourages the European Commission, in its final decision on the equivalence assessment to be made mid-2008, to seriously consider the position of the EU market in a global context, and strongly urges the Commission to draw a positive conclusion on the equivalence of the Japanese GAAP without remedies.

(3) Financial standards to be used for individual financial statements [EC, M.S.]

The GOJ understands that the European Commission encourages the Member States to permit the use of statutory financial statements which apply IFRSs, but there are Member States which apply their own accounting standards to the individual financial statements of non-listed companies and do not recognise IFRSs. As a result, there are cases where EU subsidiaries of Japanese companies are not permitted to prepare their non-consolidated financial statements in accordance with IFRSs. While it is relatively easy to identify differences between IFRSs and Japanese GAAP, it is not always easy to identify differences

between local accounting standards and Japanese GAAP. Therefore, the handling of accounting in this way cannot be considered efficient for subsidiaries of Japanese companies that wish to prepare their financial statements in accordance with IFRSs for the parent company.

Therefore, permitting the use of IFRSs and Japanese GAAP in the preparation of non-consolidated financial statements in the EU Member States is desirable for improving the business environment for foreign subsidiaries, including Japanese subsidiaries, in the EU. The GOJ would like to know the specific initiatives which the European Commission has undertaken to date and intends to take in the future. The GOJ also urges the European Commission to promote further efforts with respect to this matter.

3. Construction

(1) General remarks

The GOJ welcomes the adoption in December 2006 of the Directive (2006/123/EC) aimed at the liberalization of the services market as a significant achievement in the process of market integration. In conformity with the purports of this directive, the GOJ also expects the elimination of various legal and administrative obstacles in the construction industry.

In this category of Construction, the GOJ has made requests in regard to entry of non-EU enterprises into construction work in Belgium. The GOJ understands that at the previous dialogue, Belgium explained that it was in the process of revising its related legislations aiming at increased openness. The GOJ will keep its attention to the process of the said revisions and its outcome.

(2) Specific Requests

Information disclosure on the new EU regulation for noise emission applicable to construction equipment

At present, noise from construction equipment is controlled by Stage II regulations under the EU Directive (2000/14/EC) relating to noise emission in the environment by equipment for outdoor use. At the FY2006 Dialogue, the EU replied that a report on the status of the implementation (Article 20-1) of the current regulations (Stage II) and, if necessary, a report (Article 20-2) on a new set of regulations (Stage III) to limit noise were to be prepared respectively by the end of January 2008.

Noise countermeasures for construction equipment need to be applied in a comprehensive manner; therefore, a sufficient period of time should be secured for concerned enterprises to enable the development of relevant technology required to achieve those countermeasures.

Therefore, the GOJ requests that the latest information concerning the content of the above reports, and the schedule of the introduction and the content of the said new regulations (Stage III) be made public at an early stage. The GOJ also requests that the European Commission take appropriate measures to avoid any hindrance in promoting the prevalence of gas emission-compliant engines that have already been developed.

4. Health Care and Pharmaceuticals

(1) Overview

In the area of health care and pharmaceuticals, the GOJ would like to focus on two issues as issues of priority during FY 2007. The first is the reinforcement of measures to prevent the intrusion of counterfeit drugs into EU supply chain via parallel imports, and the second is efforts to promote conformity with international standards. The GOJ continues to have apprehensions and concerns regarding the issues of Germany's jumbo groups and France's target growth of medical expenses. Both of these issues were taken up in the FY 2006 Dialogue and the GOJ hopes for further efforts on the part of both countries in promoting regulatory reforms in these respective areas.

(2) Reinforcement of measures to prevent intrusions of counterfeit drugs accompanying parallel importation [EC, M.S.]

Regarding the prevention of intrusions of counterfeit pharmaceuticals accompanying parallel importation, the written reply from the EU side last fiscal year states that an effective regulatory framework is already in place within the EU. However, as the recall of counterfeit drugs in the United Kingdom in 2007 (see Reference 1) and a survey by the World Health Organization (see Note) clearly indicate, the situation of counterfeit drugs in the EU region remains serious. Pharmaceuticals are products that can put human lives at risk and, in particular, the number of pharmaceuticals with potent effects has increased in recent years. The GOJ, therefore, urges the Member States to reinforce measures to prevent the intrusion of counterfeit pharmaceuticals into their markets.

With respect to this issue, we welcome the fact that the European Parliament held talks (see Reference 2) concerning measures to cope with counterfeit drugs in May 2007. To ensure that the results of these talks lead to actions, and to avoid a possible shift of blame to the original manufacturers of pharmaceuticals when counterfeit drugs are recovered following parallel importation and to place clearly the responsibilities for repackaging of parallel importers, etc., the GOJ urges the EU to confirm the safety of parallel imports and its measures to prevent the inflow of counterfeit pharmaceuticals, including the establishment of punitive measures as necessary.

The GOJ requests the European Commission to tighten control on counterfeit pharmaceuticals which flow into the EU region. The GOJ also would like to see a report from the EC concerning issues which the Commission referred to in its FY 2006 written reply, including the progress of policy options addressing the issues associated with counterfeiting and detailed requirements for the repackaging and re-labeling of pharmaceuticals.

(Reference 1) On May 24, 2007 counterfeit imitations of Zyprexa, a psychotropic agent manufactured by Eli Lilly and Company, and on May 25, 2007 counterfeit imitations of Plavix, an anticoagulant agent manufactured by Sanofi-Aventis and Bristol-Meyers Squibb, were recovered in the United Kingdom. Both of the counterfeit brands were packaged for France and were supplied into the United Kingdom by parallel importers which had been approved in the United Kingdom. In both cases, the counterfeit products were recovered by the manufacturing companies. (UK Government announced that reimbursement issue should be discussed between the parallel importer and the purchaser.)

(Reference 2) The European Parliament held talks on May 17, 2007 with European medical institutions and pharmaceutical companies regarding measures for tackling counterfeit pharmaceuticals. During the talks, European Commission Vice President Gunter Verheugen gave a speech in which he indicated that counterfeit drugs have an adverse effect on the development of innovative pharmaceuticals and that their distribution put human life at risk. He also stated that in view of these factors there should be tighter preventive measures at the point of entry when pharmaceuticals are being imported within the European region and that the Member States should establish a framework of strict regulations, including the possibility of the necessary legislative measures to enforce them, for strengthening the control of counterfeit pharmaceuticals in the markets of Europe.

Note: <http://www.who.int/impact/resources/ImpactBrochure.pdf>

(3) Review of the classification of medical X-ray film for direct radiography 【EC】

At present, the current classifications of X-ray film under the Medical Device Directive of the European Commission are as follows:

- (a) Medical X-ray film for direct radiography (film for general radiography): Class IIa
- (b) Medical X-ray film for indirect radiography (film for photofluorography): Class I
- (c) Laser imaging film (film for hard copies): Class I

With respect to these classifications, the GOJ urges that the EU classify medical X-ray film for direct radiography as Class I, the same as for both medical X-ray film for indirect radiography and laser imaging film, since this film does not have a direct adverse impact on the human body. Moreover, since this same film is classified as Class I under the GHTF rule (in the United States, Republic of Korea, and Japan it is also Class I), international conformity should be achieved. Therefore, the GOJ urges the European Commission to review the relevant MDD provisions.

5. Food Safety

(1) Overview [EC]

The GOJ appreciates the EU's efforts in promoting the harmonisation of food safety standards at the Community level with the aim of protecting health and safety and maintaining a high standard of consumer protection through the 2002 regulation EC/178/2002. In the area of food safety, Japan has also been implementing appropriate regulations founded on reasonable and scientific grounds in view of the strong concerns of its citizens in this area.

At the same time, the GOJ believes that the appropriate export of food products must not be hampered by the excessive and unreasonable implementation of measures in the name of securing food safety standards. In relation to this matter, the GOJ in October 2007 submitted comments regarding the Green Paper on Bio-Preparedness adopted in July 2007 by the European Commission. In its comments, the GOJ stated that while it fully understood the necessity for measures to counter biological risks, it also expects that measures adopted in the future by the EU to reduce biological risks will not impose an excessive burden on exporters and individuals outside the EU, nor hinder the flow of goods to the EU.

The prolonged period it takes for safety and equivalence inspections, which in no way reflects the original purports of the food safety standards, and uniform regulations, which do not appropriately take into consideration the characteristics of the food products, are restricting export opportunities and imposing an excessive burden at the time of export. Therefore, the GOJ takes up the following points as priority issues in FY 2007 Regulatory Reform Dialogue.

(2) Request for lifting the ban on the export of Japanese meat and meat products to EU countries [EC]

Countries authorized to export beef, pork, horse meat, lamb, goat meat and meat products to the EU and the requirements of exports are set forth under EU directives. A country which wishes to export meat and meat products to the EU needs to be included in the list of authorized countries (third countries). In March 2006, the GOJ submitted its answers to the questionnaire from the European Commission with the aim of having Japan listed on the list of authorized countries (third countries) for meat and meat product exports.

Subsequently in February 2007, the GOJ submitted materials concerning its monitoring plan for residual substances, which the European Commission had requested at the Tokyo Meeting of the Japan-EU Regulatory Reform Dialogue in November 2006. At present, the GOJ is preparing additional materials which the European Commission requested the GOJ to provide in March of this year.

The GOJ continues to urge the European Commission to be forward-looking in its deliberation regarding the lifting of the ban on the export of Japanese meat and meat products to EU countries after it receives the additional material requested. In particular, Japanese beef, collagen casing and gelatine are products of significant concern to Japan and, as such, the GOJ requests the European Commission to assign high priority to these.

(3) Equivalency approval of the organic JAS standard with the EU organic product certification standard [EC]

In March 2001, Japan recognised the equivalence of the European Council Regulation No. 2092/91 (hereafter “the EC Regulation”) with the Japanese Agricultural Standards for organic crops and organic crop products (hereafter “the organic JAS Standards”). As a result, it became possible for Japanese importers certified by a registered Japanese certifying body under the Law Concerning Standardization and Proper Labeling of Agricultural and Forestry Products (JAS Law) to attach the organic JAS logo on organic crops and organic crop products produced or manufactured in the EU-15 countries in compliance with the EC Regulation, and to distribute them in Japan.

On the other hand, because the equivalence of the organic JAS Standards with the EC Regulation has not yet received, organic products which are exported from Japan to EU countries must receive direct approval from an EU certifying body and this requirement makes additional administrative procedures and costs relating to organic certification. In August 2000, the GOJ made a request to the European Commission for make an equivalence determination between the organic JAS Standards and the EC Regulation and completed preparation of the required materials and responses to questions in February 2006, but has not yet received a reply from the European Commission. Therefore, the GOJ requests the European Commission to promptly undertake procedures for an equivalence examination.

(4) New regulations relating to the export of fish oil [EC]

Due to the November 2006 revision of EU regulations for fishery products, in order to export fish oil to EU countries, exporters are required to attach health certificates to the fish oil , as other fishery products, following the certification or registration of facilities involved in the production of the product (implementation date of this measure scheduled for the end of October 2007 has been postponed as of November). Therefore, an exporter is required to have all relevant facilities in the supply chain (i.e. the fishing vessel that catches the bonito (the raw material), the fishing grounds where they are caught, the refrigerated storage used, the primary plant where the fish are processed (bonito processing plant), the fish mill, and the final production plants) certified or registered anew in order to export fish oil to EU countries.

In the preparation of fish oil at final production plants where it is refined, the product

undergoes heating, deacidification, bleaching, and molecular distillation processes where any potential threat to food hygiene is completely eradicated, and therefore the GOJ believes that the new measure is an excessive regulation. Furthermore, fish oil from Japan has been exported to EU countries for almost 10 years and during that period there have been no problems regarding food hygiene. Therefore, the GOJ requests the European Commission to ease these regulations to make possible the export of fish oil to EU countries on the basis of certification of the final production facility alone by a competent authority in Japan.

6. Taxation

(1) General comments

The Japanese corporate sector recognises that the harmonisation and unification of company tax systems in the EU will be beneficial not only for Japanese companies operating in the EU but also for EU companies, and continues to request the implementation of this policy at an early stage. The European Commission is looking into the harmonisation of corporate tax systems, as is demonstrated in the Contribution of Taxation and Customs Policies to the Lisbon Strategy, released in October 2005. However, there is discrepancy among the tax systems of EU Member States with regard to, among others, transactions across national borders within the EU, which impose additional tax and administrative burdens upon companies operating in the EU as outlined below:

(2) Harmonisation of taxation [EC, M.S.]

(a) Transfer Pricing Taxation

A reduction of compliance costs of transfer pricing through unification, simplification and rationalisation of transfer pricing regimes would increase international competitiveness of both the Japanese and EU businesses operating in the EU. The European Commission established the “EU Joint Transfer Pricing Forum” in 2002, and it is understood that in 2007 the Commission published a Commission report on conflict resolution procedures and advance pricing agreements, among others. It is requested that the latest information of the forum be provided and that through this forum a policy to reduce compliance costs of transfer pricing be formulated at an early date.

(b) VAT

The efforts of the European Commission in this area are highly appreciated. Although VAT is a common taxation system in the EU, differences in the practical application among EU Member States constitute obstacles for Japanese companies operating within the Internal Market. It is continuously requested that the application of the VAT system be unified. More specifically, it is continuously requested that the proposals of the European Commission, which include harmonising the VAT rate and items subject to VAT, which is currently harmonised only as to the minimum rate, as well as simplifying and expediting registration and refund procedures, will be put into practice at an early date.

(c) Passenger car tax system

We support the promotion of the harmonisation of the passenger car tax system in EU countries from the viewpoint of promoting the sales of cars produced outside the EU, as well as from the viewpoint of the convenience for general consumers in the EU.

It is understood that discussions of a directive proposal submitted by the European Commission for the harmonisation of the passenger car tax system are currently underway and that the said proposal includes (1) the gradual abolition of car registration tax within the EU and (2) tax refunds to prevent dual taxation accompanying a change of address or the resale of a car after registration.

We look forward to the early adoption of this draft proposal.

(d) Provision of information related to each country's taxation

We continue to request the provision of information well in advance on the direction and timetable of the tax system reforms scheduled in each EU Member State. It will be beneficial not only for existing Japanese companies already operating within the EU, but also for companies newly starting their operations in the EU.

**(3) The Merger Directive – Deferred taxation on unrealised gains on goodwill
[EC, M.S.]**

The Merger Directive (2005/19/EC) provides for the deferred taxation on capital gains arising from cross-border business restructuring carried out in the form of mergers, divisions, transfers of assets or exchange of shares within the EU. However, unrealised gains on the cross-border transfer of goodwill are not included in the scope of deferred taxation. Japanese companies operating within the EU are restructuring their business groups in order to remain competitive in the Internal Market. In such cross-border restructuring, they often transfer goodwill within the group, resulting in substantial tax imposition. This constitutes an obstacle to reorganisation, and some companies have in fact given up reorganisation.

It is understood that the European Commission compiled a Commission report on exit taxation in December 2006, and that it was discussed by the Council in March 2007. We continue to request that the European Commission and Member States make efforts towards the early realisation of extending the scope of deferred taxation by preventing dual taxation and leaving the right of taxation with the original state, after engaging in necessary discussions on these issues.

(4) The Merger Directive – Shareholding requirements [EC, M.S.]

As the Merger Directive is not uniformly implemented in the EU, the different application in each EU Member State constitutes obstacles, in terms of work and cost, for Japanese companies considering restructuring of their groups in the EU. In addition,

due to provisions under Japanese tax law relating to the scope of foreign tax credit, it increases the risk of dual taxation, and the obligation of long-term shareholding is a significant burden to companies conducting activities in the EU.

Therefore, we continue to request that the European Commission take an initiative in the uniform application of the Directive in the EU and that the Member States do not impose the long-term shareholding requirement causing substantial obstacles to restructuring of companies.

(5) Common consolidated corporate tax base [EC]

It is desirable that Japanese companies operating within the EU compute the taxable income of the entire group in the EU according to one set of accounting standards such as IFRS. However, under the current situation, companies need to create multiple sets of financial statements based on multiple accounting standards and are thus bearing a significant burden, such as legal and accounting costs.

The GOJ understands that the European Commission has confirmed the importance of the common consolidated corporate tax base and is moving forward in its consideration through various actions such as establishing a working group composed of experts from governments of the Member States and conducting analyses on the degree of its impact. We also recognise the commitment by the European Commission to propose the draft regulation on a common consolidated corporate tax base (CCCTB) by 2008.

This initiative demonstrates the continued efforts towards the integration of the EU single market. At the same time, since the common consolidated corporate tax base will bring about a great improvement in the EU business environment for Japanese companies too, we continue to expect progress towards its early realisation.