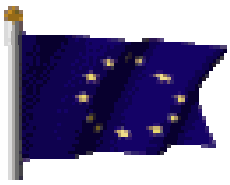
(Provisional Translation)

FY2006
Japan's Proposals
For Regulatory Reform Dialogue



1 December 2006

Japan's Proposal
For Regulatory Reform Dialogue
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December 2006

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Japan-EU Regulatory Reform Dialogue
-- Japan's Proposals to the EU --

December 2006

Foreword

1. Introduction

The Japan-EU Regulatory Reform Dialogue is now in its 13th year, since 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. Meanwhile, during the ten years between 1996 and 2005, the scale of investment from Japan to the EU more than doubled, while that from the EU to Japan grew five fold. In 2005, the EU was the largest source of direct investment in Japan (net flow). The EU was also the second largest destination of direct investment from Japan, second only to the US (net flow). In terms of trade, Japan and the EU account for 45% of the global total.

At the 15th Japan-EU Summit in April 2006, both sides identified the significance of the discussions held in this framework. The two sides also confirmed that they would further enhance their mutual dialogue and cooperation, including this dialogue. Japan and the EU should further enhance their trade and investment relations through their continued active use of this framework, thereby addressing various issues to promote two-way trade and investment and seeking to solve those issues in a constructive manner.

2. Review of the dialogue held in the FY 2005 and prospects of dialogue to be held in the FY 2006

The Government of Japan (GOJ) values government officials of EU Member States attended more than ever at the Brussels meeting in March 2006. This fiscal year, the GOJ requests the Member States to participate further more actively in the Regulatory Reform Dialogue process concerning matters under the competencies of the Member States. The GOJ also expects the European Commission to further continue its efforts to engage the Member States.

The GOJ also appreciates the fact that concrete progress was made with respect to certain issues. The improvements in work and residence permits, an issue of the greatest interest by Japanese companies operating in the EU deserve particular appreciation. The more active commitments by Member States have led to a certain level of achievements to solve this issue, supplementing the discussions the GOJ holds with each Member State. It is also worth mentioning that with regard to driving licenses, an increasing number of Member States return Japanese driving licenses to their bearers through the Embassy of Japan in each country, after the bearers have surrendered their Japanese licenses to acquire local licenses eligible in the EU. Furthermore, the GOJ welcomes a certain level of progress seen in the dialogue during the previous fiscal year, concerning a number of issues in which Japanese companies have been expressing a strong interest every year. These issues include the establishment of equivalence between Japanese accounting standards and international accounting standards (IAS), and the proposal for a Regulation on the Registration, Evaluation, Authorization and Restriction of Chemicals (REACH). The GOJ expects that the EU continues its active commitment in this year's dialogue.

At the Brussels meeting in the last fiscal year, Japan and the EU agreed to complete the exchanges of their final written replies by the end of May. The GOJ appreciates that the EU, in its final written replies submitted in the last fiscal year, answered to all matters proposed by the GOJ, including those related to Member States. However, some of these replies were submitted after the agreed deadline. The GOJ thus requests the EU for improvement from this fiscal year onwards.

In recent years, Japanese companies have increasingly been affected by the regulations and standards imposed by the EU. In light of this, the GOJ wishes to actively participate in the process of regulatory deliberation in the EU, through means such as public comments and hearings. The GOJ therefore requests the EU to continue to disclose relevant information in a sufficient and adequate manner and listen attentively to the requests by non-EU countries including Japan.

The GOJ understands that Bulgaria and Romania will accede to the EU on 1 January 2007. The enlargement, as a whole will have a number of positive impacts to Japan in medium and long term. In the short term, however, the GOJ has the following concerns; (a) negotiations on compensation for the increase of rate of duty in new Member States, (b) setbacks in the service commitment under the General Agreement on Trade in Services (GATS), (c) automatic application of EU anti-dumping measures to new Member States. The GOJ recognises that further consultations are necessary to address these concerns.

A: Cross-sectional Issues

A1. Commercial Laws and Business Practices

(1) 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 within the EU.

From the EU's reply in the last fiscal year, the GOJ has learned that the European Court of Justice (ECJ) made a judgment in case C-446/02 "Marks & Spencer", which concluded that cross-border offset of profits and losses should be tolerable under UK law, subject to strict requirements. The GOJ has also learned that a draft directive on the cross-border offset of profits and losses among Member States is forthcoming and that technical discussions were opened between the European Commission (EC) and the Member States in 2005. The GOJ has furthermore acknowledged that the European Commission will explain the basic principles and problems regarding this matter in the second half of 2006.

The EU has also expressed its intention to strive for early adoption of this draft directive in the Cooperation Framework for Promotion of Japan-EU Two-Way Investment. If each EU Member State responds differently to the ECJ's judgement, the integrity of the Internal Market may be undermined. The GOJ urges that the European Commission takes a strong initiative to realise consistent EU policy corresponding to the ECJ's judgment. The GOJ continues to urge the EU to provide information on the developments regarding this matter, and to proceed swiftly with discussions aimed at the early adoption of the draft directive.

(2) A Directive on cross-border mergers [EC, M.S.]

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 15 December 2007).

(3) Statute for a European 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 European-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 re-established as public companies, they cannot establish SE through a merger or conversion of existing companies which is allowed only for public companies.

In May 2003, the European Commission announced an "Action Plan on Modernising

Company Law and Enhancing Corporate Governance in European Union," in which the European Commission stated that it would study the practical needs and problems of the European Private Company (EPC) statute by the end of 2005 and that it will deliberate on the introduction of the statute from 2006 to 2008. Furthermore, according to the results of the consultation published by the European Commission (a summary report was released on 3 May 2006), many respondents answered that this issue should be addressed as a high priority. The GOJ continues to urge the early introduction of the statute.

(4) Consultation procedures in EU Member States [EC, M.S.]

Given that EU Member States have adopted individual consultation systems, the GOJ requested an explanation on each system in the Brussels meeting held in the last fiscal year. The EU indicated that it would provide the GOJ with written information. However, the formal replies from the EU lacked information on individual Member States and the GOJ, therefore, reiterates its request for the relevant information. The GOJ recognizes that the European Commission introduced general principles and minimum standards for consultation procedures (December 2002, COM (2002)0704). In light of this, the GOJ suggests that the systems be harmonized at the EU level, since complying with different systems in respective EU Member States may place a significant burden on companies operating in a wide range of areas within the EU. Furthermore, the GOJ urges the Member States without such a consultation system to introduce this system at an early date, in order to improve regulatory transparency, for which the EU expressed its intention to make efforts in the Cooperation Framework for Promotion of Japan-EU Two-Way Investment.

A2. Standards and Certification

(1) Additional Italian regulation on TV imports【EC, Italy】

To import TV sets produced outside the EU into Italy, including those already distributed within the EU market, it is obliged under the Ministerial Decree 26/03/1992 to obtain a specification certification apart from the CE mark. To obtain the said specification certification, product packages must have an enclosed circuit drawing. These steps take three to six months. Furthermore, exporters must send sample products to Italian authorities five to six months prior to the full-scale start of mass production. In some cases, however, samples are not available at this early stage. The GOJ thus urges the Italian Government to shorten this period of five to six months. Since technological requirements for products such as TV sets are set by EU Directive 73/23/EEC and EU Directive 89/336/EEC, products meeting these requirements should be allowed to be distributed freely within the EU market. The GOJ therefore urges the Italian Government to abolish the additional regulation. In its written response in FY2004, the EU explained that the Ministerial Decree is consistent with the EU's Community Law. However, the GOJ would like to emphasize once again that what it has been urging is the abolition of the additional regulation.

(2) Regulation on the shape of plugs and sockets for electrical outlets, telephone lines, etc.【EC】

The shape of plugs and sockets for electrical outlets and telephone lines differs according to EU member states. The GOJ urges the EU to consider integrating the standards, since these differences result in increased costs. The GOJ emphasizes that this request was presented by Japanese companies once again in FY 2006. In its written responses in FY2004 and FY2005, the EU stated that most of the problems could be solved with a Europlug, but since purchasing Europlugs would create an additional cost, the GOJ believes that integrating the standards is more appropriate to reduce costs.

A3. Trade and Customs

(1) Tariff classification (general)【♦, EC】

Recent progress in technologies has enabled a cascade of developments and marketing in convergence products that respond to consumers' needs, such as digital video cameras (camcorders), digital multifunction machines, flat panel displays, and digital cameras. The spread of these products enhances consumers' convenience, and is beneficial in enhancing citizens' quality of life (QOL). At the same time, an increasing number of these products are subject to the question of which tariff classification should be applied to them.

There have been cases in which the European Commission has decided upon tariff classifications for products without regard to the reality of the market, such as characteristics of products, their functions, targeted clients, and the ways the product is to be used. The GOJ therefore urges an improvement to this situation. For example, in the case of camcorders, the European Commission altered this product's tariff classification at one point, forcing exporters in some cases to pay the difference between the new, higher tariff and the old tariff retroactively for camcorders they had exported prior to the change.

As for digital multifunction machines, based on their original objective of use, they should be exempt from tariffs pursuant to the Information Technology Agreement (ITA), as will be further discussed later. The European Community is an original member of the ITA and a leading negotiator at the World Trade Organization (WTO). With these aspects in mind, the GOJ seeks explanations by the EU side regarding what principles are applied when it determines a tariff category for each product.

(2)Anti-dumping investigation on Television Camera Systems【□,EC】

The European Commission has determined that the import of Television Camera Systems (TCS) originating in Japan was dumped and causing injury, and has accordingly imposed an anti-dumping (AD) duty (rates of AD duty: from 52.80% to 200.30%) since 1994. In this connection, the European Commission newly initiated an AD investigation in May 2006 upon receiving a complaint from a European manufacturer (a Changed Circumstances Review on the existing measures was initiated simultaneously).
The Government of Japan has a serious concern that the scope of the new investigation is not limited to "Television Cameras" used for live television broadcast by broadcasting companies but also extended to "Camcorders" and "Box Cameras". These products, which the European manufacturer concerned has not yet produced, have different end uses and functions from those of Television Cameras, and should not be included in the product scope to be investigated.
The AD investigation has already imposed a heavy burden on the Japanese manufacturers under investigation. The GOJ strongly urges that the investigation be fairly and appropriately conducted, and that Camcorders and Box Cameras be excluded from the scope of the investigation.

(3)Digital camera【□,EC】

The ITA, concluded on December 13, 1996 at the WTO Ministerial Conference in Singapore, designates digital cameras to be free of tariff. The EU has implemented this since 2000. However, the GOJ understands that EU authorities have begun to review the tariff classification of digital cameras. The GOJ is concerned that the said review might lead to the imposition of certain criteria on the said product, whereby digital cameras equipped with a video recording function might be subject to a rate of tariff, even though such function is merely secondary. The GOJ understands that the international majority's interpretation is that digital cameras are free of tariff. The GOJ believes that if a tariff imposition on the said product is decided and applied, it would go against the purports of the ITA, and thus urges that no such imposition be made.

(4)Flat panel display monitors【□,EC】

Flat panel display (e.g. liquid crystal display (LCD)) monitors for PC capable of receiving video signals have been categorized as video monitors (HS8528) since 2004.

Likewise, flat panel display monitors used as output equipment for medical use as well as printing and designing purposes are categorized as video monitors, for which a tariff of 14% is imposed. However, these products belong to a product category that is totally different from the video monitor, as they are characterized by high definition, some models being monochrome, and in many cases they are operated in connection with computers.

In view of the purports of the ITA, the GOJ urges a review of the tariff classification to allow those flat panel display monitors, whose main function is not identified as video monitor, to be categorized as HS8471.60 and thus exempt from tariff.

(5)Digital multifunction machines【□,EC】

Digital multifunction machines, (printer/fax transmitter-receiver/copier/scanner), mainly used in connection with computers and networks, have been categorized as copy machines since 1997, for which a tariff of 6% has been imposed. However, in view of the purports of the ITA, the GOJ urges that digital multifunction machines be treated as part of information equipment free of tariff.

(6)Change in tariff classification of digital video cameras (camcorders) and a retroactive duty imposition 【EC】

The GOJ has repeatedly urged the EU side to make improvements concerning this problem and it is extremely regrettable that it has not yet been resolved.

The EU tariff classification distinguishes between camcorders that are capable of recording not only signals from internal camera units but also signals from external equipment, and those that are incapable of doing so. The EU has set different tariff rates for these two types of camcorders at 14% and 4.9%, respectively. The EU imposes the 14% rate on camcorders manufactured and exported for the EU market by Japanese electronic manufacturers, even though these camcorders are controlled by software to

inactivate functions of recording signals from external equipment (DV-IN), which is also notified to consumers through catalogues and other media. The EU's treatment of this product can be deemed as an arbitrary interpretation of tariff classifications targeting Japanese products, made as part of what is seen to be a protectionist approach. The GOJ has not received any response from the EU side that challenges the viewpoint mentioned above.

The GOJ has also urged the EU side to explain its views regarding the fact that some EU Member States such as France have made a claim for the retroactive imposition of tariffs, but has not received such explanation either.
The GOJ urges the EU side to respond sincerely with the aim of resolving these issues.

A4. Information and Intellectual Property

(1)Early establishment of the Community Patent【EC, M.S.】

(a) 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. Since then, no drafts for related EU regulations have yet been adopted.

(b) A Community Patent System, when established, is expected to bring about positive effects such as cost reductions for patent applications and maintaining patent right. The system is also expected to help speed up the processes of obtaining patent and of legal actions pertaining to patents. These effects on costs and efficiency would not only benefit EU companies but also contribute to enhancing investment in the EU by external companies including Japanese ones. For these reasons, the GOJ, as it did last year, reiterates its requests for an early establishment of a Community Patent System.

(c) In this connection, the European Commission held a public consultation concerning future patent policy from January to March 2006, aiming to gain momentum to adopt the Community Patent. The GOJ, based on the understandings mentioned above, submitted a comment calling for an early establishment of the system. The GOJ acknowledges that at a public hearing which the European Commission held in July 2006, a majority of the opinions presented urged for an early establishment of the Community Patent despite remaining differences of positions concerning the language issues. The GOJ also understands that the informal EU Summit Meeting, held in Lahti in October 2006, recognised the necessity for an early establishment of the Community Patent System.

(d) The GOJ assumes that the EC is due to submit a report based on the consultation and the public hearing and thereby proceed with the policy decisions. In this regard, the GOJ requests that the EC reflects sufficiently the opinions of non-EU countries including Japan in advancing its consideration.

(2)An early entry into force of the European Patent Litigation Agreement (EPLA) 【♦,M.S. (except for Malta, a non-member of the European Patent Convention), EC】

(a) The European Patent Office (EPO) has been deliberating on the European Patent Litigation Agreement (EPLA) since 1999 as part of the harmonization of the legal system 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. The GOJ recognises that at the public hearing on the patent system organised by the European Commission in July 2006 a good number of opinions were raised particularly from the industrial and legal communities, calling for an early entry into force of the EPLA as a realistic measure that should be promoted in parallel with the commitment to realising the

Community Patent. The GOJ also acknowledges that the informal EU Summit Meeting, held in Lahti in October 2006, recognised the necessity for the improvement of the European Patent litigation system.

(b) The GOJ evaluates the EPLA as providing high legal stability to the European Patent and as simplifying relevant litigation procedures and reducing the costs incurred in these procedures. The GOJ thus regards the EPLA as contributing not only to EU companies but also to non-EU companies including Japanese ones. Based on these understandings, the GOJ requests that the EPLA be put into force at an early stage through efforts by the European Commission and those by Member States that are members of the EPC.

(3) An early entry into force of the London Agreement designed to reduce the burden of translation required concerning a European Patent [□, France]

(a) According to Article 65-1 of the 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 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 31 EPC member countries). This provision incurs extensive translation costs that heavily strains 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.

(b) On 17 October 2000, the London Agreement was adopted by several member countries of the European Patent Convention (EPC), 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 formal name of the agreement is the Agreement dated 17 October 2000 on the application of Article 65 of EPC). The agreement will take effect when ratified by eight or more EPC member countries, including the UK, France, and Germany. The agreement has yet to enter into effect because France has not ratified it, while seven other countries including the UK and Germany have done so. In this regard, the French Constitutional Court ruled the London Agreement to be constitutional on 28 September 2006. Thus, the entry into force of the agreement is left to a decision by the Government of France. The GOJ also acknowledges that the informal EU Summit Meeting in Lahti in October 2006 discussed the benefit of the London Agreement.

(c) The London Agreement, upon entering into force, will enhance the simplification of the translation procedures associated with a European Patent and help reduce relevant costs. The GOJ requests France to promptly proceed with the ratification of the agreement, which would benefit not only EU companies but also non-EU companies including Japanese ones.

(4)Promotion of the "Patent Prosecution Highway"【□, M.S. (except for Malta, a non-member of the European Patent Convention)】

(a) The "Patent Prosecution Highway" is a framework of cooperation in patent examination among national patent offices. It enables a patent already established in one country to be fast-tracked in its examination for patentability in another country. The Highway supports patent applicants in promptly acquiring their patent rights abroad. In addition, the Highway is aimed at reducing the burdens caused to patent offices of various countries in the examination procedures, as well as at improving the quality of examination.

(b) Since the idea of the Highway was proposed by Japan (the Japan Patent Office (JPO)) at the Trilateral Conference in 2004 attended by the JPO, the European Patent Office (EPO) and the United States Patent and Trademark Office (USPTO), the three offices have continued deliberation on the idea. So far, Japan and the United States began a pilot program of the Highway in July 2006, based on an agreement between the JPO and the USPTO. However, the EPO has yet to participate in this project.

(c) The GOJ believes that the endeavour of the Patent Prosecution Highway is not only effective in responding to patent applicants wishing to gain global rights, but it also contributes to reducing the examination burdens on the patent offices of each country, as it expands the framework of the mutual utilisation of examination results. In light of this, the GOJ requests those EU Member States that are also EPC member countries to encourage the EPO to deliberate in a positive manner on the participation in the said Highway.

(5) Survey on the distribution of pirated products in the EU and the promotion of tighter controls on these products【♦,EC, Italy, France】

(a) It has been reported to the GOJ by right-holders in Japan that there is massive distribution of pirated versions of Japanese-made contents such as animation DVDs and game software in Italy and France. The GOJ is concerned about the consequent damages that would be caused to normal distribution businesses.

(b) The GOJ raised this issue at the Japan-EU Dialogue on Intellectual Property Rights held in February 2006 and requested the cooperation of the European Commission.

(c) Based on this development, the GOJ reiterates its request to the European Commission to encourage Italy, France and other related Member States to conduct a survey on the distribution of pirated versions of Japanese contents in each of the countries and to take appropriate measures including tighter control on such distribution. The GOJ furthermore requests Italy and France, where the outbreak of damage caused by pirated versions of Japanese-made contents has been confirmed, to take appropriate measures including the tightening of controls.

(6) Improvement of the copyright levy system for items other than audio and visual recordings【♦,M.S. (excluding the UK, Ireland, Luxembourg, Cyprus, and Malta)】

(a) The copyright levy was introduced in the 1960s and afterwards as a system to charge compensation fees on the hardware of analogue copy machines as the

compensation for reproductions of copyrighted works for private use. However today, with the prevalence of digital instruments, there are some aspects which imply that charging fees on the hardware is no longer an appropriate method to compensate for reproductions for private use. Moreover, different Member States employ different copyright levy systems, which can be a factor that disturbs trade activities in a single market.

(b) The GOJ recognises that concerning the copyright levy system in the EU (excluding the UK, Ireland, Luxembourg, Cyprus, and Malta), there exists a number of problems including the following. The GOJ thus requests relevant Member States to take appropriate improvement measures.

(i) There are cases in which the copyright levy is charged to those instruments that have an extremely small possibility of being used to reproduce copyrighted works.
(ii) There are also cases in which unreasonably expensive copyright levies are charged to those instruments whose prices have been lowered due to technological progress.

A5. Employment

(1) Overview【EC, M.S.】

The GOJ is aware of the position of the EU side that existing EU legislation in the employment and social field lays down only 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, Japanese enterprises operating in EU Member States continue to point out that employment regulations and practices in Europe frequently bring about difficulties in terms of dismissal, work hours, wages and other aspects, which may present obstacles to launch and operate their businesses in Europe. The GOJ understands that similar points have been raised not only by non-EU enterprises, but also by enterprises of EU countries. Therefore, the GOJ is convinced that listening to the voices of these enterprises and addressing the problems will not only promote Japanese investment to the EU, but also lead to job creation, economic revitalization and increased competitiveness in the EU. Therefore, the GOJ requests the EU, to continue taking steps to improve the labour market, both at the EU level and member state level, with a view to improving the business environment through the undertakings to achieve the European Employment Strategy (EES).

(2)Spain【Spain, EC】

(a) Revisions to the temporary labour contract system and compensation for dismissal

According to the explanation from the EU side (Spain), there are four types of temporary labour contracts under the Spanish law, and Spain's temporary employment system is flexible enough to allow businesses to cope with market trends. In reality, however, there is a time limit of six months (up to 12 months by renewing the contract) after which the employers must switch any temporary employees to permanent employment status.

In the manufacturing sector where workers need to have certain levels of skills, dismissing workers every 12 months would cause difficulties in maintaining high-quality workers. On the other hand, given the manufacturing industry's need for a flexible production structure, if a manufacturing company switches all its temporary workers to permanent status after 12 months of temporary employment, the compensation for worker dismissals will be a major burden for the company when production scale adjustments become necessary. In order for Spain to remain an attractive place for industry, its short-term labour market needs to be adjusted to become easier to be used. In this light, the GOJ continues to request the revision of the system to allow the extension of the period for the temporary labour contract. It also requests further reduction of dismissal compensation.

(b) Raising of the maximum annual overtime work level

According to the explanation from the EU side (Spain), Spanish legislation regarding

overtime is flexible, since overtime is calculated on an annual basis and can be distributed as necessary throughout the year. However, the maximum annual amount of overtime is fixed at 80 hours, and companies must always allow their employees to take vacations if their overtime work exceeds this threshold. This regulation makes it difficult for companies to promptly cope with a sharp increase of their production and sales. The GOJ is concerned that this regulation could make Spain a less attractive place for industry. In this regard, the GOJ continues to request the raising of the maximum annual overtime level.

(3)The Netherlands【The Netherlands, EC】

Compensation for dismissal and sick guarantee system

The GOJ has yet to receive a reply from the EU side (the Netherlands) concerning the requests set forth below, which the GOJ originally presented in its proposals of November 2005. The GOJ thus asks for the improvement of the situation.

When carrying out restructuring to respond to changes in the business environment, each company is required to pay a substantial amount of compensation which may hamper the continuation of its activities. While understanding that the scope of possible intervention by the Dutch Government is limited on this issue, the GOJ requests that the Dutch government continue to make further efforts to limit the burden of compensation for dismissal.

The criteria used by ARBO doctors (corporate doctors) and the UBW (specialized government organization) to determine whether an employee can obtain sick leave are unclear and there are cases where the impact of illness on employment cannot be confirmed. The GOJ continues to request the Netherlands Government to reform the sick leave guarantee system.

(4)Sweden【Sweden, EC】

Last-in, first-out rule relating to dismissal

According to the explanation from the EU side (Sweden), the following exemptions exist under the "last-in, first-out rule" (the rule under which, when a company reduces its workforce, employees with a longer history of employment with that company are protected over those with a shorter history of employment. Companies therefore must fire employees with a shorter service history first when they intend to dismiss employees): (a) the application of dismissal categories based on expertise; (b) the exemption of small- and medium-sized enterprises with less than a certain number of employees; and (c) deviations from the rule may be made through a collective agreement. However, according to Japanese companies, (a) the possibility for the application of dismissal categories based on expertise is limited, (b) Japanese companies, due to their scale, are not able to take advantage of exemption of small- and medium-sized enterprises, and (c) it is difficult for one company to deviate from the rule through negotiations with its workers on an important issue like this rule because unions act upon united instructions from trade union confederations.

As such, this rule makes it difficult for companies to secure young competent labour resources that can well adapt to IT and other advanced technologies. Under the circumstances in which companies cannot significantly increase their workforce, this rule constitutes an obstacle for Japanese companies to launch and expand their operations in Sweden. The GOJ thus asks for a prompt relaxation of the rule.

(5)Czech Republic 【Czech Republic, EC】

Reducing the percentage of workers on sick leave

According to the explanation from the EU side (the Czech Republic), the relevant legislation has been passed in 2006, under which new measures allow employers to save the amount they spend on sick-leave because the health insurance ratio paid by the employer for sick leave will decrease, whereas the employers pay them during the first two weeks. Understanding that implementation of the legislation will strengthen penalties for false reports by employees and doctors, the GOJ appreciates the efforts made by the Czech Government. However, it is not the savings of costs that Japanese companies are asking for; instead, they are asking for a reduction in the sick-leave rate itself. Given the fact that the high sick-leave rate still imposes a great burden for Japanese companies, the GOJ calls for the continued and fundamental commitment by the Czech Government. According to a report by the Ministry of Labour and Social Affairs of the Czech Republic, the average absentee rate in 2004 was about 31 days. This figure is extremely high among European countries including Central and Eastern European countries. It must be pointed out that should this current high rate of sick leave continue, it would adversely affect companies seeking to enter the Czech market.

(6) Hungary【♦ ,Hungary, EC】

Improvement to the abuse of sick-leave system

Japanese companies operating in Hungary 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. 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 improvements. As a result of the efforts made by the Hungarian Government, certain improvements have been observed in reducing the ratio of sick leave. However, this issue is of a complex nature associated with the practice of abusing the sick-leave system and with the ways to certificate sickness. In this light, the issue requires the continued efforts by the Hungarian Government. There is no doubt, that the rights of the sick employees must be guaranteed, however, an abuse of the sick-leave system has to be prevented. It must be noted that should this current situation continue, it would adversely affect companies seeking to enter the Hungarian market.

A6. Government Procurement

(1)Discriminative measures in procurement procedures of government-affiliated entities in Italy 【♦, Italy, EC】

The EU stipulates the tenders comprising products originating in third countries in Article 58 of its "*Directive 2004/17/EC for coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors*". This article constitutes discriminative measures for products originating in third countries including Japan, unless the procurement concerned is subject to the Agreement on Government Procurement of the World Trade Organization (WTO).

The second paragraph of Article 58 of the said Directive stipulates that "Any tender submitted for the award of a supply contract may be rejected where the proportion of the products originating in third countries….exceeds 50% of the total value of the products constituting the tender." However, it is understood that this stipulation is discretionary and that it does not uniformly oblige the EU Member States to reject tenders identified in this paragraph. Furthermore the third paragraph of the said article stipulates discriminative treatment of tender prices for products originating in third countries.

Therefore, the GOJ requests the following: that the European Commission clarify its standards for the application of the said article in the Directive in order to make known in advance those cases in which products originating in third countries are treated in discriminative manners; that the European Commission appeal to the EU Member States to harmonize their application of the article; and that the Government of Italy clarify its standards of the domestic regulations which transposed the article.

A7. Maritime Policy

(1)Maritime policy of the European Commission【♦, EC】

The European Commission (EC) proposed a package of seven directives on maritime safety in November 2005, aiming at strengthening the control of vessels that fail to meet required standards. The EC also presented in June 2006 the "Green Paper towards a future Maritime Policy for the Union: A European vision for the oceans and seas" (SEC (2006)689). The GOJ understands that these initiatives are aimed at developing a comprehensive maritime policy of the EU that addresses maritime transportation, maritime industry, coastal areas, energy, fishery and the marine environment among others. These initiatives draw the attention of Japan as a maritime state, as it regards the ensuring of maritime safety and relevant issues to be very important.

Referring to the proposed package from the viewpoint of strengthening the control of vessels, the Green Paper proposes the reinforcement of the flag state system and the development of new instruments to strengthen the monitoring of international rules on the high seas (see "2.2. The Importance of the Marine Environment for the Sustainable Use of our Marine Resources" and "2.7. The Regulatory Framework"). Furthermore, in the Green Paper, there are statements that could lead to a possible reinforcement of the coastal control by the EU Member States. These include: (1) The degree of integration of government functions relating to territorial waters and exclusive economic zones (EEZs) varies between Member States….. A move towards more coordination between these activities and among Member States might further integration and make for greater efficiency; (2) There are signs of the ever increasing usefulness of cooperation and integration of work undertaken by the EU and Member States across borders and sectors, including in the management of territorial waters and the EEZs; and (3) The trend on the seas seems likewise to be towards a "Common EU maritime space" governed by the same rules on safety, security, and environmental protection. (See "5.2. The Offshore Activities of Governments")

In this regard, the GOJ points out anew that the international legal order for the seas and oceans is established upon a delicate balance to meet various requirements such as ensuring the use of the seas and oceans and the freedom of navigation as well as the protection of the marine environment and the preservation of marine living resources. Therefore, the GOJ asks the EU to note that any policy to embody the ideas of the Green Paper should avoid excessive coastal control that would contravene the international legal order for the seas and oceans. The GOJ would also like to have assurance from the EU that, in drawing up concrete common policy, the Green Paper is not intended to serve as any new, discriminative legal control over non-EU commercial vessels including Japanese ones, in terms of vessel traffic in the territorial waters and EEZs of EU Member States and in terms of access to ports in EU Member States.

B: Sectoral Issues

B1. Legal Services

(1)General Comments【France, EC】

Among EU member states, France does not have a Foreign Legal Consultant (FLC) system, while Germany does not allow foreign lawyers to provide legal services on third-country laws. These instances represent restrictions imposed on Japanese lawyers in the EU on providing legal services pertaining to their home country laws or third- country laws.

The GOJ strongly requests that these restrictions be eased to allow Japanese lawyers to provide legal services more easily and in a wider scope in the EU.

Taking seriously the requests concerning legal services made by the EU side, the GOJ has taken measures such as amending the law concerning foreign lawyers and establishing the Office for Promotion of Justice System Reform. Likewise, the GOJ requests that the EU side fully commit to urging its member states to take seriously the requests from the GOJ and to make necessary improvements.

(2)Permission of a system that allows foreign lawyers in France to engage in legal services pertaining to the laws of their home country【France】

Following the Japan-EU Regulatory Reform Dialogue in Brussels on March 4, 2005, France reiterated its efforts to introduce the FLC system at the same Dialogue on March 21 this year. Although the GOJ appreciates the efforts made by France, the GOJ has not yet received any information on the introduction of the FLC system. The GOJ therefore continues to request that France establish a system that allows foreign lawyers to engage in legal services pertaining to their home country laws without passing any special examination, as is duly permitted in Japan under the Special Measures Law Concerning the Handling of Legal Business by Foreign Lawyers.

(3)Permission of legal services pertaining to third-country laws by foreign lawyers in Germany【Germany】

Germany allows EU lawyers to provide services on all laws, but does not allow non-EU lawyers including Japanese ones to provide legal services on third-country laws. The GOJ therefore continues to request improvements regarding this situation.

B2. Telecommunications

(1)The maintenance of fair competition in the fibre-optic network market 【♦,EC】

(a) In recent years, some EU Member States including Germany have tended to withhold the application of relevant regulations stipulated in the EU Regulatory Framework for electronic communications networks and services ("regulatory holidays"), when dominant operators in the telecommunication market newly develop networks such as fibre-optic networks building on their existing networks.

(b) The position of the European Commission regarding the review of the EU Regulatory Framework for electronic communications networks and services is well represented by the remark of Commissioner Viviane Reding, who is responsible for Information Society and Media, who clearly stated on 27 June 2006 that "It is my firm belief that 'regulatory holidays' are not a policy option".

(c) In this connection, in the EU, fibre-to-the-home (FTTH) service only accounts for approximately 1% of the whole fixed broadband access (as of October 2005), marking a wide gap with 26% in Japan (as of June 2006).

In Japan, competitive operators make up 61% of the digital subscriber line (DSL) market (unbundled-based, as of March 2006), while the corresponding rate in the EU remains only 22% (unbundled-based, as of October 2005). Based on these figures, the GOJ considers one of the reasons for the aforementioned gap to be that in the EU competition does not provide sufficient incentives for investment in the new service market.

(d) The GOJ believes that the promotion of investment to enhance networks can be achieved through the improvement of fair competitive environments by means of strictly applying regulations on dominant telecommunication operators. This position is based on our experience in Japan related to FTTH, which is introduced in the European Commission's Regulatory Impact Assessment of the EU Regulatory Framework for electronic communications networks and services. In line with these understandings, the GOJ requests that the European Commission should strictly implement the said Regulatory Framework and apply its provisions to fibre-optic access networks.

(2) Fixed-mobile convergence by dominant telecommunication operators 【♦,EC】

(a) In recent years in some EU Member States including Germany and France, there are cases where mobile communication services are provided by the subsidiaries of dominant operators in the fixed communication service market. These operators apply special rate schemes exclusively for those customers who use both fixed and mobile services provided by the said dominant operators and their subsidiaries.

(b) In the view of the GOJ, fixed-mobile convergence (FMC) itself is welcome since it serves consumers' convenience by offering simplified rate schemes. However, the

GOJ is of a view that there exists concern that dominant operators may unfairly expand their existing market power in the fixed communication market to the mobile communication market through tie-ups with their affiliate mobile telecommunication operators.

(c) In Japan, the Telecommunication Business Law (Article 33, Paragraph 2) prohibits dominant operators in both fixed and mobile telephone markets from giving unduly preferential treatments to certain operators. The GOJ has also decided in its New Competition Promotion Program 2010 (announced in September 2006) that it will consider necessary measures to ensure fair competition for the FMC.

(d) The GOJ views that the provision of FMC services is in principle desirable. The GOJ at the same time requests the European Commission to consider appropriate safeguard measures to address the issue of cross-markets business expansion by dominant telecommunication operators.

B3. Financial Services

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

In December 2005, the European Commission issued the White Paper on Financial Services Policy (2005-2010), which indicates the European Commission's recognition that further integration in the area of financial services is most critical for the growth and employment of the EU. The GOJ welcomes this viewpoint and urges that the European Commission promote the further integration of the EU's financial services markets.

The GOJ continues to urge that the EU introduce a system that would make activities, products, licenses and others approved by one EU Member State, be automatically approved in the 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 fast and effective step to improve the business environment in the EU.

The GOJ believes it is cumbersome to file reports with different content and form from country to country, and considers that the current arrangements have a room for improvement from the viewpoint of efficiency for business. The GOJ asks for the harmonisation of the contents and form of report. The GOJ recognizes 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 [EC]

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 International Financial Reporting Standards (IFRSs) or other accounting standards which are equivalent to IFRSs. In this respect, the GOJ understands that the European Commission will conclude a final decision on the equivalence of accounting standards (or GAAP) of Japan, the US and Canada by the end of 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 global accounting standards. This issue is also important for 190-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, in 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 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 EU markets' attractiveness. The GOJ believes this to be an unexpected consequence for the EU market, considering its global and open nature.

In respect of the recent development of accounting standards, the Accounting Standard Board of Japan (ASBJ) and the International Accounting Standard Board (IASB) have embarked on a joint project, to eliminate differences between the two standards towards the international convergence. Four meetings have already been held by October 2006. Furthermore, in October 2006, the ASBJ published a convergence schedule which focuses on the 26 items as indicated by the CESR, to carry out its work towards the convergence in accordance with the plan.

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

Therefore, the GOJ strongly encourages the European Commission, in its final decision, to take into consideration the statute of the EU market in a global context, and strongly urges to draw a positive conclusion on the equivalence of Japanese GAAP without remedies.

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

The GOJ understands that non-listed companies in the EU are required to prepare their non-consolidated financial statements in accordance with accounting standards as required by each Member State, which often do not include IFRSs. As a result, there are cases, where EU subsidiaries of Japanese companies are not permitted to produce their financial statements in accordance with IFRSs for their statutory purposes in the EU. This treatment causes inefficiency for Japanese subsidiaries that wish to prepare their financial statements in accordance with IFRSs for parent company reporting, since items to be adjusted are easily identified between Japanese GAAP and IFRSs, while identification is sometimes difficult between local GAAPs and Japanese GAAP.

Therefore, with a view to enhancing further efficiencies in the business environment for foreign subsidiaries, including Japanese ones, the GOJ urges the European Commission to encourage the EU Member States to permit the use of IFRSs as a basis of non-consolidated financial statements for statutory reporting purposes in each jurisdiction.

B4. Broadcasting Services

(1) Enhancing international exchange of contents (relaxation of regulations on the quota system)【EC】

(a) The current "Television without Frontiers" Directive (89/552/EEC, revised by 97/36/EC) requires that broadcasters reserve for European works a majority (more than 50 percent) proportion of their transmission time (quota system). This quota system is maintained in a proposed draft for the succeeding directive (Audiovisual Media Service Directive: AVMS. 13.12.2005 COM (2005) 646 final), which is currently being discussed in the European Parliament.

(b) While the GOJ is fully aware of the value of cultural diversity, it believes that cultural diversity should be achieved through active exchanges of cultures. Hence the GOJ believes that both Japan and the EU will benefit from securing opportunities to appreciate quality contents created by each side without mutually excluding them.

(c) Therefore, the GOJ has requested the relaxation of the quota system in the EU as well as in the Member States, in accordance with the view that cultural diversity should be achieved not through a quota system but through active exchange with external (non-European) cultures, as stated in its FY 2005 proposals to the EU as well as in its comment submitted at the consultation organized by the European Commission in October 2005.

(d) In particular, some forms of broadcasting services other than traditional terrestrial broadcasting, such as satellite broadcasting, CATV, and Internet protocol television (IPTV) provide viewers with a sufficient range of selection. Therefore the GOJ requests that the new directive should explicitly exclude these forms of service from the quota system, or at least relax the quota level, or allow Member States to take flexible measures such as opting-out from the quota system.

(2) Clarification of scope of the linear service【EC】

(a) While the existing "Television without Frontiers" Directive covers "television broadcasting" (transmission by wire or over the air, of television programmes intended for reception by the general public), the draft proposal for its succeeding directive (Audiovisual Media Service Directive(AVMS)) expands the scope of application to "audiovisual media services" (provision of moving images to the general public). The draft directive also makes a distinction between "linear services" (where a media service provider decides the timing of the transmission of a specific programme and establishes the programme schedule) and "non-linear services" (where a media service user decides the timing of transmission of a specific program based on the user's choice from the contents selected by the provider).

(b) The GOJ welcomes the decision by the European Commission to exempt non-linear service from the application of the quota system, taking into account the opinions raised by interested parties including the GOJ.

(c) On the other hand, the GOJ notes that while the current directive does not explicitly regard IPTV and streaming service for mobile phones as "television broadcasting", which is subject to the quota system, the "Explanatory Memorandum" of the draft proposal provides that they are categorized as part of "linear service". The GOJ is concerned that the new directive may excessively expand the scope of "linear service", without clear criteria.

(d) Therefore, the GOJ urges the EU side to clarify the scope of "linear service" and to refrain from substantially expanding the coverage of the quota system by revising the current directive.

B5. Construction

(1)Information disclosure on the new EU regulation for noise emission applicable to construction equipment【♦, EC】

The GOJ understands that the European Commission is currently considering the introduction of a new set of regulations to limit noise emission (Stage III). Concerning construction equipment, noise countermeasures need to be applied in a comprehensive manner; therefore, a sufficient length of time should be secured to develop relevant technology. However, it is currently impossible to start developing new technology to address these noise issues due to the lack of disclosed information which includes a permissible sound power level pertaining to the new noise limits (Stage III) and the upcoming schedule for introducing the said regulations.

The GOJ therefore urges that should the European Commission introduce the new noise limits (Stage III), the European Commission promptly disclose information on the schedule of the introduction, as well as the details of the regulations.

The GOJ furthermore urges that upon the introduction of the next-stage regulation, that the European Commission give due consideration to avoiding a disadvantage for the prevalence of gas-emission-compliant engines that have already been developed.

(2)Entry into construction work in Belgium【Belgium】

In order for non-EU enterprises to register as construction contractors in Belgium, it is necessary for them to establish an office within the EU that has functions of headquarters (for instruction and managements).

If an enterprise is unregistered, the enterprise must make a prepayment of 15% of the construction fee as a tax and 15% as a social security payment, which amounts to 30% in total, in order to obtain an order. This leads to disadvantages in competition.

Furthermore, a client who orders the construction work from a non-registered enterprise must guarantee a certain debt (for taxes and social security payment) of the non-registered enterprise. The GOJ believes that these obligations are excessive requirements.

It is difficult for Japanese construction enterprises to register because many of them do not have an office in Europe that has functions as headquarters. If the enterprise is not registered, it will be treated unfavourably as described above when it receives an order. Therefore, the GOJ repeatedly urges that improvements be made to this system.

In addition, the GOJ urges Belgium to submit the documents and data as soon as possible as the latter committed itself to do so at the Brussels Meeting in March 2006.

B6. Health care and Pharmaceuticals

(1) Thorough control over and instruction to parallel importers 【EC, M.S.】 【Importing countries: UK, Germany, etc. / Exporting countries: Spain, Greece, etc.】

In the EU, pharmaceuticals are guaranteed the freedom of movement, as other products. This enables parallel importers in the EU to purchase pharmaceuticals in countries where these products are sold cheaply, and then to sell them in other Member States where the products have a high list price without any licensing agreements between these parallel importers in the EU and relevant pharmaceutical manufacturers.

The GOJ respects the basic principle of freedom of movement of goods. However, there have occurred errors where appropriate description of the drug is not inserted in a package etc. when parallel importers repackage products. There has also been an intrusion of counterfeit drugs through complex routes of distribution. Should any of these situations lead to medical malpractice and consequent recall orders for products in question, manufacturers may face massive losses.

To avoid a possible shift of blame to manufacturers, the GOJ urges the EU to confirm the safety of parallel import goods and to prevent the intrusion of counterfeit drugs by clear definitions of responsibilities of parallel importers in case of repackaging and by introducing penalties as necessary.

In a group discussion held at an international conference on counterfeit drugs organized by the World Trade Organization (WHO) in February 2006, participants agreed that safe trade of pharmaceutical products is a mutual responsibility of both importing and exporting countries. They further agreed that each country should apply a single monitoring scheme on pharmaceutical products for exports and for domestic use. The GOJ, therefore, urges the EU to reinforce its measures to prevent the intrusions of counterfeit drugs into its market.

(2) Abolishment of the jumbo group【Germany】

Under the reference price system, pharmaceutical products of the same or similar ingredients are classified as a single group, and a uniform reimbursement price is applied to each group. For the purpose of encouraging pharmaceutical manufacturers to promote research and development (R&D), this system normally targets those pharmaceutical products for which patents have expired and generic brands exist.

In Germany, however, the reference price system puts both patented drugs without their generic drugs and non-patented generic drugs in the same pricing group (jumbo group). Patented drugs are protected by the patent system in order to allow the patent-holding pharmaceutical companies to collect the massive costs incurred in the R&D stage for their patented drugs and to generate funds to invest in their further R&D activities. The jumbo group system, which bundles these patented drugs and inexpensive generic drugs together into a single group and lowers prices, prevents patent-holding pharmaceutical companies from recouping their R&D costs and pursuing further R&D activities. This could

result in a remarkable loss of incentives for pharmaceutical companies to conduct R&D investment in Germany.

In the last fiscal year, the GOJ was briefed by the German side that reference price groups are formed for patent-protected drugs only if at least three such drugs are available and that novel, patent-protected drugs for which no comparable analogous drugs exist, remain exempt from the reference price grouping. The GOJ understands the difficulties faced by the public finance of medical insurance. The GOJ nevertheless asks for the abolishment of the jumbo system, as it is detrimental to patent-holding pharmaceutical companies which are unable to recoup their R&D expenses.

(3)Relaxation or abolishment of the target growth of medical expenses and accompanying penalties【♦, France】

The amendment of the French Constitution in 1996 requires that the French parliament establish a social insurance financing act every year and manage and supervise the said act. Under this act, a spending target was established for each of the three insurance segments of sickness, elderly, and family. Further, in the segment of sickness insurance, the national sickness insurance spending target (ONDAM or Objectif National des Dépenses d'Assurance Maladie) was established.

Every year since 1999, the Government of France has presented the annual targets to the Economic Committee of Health Products (CEPS or Comité économique des produits de santé), requesting that the upper limit imposed on medical expenses be observed.

Target figures are set respectively for ONDAM and pharmaceutical expenses, which are part of ONDAM. In addition, for pharmaceutical expenses, a framework is determined by the "agreement of the pharmaceutical division" concluded by CEPS of the government and the association of pharmaceutical companies (LEEM or les enterprises de médicament). Based on the framework, CEPS and each pharmaceutical company enter into an individual agreement to establish a target rate of sales increase for the respective company.

The annual target rate (the framework for medical expenses) was set at 4% in 2003, 3% in 2004, and 1% in 2005 to 2006. Given the increase of medical expenses due to the natural aging of the population, the 1%-target is deemed too low. No other country imposes as strict a system as this one, which requires those pharmaceutical companies whose expenses exceed the target to pay penalties by returning 50-70% of the excessive amount.

Such a system particularly strains mid-sized companies, resulting in factors to suppress their income and reducing incentives to develop business in France. Thus, the GOJ requests the relaxation or abolishment of this system.

B7. Food Safety

(1) Request of lifting the ban on the export of Japanese meat and meat products to European countries【♦, EC】

Concerning the export of meat and meat products to the EU, authorized exporting countries and the requirements of exports are set forth under EU directives. A country needs to be included in the list of authorized countries (third countries) in order to export meat and meat products to the EU.

In March 2006, the GOJ submitted its answers to the questionnaire from the European Commission with the aim of listing Japan on the said third countries list for meat and meat product exports. The GOJ would like the European Commission to assign high priority on beef and meat products (collagen casing and gelatine), and requests the European Commission to conduct the examination on a product-by-product basis in order to expedite the consideration process of these products.

B8. Tourism

(1)Nationality requirement on tour guides in Spain【Spain】

According to written replies issued by the EU in 2004, 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. Complying with this requirement, Japanese tour companies are compelled to hire local guides, who do not speak Japanese, in addition to Japanese-speaking tour conductors and thus forced to pay redundant costs. The GOJ urges Spain to open up opportunities for Japanese nationals to become tour guides in the country upon proof of their proficiency.

In its replies issued in 2004, the EU recognized that there was a sufficient number of Japanese speaking tour guides in Spain. However, according to Japanese tour companies, the number of Japanese-speaking licensed Spanish guides is only five to seven in each of major cities and zero to three in mid-to-small sized cities, while approximately 250,000 Japanese tourists visited Spain in 2005. The number of guides is far from sufficient, and therefore tour companies could be substantially forced to give up their tour programs for Japanese tourists when they cannot secure a sufficient number of Japanese-speaking guides.

Furthermore, in the same replies, the EU noted that Japan required licensed guide-interpreters in Japan to have the status of registered residents. However, a legal revision in April 2005 has improved the system, whereby licensed guide-interpreters who do not hold an address in Japan are now able to register their qualification of licensed guide-interpreters at prefectural offices through agents who hold an address in Japan.

(2)Residence permit applications in Italy【Italy】

The GOJ appreciates the amendment that has been made to the law in Italy in 2005, which simplified the procedure for residence permits for short-term visitors. However, the amended law has yet to be implemented and thus an immediate and expeditious implementation is requested.

C: Environment

(1)General comments【EC, M.S.】

The GOJ appreciates the EU for taking the lead in tackling environmental issues. With regard to the recycling issue, in particular, Japan shares common awareness with the EU. On the other hand, regulations in the field of the environment may not only have significant impact on non-EU enterprises 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.

Furthermore, in the "Cooperation Framework for Promotion of Japan-EU Two-Way Investment", the GOJ and the EU, with their intention to continue dialogue in both the formulation stage and implementation stage of regulations in order to promote two-way investment, have designated environment as one of the priority areas.

The GOJ continues to urge that environmental regulations not impose an excessive burden on enterprises, impede sound economic activities or create trade barriers.

(2)New chemical regulations in the EU: Proposal for a Regulation of the European Parliament and of the Council concerning the Registration, Evaluation, Authorization and Restriction of Chemicals (REACH)【EC, M.S.】

The GOJ understands that the REACH proposal is currently at the stage of the second reading in the European Parliament, and is close to adoption. However, among the concerns for the GOJ, the problem related to the registration of monomers in polymers (Article 6.3) still remains, as detailed below:

In Article 6.3, the reacted monomers used to make polymer are required to be registered. Because of the following reasons, however, the GOJ believes that it is not appropriate to require importers of polymers that have no adverse effect on the environment to register monomers in polymers.

(a) Reacted monomers do not have an adverse effect on the environment. Therefore, in Article 3.4, to define a monomer unit as reacted monomers is not appropriate.

(b) Therefore, the obligation to register reacted monomers in polymers is not appropriate, and may not be consistent with the provision of Article 2.2 of the Agreement on Technical Barriers to Trade (TBT Agreement), which prohibits a regulation that is more trade-restrictive than necessary to fulfil a legitimate objective.

The GOJ strongly urges that its problems above be fully solved in the upcoming second reading at the European Parliament as well as at the Council.

(3)"Directive on waste electrical and electronic equipment (WEEE)" and "Directive on the restriction of the use of certain hazardous substances in electrical and electronic equipment (RoHS)"【EC, M.S.】

(a) With respect to WEEE and RoHS, both of which came into effect in February 2003, the GOJ understands that all Member States had to prepare the necessary national legislation to implement both directives by August 2004. However, there are cases in which such a legislative process is not completed yet, although the said deadline has already passed. As WEEE was implemented in August 2005 and RoHS in July 2006, the Japanese industries concerned requested that the EU inform the GOJ of the actual content and status of the related legislation including domestic laws as well as government and ministerial decrees in those Member States that have completed their legislative process. Therefore, the GOJ urges the EU to provide more related information in the future.

(b) As for the WEEE, the GOJ is aware that there still remain some issues, such as vagueness in its scope of parties that are obliged to comply with the requirement of the directive and unclear scope of products subject to the directive (e.g., vagueness of the definition of terms such as "fixed installations" and "large-scale stationery industrial tools"). The Japanese industries concerned have made every possible effort, within the limited timeframe, in accordance with the purpose of the WEEE. However, challenges still remain in implementing the obligation to provide information as stipulated in Articles 10 and 11, e.g., the delay in enacting related domestic laws in EU Member States and relevant regulations by the European Committee for Electrotechnical Standardization (CENELEC). The GOJ thus urges the EU to implement the system flexibly.

(c) The GOJ is aware that some problems remain regarding the RoHS. For example, with respect to the products subject to the RoHS, the scope of the items for exemption and their interpretation remain unclear, and the items for exemption are scheduled to change. The GOJ urges that the EU provide an explanation on the most recent situation of such considerations being made at the Commission, the European Parliament and other relevant bodies.

Under the review process of the WEEE directive, opinions were invited with a deadline of 11th August. Numerous problems raised by the European Commission in the review were not newly found after the enactment of the said directive, but these had already been pointed out by the industry even before the establishment of the directive. However the WEEE directive was enacted, and the European Commission is now at last beginning to recognize the need for a review. In particular, different approaches caused by the vagueness of the definitions and different interpretation among Member States have resulted in huge burdens on non-EU companies, as has been previously worried. Similar problems have also been seen with the RoHS directive. In this regard, the GOJ requests that the EU make sure the implementation of the directives reflects the reality, through clarification at frequent workshops and the Q&A on the website of the European Commission, in addition to the official quadrennial review, as stipulated under Article 17.5 of the directive.

Bearing in mind the lead time required by the companies exporting products from Japan to Europe, spanning from product development to placement on the EU market, the GOJ

urges the EU to solve the aforementioned problems as soon as possible so that they do not present obstacles to Japanese enterprises in complying with the said directives.

Also, the GOJ urges that the EU continuously respond flexibly when the Japanese industries concerned raise individual requests on this matter.

(4)Directive of a framework for the setting of Eco-design Requirements for Energy-using Products (EuP)【EC, M.S.】

(a) The GOJ understands that the progress of the work towards a decision on implementing measures is generally behind the original schedule. The GOJ asks for updated prospects for the work schedule, concerning the following aspects:

(i) Preparatory studies (14 lots in total) and studies on other products
(ii) Nominations of organizations participating in the Consultation Forum; and the timing of the forum
(iii) The timing of the Regulatory Committee

(b) In the preparatory studies, which have already been started, there are differences in the survey approaches and methodologies applied by contractors assigned to each study. In view of this, the GOJ urges the EU to consider prompt application of the common and consistent methodologies by all the contractors on the following two aspects:

(i) When considering the definition of the base case and the Best Available Technology (BAT), contractors must first clarify categorization for each configuration, performance/function and technology, and then carry out environmental assessments and consideration for establishing standards in the same category. Their improvement potential should also be considered in the same category, and the relative comparison across the different categories should not be carried out.

(ii) As to set out the limit values for the implementation measures, priority must be given to internationally adopted standards and measuring methods, if these are available or are being considered.

(c) The GOJ understands that the Specific Eco-design Requirements, which are included in the Conformity Requirements set forth in the implementation measures, are based on the consideration made in the preparatory studies. On the other hand, concerning Generic Eco-design requirements, the GOJ asks for a clarification on what consideration and development processes are taken for the said requirements. Further, in the process of the consideration, the GOJ asks the EU to adopt harmonized and internationally consistent standards, and also to ensure consistency with the requirements of the existing enacted RoHS and WEEE directives.

(5)Proposal for Mobile-Air-Conditioning (MAC) Directive, a related proposed directive on greenhouse gases 【EC, M.S.】

(a) The GOJ, like the EU, has strong interest in the disposal of refrigerant treatment of automobile air conditioners from the perspective of preventing greenhouse gas

emissions. In this regard, Japan has taken a different approach from the EU and allows the use of R134a while preventing greenhouse gas emissions through the implementation of a collection system for the R134a. While the GOJ respects the efforts by the EU to prevent greenhouse gas emissions even though its different approach, the GOJ believes that sufficient transparency, fairness and effectiveness must be ensured in implementing any measures. The GOJ therefore requests that the EU offer Japanese and other stakeholders sufficient opportunities to present their opinions and that the EU give as much consideration as possible to such opinions. The GOJ presents the following two points in particular:

(b) According to field tests conducted by the Association of European Automobile Constructors (ACEA: Association des Constructeurs Européens d'Automobiles) and the Japan Automobile Manufacturers Association (JAMA), the natural leakage of refrigerant from a vehicle is 8 to 12 grams per year, and it became clear that the leakage is considerably smaller than 53 grams per year, the data used in the environmental assessment conducted by the Commission. The environmental assessment conducted by the Commission, moreover, totally ignores the amount of CO2 emitted by engines running air conditioners, which is, besides the warming by the leakage of refrigerant, crucial to grasp the entire picture of the environmental impact. A comprehensive assessment which includes this factor should be conducted.

(c) In fact, different methodologies for environmental assessment are employed by different states and organizations (such as the Society of Automotive Engineers (SAE); the Foundation for Scientific and Industrial Research at the Norwegian Institute of Technology (SINTEF); the National Renewable Energy Laboratory (NREL); and the Japan Automobile Manufacturers Association (JAMA)), thus the assessments often lead to totally different results even in the same area. Taking this into account, SEA and JAMA proposed the harmonization of the Life Cycle Climate Performance (LCCP) assessment on the alternative refrigerant at the SAE's 7th Alternative Refrigerant System Symposium in June 2006. Targeting spring of 2007, the assessment harmonization will be implemented by stakeholders including existing assessment bodies. In this regard, the GOJ asks the EU to respect the internationally harmonized assessment methodologies so that the polarization of refrigerants (systems without compatibility between those used for the EU and elsewhere) will not cause excessive economic burdens on manufacturers and consumers.

D: Fundamental Matters Related to the Business Environment

D 1. Work and Residence Permits

(1) Overview: Improving procedures for obtaining work and residence permits 【EC, M.S.】

(a) Because lengthy periods are required for obtaining or renewing visas, work permits and residence permits in many EU Member States, Japanese companies operating in these countries have difficulty in transferring and employing their staff members in a planned and smooth manner, and that also hampers the lives of business people and their families. Obtaining visas for these families especially is a lengthy process, which in some cases forces family members to live separately for a long period and thus constitutes problems from a humanistic point of view. While the situation has improved in some countries, problems persist in many others. The GOJ continues to urge that improvements be made with regard to the following points:

(b) Given the fact that many Japanese companies operating in the EU call for the improvement of this issue, the GOJ urges the European Commission to strengthen its commitment toward Member States addressing such relevant problems. An increasing number of representatives of Member States attended the Brussels Meeting in FY2005. The GOJ expects that an even greater number of countries will participate in the Meeting this fiscal year and give serious consideration to the proposals from the GOJ.

(c) Foreign nationals who have obtained a re-entry permit in Japan can go through the same gates in practice as those used by Japanese nationals at the time of re-entry into Japan. Likewise, the GOJ urges that such an arrangement be extended to Japanese nationals holding work and residence permits issued by EU Member States, enabling them to use the gates for EU citizens when they go through immigration in non-member countries of the Schengen Agreements.

(Requests to Member States on obtaining work and residence permits)

(2) Work visas in Italy【Italy】

While the GOJ appreciates efforts by the Italian Government, the waiting time to acquire work permits has actually become even longer (minimum four months) since the Government established "Sportello Unico per l'Immigrazione," or the Single Contact Point for Immigration. Even more Japanese companies, compared with a year ago, complain that the waiting time gravely affects their personnel planning. The GOJ strongly urges that the Single Contact Point actually functions in a prompt and efficient manner.

(3) Visas in Spain【Spain】

While the GOJ has been requesting the improvement of the captioned issue, it is

regrettable that little progress has been achieved and the issue remains the largest common problem for Japanese companies operating in the country. Typically, business workers must wait for about three months to receive permits, while their families must wait another six months to receive their residence permits, during which time families are torn apart. The GOJ urges the Spanish Government to tackle this issue immediately and to reply explicitly concerning concrete countermeasures it plans to take for this issue.

(4) Work permits in France【♦, France】

France has introduced residence permits in the form of a plastic card. However, as acquiring this card takes about one to two months, applicants must apply first to acquire a tentative paper permit. Applicants must thereafter once again visit the office to acquire the formal plastic card, a burdensome process for Japanese expatriates staying in the country. The GOJ therefore urges the French Government to simplify and expedite this complicated procedure. The GOJ further urges the Government to realize a unified handling of the application procedure, which now varies by region, as well as to strengthen its online information services on application procedures including required documents.

(5)Work and residence permits in Greece【Greece】

The GOJ appreciates the improvement efforts made by Greece as described in the replies in the last fiscal year. Nevertheless, a case has been reported in which a Japanese applicant for a residence permit waited more than one year to obtain a permit, only to receive thereafter an expired one. This situation requires fundamental improvements. The current law prohibits re-entry by the submission of the protocol (a document certifying the receipt of a new or renewal application for a residence permit). Japanese expatriates therefore are unable to leave the country in principle until their residence permits are issued (which takes three to six months), causing major hindrances to their business activities. The GOJ understands that the Christmas season and other certain periods are practically exempt from the prohibition of re-entry by the protocol. However, the smooth issuance of residence permits should be a more prioritized issue. The GOJ thus urges Greece to present promptly concrete countermeasures.

(6)Work permits in Germany【Germany】

The Japanese Embassy and Consulates General in Germany and relevant German authorities are in the process towards holding consultations. Thus, the GOJ wishes the situation will be further improved.

(7)Working visas in Portugal【Portugal】

In the last fiscal year, the GOJ received a reply that Portugal's Immigration Service (SEF) was giving due attention to the Japanese request. In renewing our requests, the GOJ sent questionnaires to Japanese companies operating in Portugal, all of which responded that they had requests concerning work and residence permits. The GOJ thus hopes for the SEF's further efforts in this regard. In some cases reported to the GOJ, applicants had to wait six to eleven months before acquiring working visas. As such, this issue draws the

greatest attention of Japanese companies operating in Portugal. The GOJ understands that the Portuguese Embassy in Japan has lately strove to expedite the procedure and achieved certain progress. In the home country, too, it is strongly urged that the waiting time for working visas be shortened and that the procedures be simplified.

(8) Intra-Company Transfer Scheme in Ireland【Ireland】

The GOJ appreciates the efforts by the Irish Government toward the resumption of the Intra-Company Transfer Scheme (ICT). The GOJ urges the Government to provide promptly information on the specific details of the new ICT and ways to operate it, and to start expeditiously its implementation. It furthermore urges the Government to simplify and expedite the procedures for the Immigration Certificates of Registration and to respond to applications uniformly without regional differences. In addition, a fee of 100 euros has been newly introduced without any prior notice for each issuance of Immigration Certificates since May 2006. The sudden charge has dismayed Japanese companies operating in Ireland. The GOJ thus urges Ireland to explain the background of and reasons for introducing this charge.

(9)Work and residence permits in Austria【Austria】

Despite the replies from the EU in the last fiscal year, the length of time required for the procedure to seek qualified personnel with high levels of Japanese language proficiency among unemployed people in Austria has not been shortened as much as Japanese companies would like. The GOJ urges that further efforts be made to simplify the procedure. The GOJ believes also that there is little necessity in imposing the obligatory German language test to Japanese intra-corporate transferees and their families, as these people normally leave the country within several years. The GOJ thus urges that these people be exempt from the said test.

(10)Work and residence permits in the Czech Republic【Czech Republic】

The GOJ appreciates efforts made by the Czech authorities, as is described in the replies from the last fiscal year. Yet, the GOJ continues to urge the Czech authorities to expedite the relevant procedures and expand the scope of people eligible for long-term residence permits valid for two years. Given the situation in which applicants receive different explanations for required documents and conditions from different officials in charge of handling the application for relevant permits, the GOJ urges that improvements be made, such as the presentation of clear and unified written guidelines in English.

(11)Work and residence permits in Hungary【Hungary】

The GOJ appreciates efforts for improvement by the Hungarian authorities. The terms of validity for new residence permits for chief executives and supervisory board members has been extended to up to four years. The GOJ urges in this regard that the authorities clarify the definition of chief executives and supervisory board members. It takes approximately three months for residence visas and working permits to be issued. The GOJ urges that this span be shortened through the simplification of the procedures and other efforts.

(12)Work and residence permits in Belgium【Belgium】

The GOJ has received a report about an engineer dispatched from a parent company in Japan, noting that he had difficulties in obtaining his work permit because he was not a university graduate. In light of this, the GOJ urges that a more flexible stance be taken by the Belgian authorities. As applicants for work permits are required to submit health certificates and police certificates, they must bear significant burdens in acquiring these documents. The GOJ urges that the required documents be reduced.

(13)Work and residence permits in the Netherlands【The Netherlands】

As is frequently requested by the Japanese Ambassador to the Netherlands, the GOJ asks for a shortening of the periods required to obtain work and residence permits, as well as for a simplification to the application procedures for these permits, including those for accompanying family members. Utmost efforts are urged to facilitate the issuance of said permits within two weeks through the newly introduced highly skilled scheme, as announced by Dutch authorities.

(14)Work and residence permits in the UK【UK】

The current application fees for work and residence permits in the UK (335 to 500 pounds) are exceedingly high, compared to other major countries. The GOJ insists that the idea of full cost recovery by applicants is an unreasonable burden. The cost of the migration system should be shared with British nationals considering the substantial contribution made to UK society by foreign nationals including Japanese. The GOJ understands that the UK authorities have introduced a point-based system as part of the revision of the immigration system. Foreign nationals wishing to work in the UK are given points, depending on their professional skills, language proficiency, age, etc. The GOJ sincerely hopes this new system will not negatively affect corporate activities, and urges the UK government to disclose the details of the system in an appropriate and timely manner.

(15) Policy Plan on Legal Migration【EC, M.S.】

The GOJ has a strong interest in the EU's future approach toward economic migrants since it will affect the lives of Japanese nationals living in EU Member States. The GOJ's comments submitted in April 2005 for public consultation on the Green Paper on an EU approach to managing economic migration reflects this strong interest. According to the Policy Plan on Legal Migration published by the European Commission in December 2005, the European Commission is scheduled in 2009 to submit a draft directive on the entry and residence of intra-corporate transferees (ICT). The GOJ hopes to be briefed on the progress of this issue. The GOJ furthermore urges that simplified procedures be applied to ICT and their families and that all EU Member States establish a single application procedures for combined residence and work permits.

D2. Driving Licenses

(1) General Comments【EC】

The EU requires through the Council Directive on Driving Licenses (1991/439/EEC) that Japanese nationals living in EU Member States surrender their Japanese driving licenses when exchanging them for driving licenses issued by the EU Member States in question. 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 has accepted this proposal and recognizes that the return of Japanese driving licenses has been implemented as of August 2006 in the UK, Austria, Ireland, the Netherlands, Portugal, Poland, the Czech Republic, France, Finland, and Lithuania. On the other hand, there are some other Member States which have not yet approved the said measure. The GOJ requests that the European Commission urge each Member State to be committed to the full implementation of the exchange and return of driving licenses.

The GOJ has been consistently urging as the best solution that a Japanese driving license be returned immediately and directly to the license holder when exchanging it for that of the Member State. The EU has not yet accepted this request, based on its principle that no person may hold a driving license from more than one Member State. The GOJ, however, believes that its request would be feasible when a common network database was established in the EU and thereupon the holding situation of the driving licenses by individuals was identified, pursuant to a draft proposal for the third EC Directive on Driving License, which is currently being deliberated. The GOJ expects the EU to clarify its viewpoints on this issue.

(2) Driver licenses in Slovakia【Slovakia】

Following a request made by the GOJ last year, consultations have been underway between the Japanese Embassy in Slovakia and relevant Slovakian authorities to realize the exchange of Japanese driving licenses with Slovakian ones through the conclusion of a bilateral agreement. The GOJ appreciates the efforts by the Government of Slovakia and at the same time hopes for early progress in the work to realize this case.

(3) Driver licenses in Hungary【♦, Hungary】

The Japanese Embassy in Hungary and the Government of Hungary are currently considering to realise the exchange of driving licenses through the conclusion of a bilateral agreement. The GOJ hopes for early progress in this process which encompasses the prospect of establishing a system that would allow for the return of Japanese driving licenses after the relevant exchange.

D3. Others (Developing an investment environment)

(1) Measures to deal with animal rights extremists (ARE) 【UK, EC】

Animal rights extremists (ARE) typified by Stop Huntingdon Animal Cruelty (SHAC) staged violent and antisocial protest activities against local Japanese pharmaceutical companies, particularly in London. A legal amendment (signed by Her Majesty The Queen on April 7, 2005) and a statement by Prime Minister Tony Blair condemning ARE's acts of terrorism have helped tighten control by police authorities. In addition, some Japanese companies have been protected by injunctions that UK high courts have issued against the relevant groups. These moves have helped to decrease the amount of such harassment.

However, troubling incidents have been continuing since around March this year, in which Japanese companies not covered by the injunctions have been targeted by means of leaving graffiti on employee cars and the walls of their private homes and the mailing of parcels containing bogus bombs.

The GOJ therefore continues to urge the UK to strengthen regulations and take vigorous control, and also urges that appropriate control measures be tightened at the EU level.

Additional Point

(1) Eliminating the problem of double contributions for social security system

The GOJ recognizes that Japan-EU cooperation is progressing in this field. The double contributions for the social security system imposes a great burden on those companies already operating in Europe, or planning to expand their business in Europe. The GOJ hopes that both Japan and the EU will continue to make their efforts to address this issue.

This problem should ultimately be solved by the conclusion of bilateral social security agreements between Japan and each EU Member State. Japan has already concluded social security agreements with Germany and the UK. In February 2005, Japan signed social security agreements with France and Belgium respectively, which were approved by the Diet in July 2005. The Agreement with Belgium will enter into force from January 2007.GOJ hopes that the procedure of concluding the agreement will be promptly completed in France. Negotiations are under way towards the conclusion of a social security agreement with the Netherlands, and meetings to exchange information and opinions between relevant authorities are taking place with the Czech Republic and Spain. The GOJ intends to proceed with the exchange of information with a view to launching negotiations to conclude social security agreements with EU Member States with high priority, in view of the situation of exchanges of people between Japan and these countries and the need for social security agreements.

(2) The introduction of a cap on social security contributions in the Czech Republic

In the bill related to social security contributions approved by the Czech Parliament in March 2006, the system to impose upper limits on the contributions (Cap System) was not introduced. Since many countries have systems to keep upper limits on their social security contributions, reflecting certain upper limits on their payments of pension benefits, the GOJ requests that the same system be promptly introduced by the Czech Republic. Japanese enterprises in the country point out that the Czech social security system in its current form lacks the balance of contributions and benefits, which could be a cause to hinder foreign enterprises from further entering the country.

Attachment: Taxation

The following issues on taxation are, unlike other proposals of the GOJ, presenting matters pointed out by Japanese private companies (hereinafter referred to as the Japanese business).

(1) General comments: Harmonization of taxation 【EC, M.S.】

The Japanese business continues to request that company tax systems in the EU be harmonized and unified as soon as possible. The European Commission is looking into the harmonization 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 the EU Member States with regard to, among others, transactions across national borders within the EU, which imposes tax and administrative burdens upon companies operating in the EU as outlined below:

(Specific examples)

(a) Transfer Pricing Taxation

- A reduction of compliance costs of transfer pricing through unification, simplification and rationalization of transfer pricing regimes would increase international competitiveness of both the Japanese and EU business operating in the EU . The Japanese business would like to be updated on the latest developments of the "EU Joint Transfer Pricing Forum" established in 2002. Furthermore, the Japanese business continues to request that through this forum a policy to reduce compliance costs of transfer pricing will be formulated at an early date.

(b) VAT

- The Japanese business highly appreciates the efforts of the European Commission in this area. 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. The Japanese business continues to request that the application of the VAT system will be unified. More specifically, the Japanese business continues to request that the proposals of the European Commission, which include harmonizing the VAT rate and items subject to the VAT which is currently harmonized 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) Provision of information related to each country's taxation

- The Japanese business continues to request for 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.

(2) The Merger Directive – Deferred taxation on unrealized 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, unrealized 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 reorganization, and some companies have in fact given up reorganization.

In the annex of the communication COM(2001)582, the European Commission recognised the problem that unrealized gains on the cross-border transfer of goodwill are not included in the scope of deferred taxation by the Merger Directive. While highly appreciating the recognition by the European Commission, the Japanese business continues to request that the European Commission and the EU Member States promptly extend the scope of deferred taxation, in the form of preserving the tax claims of the Member States from which goodwill is moved.

The Japanese business also continues to request that the European Commission and Member States explore extending the scope of deferred taxation by the Merger Directive to the transfer of real estates and intangible assets in reorganization.

(3) 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 for Japanese companies considering restructuring of their groups in the EU in terms of work and cost.

Specifically, in certain EU Member States, companies are required to hold shares that they have received in exchange for contributed assets for a number of years. As a consequence, even if all assets are converted into shares and the company loses its functions as an operating company, it remains necessary to maintain this empty company in order to hold its shares.

In addition to the cost of maintaining such an empty company, it will increase the risk of double taxation. Corporate taxes paid by the subsidiaries of the new holding company will not qualify for Japanese foreign tax credit for the portion distributed through the empty company, because the scope of Japanese foreign tax credit is limited to the second tier companies of the original holding company.

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

(4) 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. 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.

In the communication COM (2001) 582 of October 2001, the European Commission confirmed the importance of the common consolidated corporate tax base. The Japanese business is aware that the European Commission is moving ahead with its consideration of the common consolidated corporate tax base, such as establishing a working group composed of experts from the governments of the Member States in November 2004. The Japanese business also recognises the commitment by the European Commission to introduce 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, the Japanese business continues to expect the continued progress towards its early realization.