

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

## SUMMARY OF RECOMMENDATIONS

*In general:*

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

The United States still has some regulations and systems that are: **1) unique to the United States and not harmonized with international standards; 2) inconsistent with the principle of free trade; and 3) impeding fair competition**, which Japan continues to request to abolish or improve. In particular, **the U.S. has not completed measures to redress some trade rules that have already been found inconsistent with the WTO Agreement**. Initiatives to correct these trade rules by the U.S. itself as the world's biggest economy will contribute to the maintenance of confidence in the multilateral trade system represented by WTO.

*Items of recommendation:*

### **1. Consular Affairs**

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

- > **Further extend** the deadline by which the VWP countries should issue biometric passports to remain under the scope of VWP.
- > **Continue** to inform the Japanese public of necessary information on the US-VISIT program, strictly control personal information collected at the ports of entry, and mitigate congestion at airports caused by the implementation of the program.
- > **Increase** the number of the U.S. establishments in Japan that provide interview service to visa applicants.
- > **Resume** visa revalidation in the U.S., or enhance efficiency of revalidation outside the U.S.
- > **Improve** State driver's license regulations which impose excessive burden on foreign residents.
- > **Enable** the dependents of Japanese business people in the U.S. to obtain social security number (SSN) and quicken the processing of its issuance, and improve the issuance procedure of individual taxpayer identification number (ITIN), which is often used as a substitute of SSN, to mitigate difficulties the Japanese nationals are facing in the U.S.
- > **Lengthen** the terms of validity of permission for stay (I-94), and process its extension swiftly.

### **2. Trade/Investment-related Measures**

- > **Abolish** the U.S. trade rules and measures that have already been found inconsistent with the WTO Agreement promptly, and ensure consistency of its anti-dumping and safeguard measures with the WTO Agreement in applying them.
- > **Improve** the patent system unique to the U.S. which are causing instability of patent-holders' legal

status as well as bringing unreasonable loss to patent users.

- > **Harmonize, unify or otherwise improve** the U.S. insurance regulations that are different from State to State and impose excessive burden on insurers.
- > **Harmonize and unify** environmental regulations that differ among States, or inform foreign companies of their contents in a streamlined manner.

### **3. Distribution**

- > **Prevent** the U.S. measures for counterterrorism from impeding swift, smooth and efficient distribution through such measures as simplification of some procedures.
- > **Increase** the maximum weight of container in the U.S. which has been raising unit costs of export.
- > **Eliminate** unreasonable requirements imposed by the Federal Maritime Commission (FMC) on foreign maritime carriers and FMC's unilateral regulations on pricing practices of foreign shipping firms under the U.S. maritime transport legislation.
- > **Abolish** enormous subsidy for U.S. maritime carriers.
- > **Eliminate** regulations concerning the shipping of Alaskan crude oil, particularly the obligatory use of U.S. ships.

### **4. Sanctions Act**

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

- > **Provide, with articulation,** Japanese companies with the treatment tantamount to what has been granted to European enterprises in terms of the application of the Iran-Libya Sanctions Act.
- > **Lengthen** the period of suspension of Title 3 of the Cuban Liberty and Democratic Solidarity Act.
- > **Continue works** with state and municipal authorities to for the elimination or suspension of enforcement of the sanctions acts that are inconsistent with international law.

### **5. Competition Policy**

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

### **6. Legal Services and Other Legal Affairs**

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

### **7. Telecommunications**

- > **Eliminate** the 20% threshold of foreign direct investment ratio in licensing radio stations. (Japan has already abolished the corresponding requirement.)
- > **Remove** licensing procedure or clarify its criteria that are unreasonable or unclear regarding entry into the U.S. market by foreign telecommunications businesses.

- > **Improve** the U.S. regulatory classification of services and process of unbundled network elements rule, that damage predictability of business operations.
- > **Harmonize** regulations among states whose differences are impeding inter-state level telecommunications businesses.
- > **Eliminate** the disparity among three types of access charges, and disclose the bases of their calculation.
- > **Ensure** the acceptance of test data submitted by Japanese test laboratories concerning electromagnetic compatibility (EMC).
- > **Expedite** licensing process of the export of commercial satellites by the Department of State as well as minimize data not disclosed to foreign purchasers in this course, and realize fair conditions for foreign bidders in the procurement of satellites by U.S. carriers.

## **8. Information Technology**

- > **Reinforce** copyright protection for the items which are not sufficiently protected in the U.S., such as live performances and video games rental.
- > **Enhance cooperation** between Japan and the U.S. to combat piracy of digital content.
- > **Also enhance cooperation** in addressing newly-emerging issues concerning copyright along with the increase of digital contents and wider use of the Internet.

## **9. Energy**

- > **Clarify** the policy direction of Federal Energy Regulatory Commission's (FERC) to avoid damaging foreseeability of business operations.
- > **Standardize and unify** state-level regulations.
- > **Take actions** for an early approval at the Congress of the Comprehensive Energy Bill which includes the repeal of the Public Utility Holding Company Act (PUHCA).
- > **Bring** the electricity services provided by public utilities into wholesale and retail markets.
- > **Verify** and publicize the achievement of measures taken for the recovery of confidence in energy market.

## **10. Medical Devices/Pharmaceuticals**

- > **Observe** internationally agreed and harmonized standards concerning drug tests and other related procedures for the reduction of burden borne by the industry, in light of the divergence of the U.S. regulations from international standards.
- > **Launch** substantial consultations for the mutual recognition of Good Manufacturing Practices (GMPs) and Good Clinical Practices (GCPs)
- > **Sufficiently hear** the opinions of Japanese medical devices and pharmaceuticals companies operating in the U.S., and enhance communication with them to avoid unexpected troubles such as sudden cancellation of the Advisory Committee for conformity assessment of application dossier.

## **11. Financial Services**

- > **Mitigate** the requirement of establishing a financial holding company (FHC) on foreign banks in providing securities business in the U.S.
- > **Eliminate or mitigate** Securities Exchange Commission's (SEC) registration requirement in issuing

new stocks as following business reorganization

- > **Eliminate** requirements concerning the sale of foreign investment trust funds, including nationality requirement on directors of foreign funds.
- > **Mitigate** excessive regulations imposed on the sale of foreign Exchange Trust Funds.