

(Tentative Translation)

**Report from the Government of Japan
on the EU-Japan Business Dialogue Round Table (the BDRT)
Recommendations**

April 2005

(The contents of this report are based on the situation in Japan as of 10 February 2005.)

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WP 1: Trade and Investment

1. Joint declaration on direction to enhance foreign direct investment between the heads of the governments of the EU and Japan

BDRT recommendations

- (1) The heads of governments of the EU and Japan should make a joint declaration on the principles and general directions that would form a framework for policy to promote direct investment between the EU and Japan.
- (2) Such a joint declaration should explicitly refer to the following four priorities: the optimisation of the returns on investment; supporting timely development of business; supporting timely and smooth business reorganisation; and promotion of regulatory reforms.

State of the measures taken thus far

- (1) On the occasion of the 13th Japan-EU Summit held in Tokyo on June 22, 2004, the leaders of Japan and the EU issued a joint press statement and a Cooperation Framework for Promotion of Japan-EU Two-way Investment (see Annex), which outline the principles and concrete measures to promote direct investment between Japan and the EU. These exactly respond to the BDRT recommendations.

Note: Joint Press Statement of the 13th Japan-EU Summit (excerpt of section on investment)

Noting that economic relations between Japan and the EU are thriving, each having become a significant stakeholder in the other's economy, they recognised that strengthening trade and investment links further between them will help spread prosperity more widely. With this objective, they endorsed a Cooperation Framework aimed at promoting two-way investment. This foresees concrete actions to address key issues of concern to business, such as dialogues on new regulations; regulatory transparency; cooperation on standards and conformity assessment; creation of a transparent, predictable and internationally competitive investment environment; as well as facilitation of conditions for foreign residents. The framework also responds to the recommendations made by the EU-Japan Business Dialogue Roundtable at the last EU-Japan Summit.

- (2) Concrete measures related to the four areas designated as priorities in the BDRT recommendations, namely the optimisation of the returns on investment, supporting timely development of business, supporting timely and smooth business reorganisation, and promotion of regulatory reforms, are explicitly referred to in the above Japan-EU Investment Framework.

Future outlook

Japan and the EU are to review the progress of the measures set out in the above Japan-EU Investment Framework at future Japan-EU Summits. Accordingly, the progress of the aforementioned measures is expected to be reviewed at this year's Japan-EU Summit.

2. The optimisation of returns on investment

BDRT recommendations

(1) Avoidance of double taxation

The two governments should exempt dividend payments from subsidiaries to parent companies and royalty and interest payments between related companies from withholding taxes.

(2) Reducing compliance costs associated with transfer pricing

A reduction of compliance costs of transfer pricing through simplification and rationalisation of transfer pricing regimes internationally would increase international competitiveness of businesses in the EU and Japan. The two governments should create a joint work group in order to realise the following:

(a) Harmonise and simplify interpretation and documentary requirements between the EU and Japan and among the EU Member States in order to reduce the costs of compliance to various transfer pricing taxation regimes.

(b) In order to reduce the costs of preparing for and obtaining APAs (advance price agreements), guidelines on unilateral, bilateral and multilateral APAs between the EU and Japan should be established, which would enable harmonised rules and operation of APA regimes between Japan and all the EU Member States.

(3) Participation exemption

The governments of the EU, the EU Member States and Japan should, as a medium to long-term objective, consider the introduction and/or expansion of participation exemption regimes in order to promote direct investment between the EU and Japan.

State of the measures taken thus far

(1) For all aspects of the tax reform, see the attached appendix.

(2) The implementation of transfer pricing taxation regimes is being examined from various aspects with a focus on the discussions of the OECD Tax Committee as described below. Therefore, the GOJ believes that the creation of a new Japan-EU joint work group is unnecessary.

(a) Japan understands that taxpayers have been facing costly double administrative requirements to conform to the standards for transfer pricing documentation imposed by various taxation authorities. It also understands that through the standardisation of transfer pricing documentation, taxation authorities will be provided with the materials beneficial for the analysis of relevant overseas transactions and possible disputes arising from transfer pricing will be reduced.

With respect to this issue, a Transfer Pricing Documentation Package was developed among the Member States of the Pacific Association of Tax Administrators (PATA), consisting of Australia, Canada, the United States (US) and Japan. While this package was not one that was implemented between Japan and the EU, it illustrates three principles and sets forth in detail contemporaneous documentation for materials required during examinations (of the documentations that existed at the time the relevant transactions were conducted or documentations that were created up to the deadline for submitting tax returns in accordance with the stipulations of each state, those which contain the relevant information on transactions that have arisen by the deadline).

(i) Multinational enterprises (MNEs) need to make sufficient efforts, in accordance with the rules determined by the tax administration agencies of each PATA Member States, to establish transfer pricing in compliance with the arm's length principle.

(ii) MNEs need to produce and maintain contemporaneous documentation during the process of establishing transfer pricing in accordance with the arm's length principle.

(iii) MNEs need to submit the documentation promptly in accordance with the request of the tax administration agencies of PATA Member States.

Taxpayers are not forced to use this model documentation package related to transfer pricing, and they are not subject to any legal obligation beyond the laws of the PATA Member States. While Japan has not laid down any rules for contemporaneous documentation regarding transfer pricing, the materials required for a transfer pricing examination in Japan are consistent with the PATA model documentation package.

As Japan and the majority of EU Member States are OECD Member States, international rules on transfer pricing taxation regimes have been enforced through the OECD Tax Committee. Therefore, the interpretation of the regimes is an issue to be discussed at the OECD in the coming months as well, with the discussions to be in line with the OECD Transfer Pricing Guidelines.

(b) Japan recognises the effectiveness of bilateral APAs and it has been actively promoting them in order to ensure the smooth implementation of transfer pricing taxation regimes, to reduce the workload of businesses dealing with transfer pricing taxation regimes and to enhance the predictability of business management. In addition, mutual discussions concerning bilateral APAs have been progressing smoothly with the EU Member States, and no particular issues have arisen.

With respect to transfer pricing taxation regimes including advance price agreements, the GOJ has engaged in discussions at the OECD jointly with the EU Member States. Therefore, it is considered that through these discussions, Japan and the EU Member States have reached a consensus.

If any guidelines between Japan and the EU are examined, they should be based on discussions at OECD. From this viewpoint, it is deemed appropriate to obtain the consensus of Member States, including Japan and the EU, through the discussions at the OECD for the time being.

The administration and operational guidelines for Japan's advance price agreements were issued in June 2001, and the APA program report was released on the website of the National Tax Agency last year as well as two years ago (The reports are also available in English). They should be referred to for information on Japan's advance price agreements and their state of implementation.

(3) For all aspects of the tax reform, see the attached appendix.

Future outlook

(1) For all aspects of the tax reform, see the attached appendix.

(2) (a) The GOJ believes that both Japan and the EU must continue to make efforts to further clarify the international rules on transfer pricing in the context of the discussions at the OECD. With regard to the documentation issue, the GOJ believes that it should actively contribute to the discussions at the OECD in the future, having agreed to the model documentation package of PATA.

(b) As mentioned above, although transfer pricing taxation regimes including bilateral advance price agreements are currently under examination at the OECD, there are no plans for creating joint guidelines regarding advance price agreements between Japan and the EU.

(3) For all aspects of the tax reform, see the attached appendix.

3. Supporting timely development of business (smoother and swifter transfer of personnel)

BDRT recommendations

- (1) The two governments should declare that social security treaties between all the Member States of the EU and Japan should be concluded as soon as possible.
- (2) The two governments should simplify and accelerate the procedure to obtain a work and residence permit – or a residence permit for self-employed statutory directors – for intra-company transferees between the EU and Japan. The procedure should include a possibility to submit an application for a work-residence permit or a residence permit for self-employed after entering the assigned country. Furthermore, spouses should be granted the same rights as the holder of the permit, such as a work-resident permit and a residence permit for self-employed.

State of the measures taken thus far

- (1)
 - (a) The social security agreements which Japan concluded with Germany and the United Kingdom have entered into force. In addition, Japan signed social security agreements with the Republic of Korea (ROK) and the United States (US) in February 2004, which were approved by the Diet in June 2004. While the agreement with the ROK is scheduled to take effect on April 1, 2005, the agreement with the US is still waiting to be approved by the US Congress. The goal for the latter agreement is to take effect in around fall of 2005.
 - (b) The GOJ has reached draft agreements with Belgium and France and is now undertaking the necessary procedures in order for the agreements to be approved by the Diet and enter into force at the earliest possible date.
 - (c) In addition, the GOJ is now negotiating with Canada regarding a social security agreement. The GOJ aims to hold similar negotiations with Australia and is exchanging information and opinions to this end.
- (2)
 - (a) As corporate activities become internationalised, the number of highly skilled foreigners being employed is rising and intra-company transfers are increasingly transcending borders. Transfers pertaining to employment of foreigners must therefore proceed in a swift and smooth manner. In order to respond to this need, the applications submitted by foreigners in employment have been dealt with in the following way from March 2004. It has been decided that applications submitted by foreigners who are employed under contracts with agencies deemed to be of “good standing,” i.e. those in which the issue of illegal overstays, among others, is not likely to arise, would be processed within approximately two weeks from the date the applications were received. It has also been decided that if the verification documents relevant to the employing agencies were submitted within one year and they contain no major changes, the GOJ would not require foreigners to re-submit their applications and should promote swifter and simpler inspections.
 - (b) Of the intra-company transferees of foreign companies, among others, those engaged in management and administration work may be qualified to acquire status of residence as “investor/business manager,” and those who are not business managers or administrators but who are engaged in work requiring a high-level of skills and expertise may be qualified to acquire status of residence as “intra-company transferee.” A transferee must conform with the requirements for each status of residence. Even if such a status of residence does not apply to a transferee, he or she may be granted status as a “specialist in humanities/international services” or as an “engineer.” The GOJ has clarified how these statuses of residence are handled and released such information on the Immigration Bureau website, among others.
 - (c) In terms of determining the qualifications of intra-company transferees, they may apply to change their status of residence regardless of whether they entered Japan for a different purpose, and the GOJ is making efforts to process such applications in a swift manner.

(d) A spouse may acquire the status of residence permitting work and will therefore be able to work. In addition, a spouse may engage in part-time work under specific conditions after obtaining permission to engage in activities other than those permitted by the status of residence previously granted.

(e) As regards simplifying and expediting procedures for obtaining work and residence permits, the GOJ has requested their improvement to EU in the Japan-EU Regulatory Reform Dialogue in 2004.

Future outlook

(1) (a) Social security agreements are concluded to avoid double payments of insurance premiums, among other objectives, and are deemed to contribute toward the further strengthening of Japan-EU relations through the promotion of personnel and economic exchanges with partner countries. With a view to concluding such agreements, the GOJ intends to conduct negotiations with countries in order of priority upon giving comprehensive consideration to the scale of insurance premiums levied under the social insurance systems of partner countries, the situation of Japanese nationals and companies based in those countries, demands from the business community, and bilateral relations, among others. With regard to agreements with each EU Member State, Japan will proceed with the negotiations based on such comprehensive considerations.

(b) In addition, as the social security systems differ even among EU Member States in terms of their scheme and structure, it is necessary to coordinate the differences in the social security systems with each state when actually concluding the agreement. As a result, the contents of each agreement differ significantly from state to state. (Significant differences in the detailed contents of the existing social security agreements concluded between each EU Member State and non-Member States are observed for each EU Member State.)

(c) The GOJ recognises the importance of concluding agreements with EU Member States, and given the requests received from the business community, among others, the GOJ intends to make efforts to conclude agreements with each Member State as far as possible. For example, the GOJ is planning to start exchanging information and opinions with the Netherlands in the near future, aiming to conclude an agreement.

(2) The GOJ will continue to consider conducting timely reviews.

4. Supporting timely and smooth business reorganisation from legal and tax points of view

BDRT recommendations

- (1) Respective company laws should be improved in order to facilitate cross-border reorganisations between the EU and Japan that involve exchange of shares and transfer of assets.
- (2) Tax law should be improved in order to expand the scope of tax deferral on unrealised profits resulting from business reorganisations including those involving exchange of shares and transfer of assets.

State of the measures taken thus far

- (1) The Legislative Council of the Ministry of Justice finalised the outline of the Bill on the modernization of Japanese corporate law on February 9, 2005 and submitted it to the Minister of Justice. This outline includes provisions that would introduce flexibility in merger currency for use in mergers and exchange of shares and approves the use of foreign shares as merger currency.
- (2) For all aspects of the tax reform, see the attached appendix.

Future outlook

- (1) The GOJ plans to submit the Bill on the modernization of Japanese corporate law to the current regular session of the Diet.
- (2) For all aspects of the tax reform, see the attached appendix.

5. Promotion of regulatory reforms

BDRT recommendations

- (1) The EU and Japan should continue to cooperate with each other through their on-going regulatory reform dialogue with the goal of creating an open environment for trade and investment.
- (2) The EU and Japan should abolish unreasonable authorisation procedures related to products and services, and continue to pursue mutual recognition of product standards, certification and notification.

State of the measures taken thus far

(1) With last year marking the ten-year anniversary of the Japan-EU Regulatory Reform Dialogue which began in 1994, it was confirmed that this dialogue “has been a uniquely successful and adaptable instrument for dealing with regulatory issues affecting the business environment” at last year’s Japan-EU Summit. In FY2004, the Regulatory Reform Dialogue was held in Tokyo in November 2004. At this meeting, discussions were mainly on the EU’s proposals to Japan, during which the EU side expressed great appreciation for development of regulatory reforms in Japan in areas such as financial services, postal services and promotion of international standards. Meanwhile, since last fiscal year’s dialogue, Japan’s proposals for the EU were realised with respect to the anti-dumping duties on professional cameras that cannot be used for broadcasting, Standard Contractual Clauses concerning the Data Protection Directive and the accession of the European Commission (EC) to the Protocol Regarding the Madrid Agreement Concerning the International Registration of Marks. At the Brussels meeting in March 2005, Japan’s proposals for the EU on a wide range of areas are expected to be discussed, including cross-sectoral issues such as the EU’s commercial laws and business practices, among others; financial services; sectoral issues beginning with legal services; environmental regulations as well as fundamental matters related to the business environment such as driving licenses and work and residence permits.

- (2) (a) With regard to regulatory reforms, Japan is conducting reviews in accordance with the Three-Year Programme for Promoting Regulatory Reform and Opening up to the Private Sector (see Item 16 of III. Measures Relevant to Respective Fields, etc.).

With respect to the systems of standards and certification, among others, implemented through the voluntary actions of businesses, the GOJ has been conducting drastic reviews to determine whether the systems need to be maintained as frameworks for government involvement.

Concerning the international harmonisation of standards, the GOJ has been making efforts to harmonise Japanese standards with existing international standards after verifying their appropriateness. In areas where international standards do not exist, the GOJ has been proposing international standards based on Japanese standards and calling for the adoption of such international standards. In addition, the GOJ has been promoting the acceptance and mutual recognition of overseas data.

Furthermore, when inspections based on multiple standards are involved, measures will be taken to eliminate the duplication of inspection for similar inspection items, among others, with a view to reducing the burden on businesses.

For example, the following system revisions were implemented for the standards and certification of telecommunications terminal equipment and radio equipment:

- Introduction of Self-Declaration of Conformity (SDoC) whereby conformity may be confirmed by the manufacturers themselves, among others,
- Shift from designation system to registration system of certification bodies with respect to third-party certification system,

- The external test data that certification bodies were able to use for examinations, which was heretofore limited to that created by those accredited by authorities, now regardless of who created it, certification bodies may receive all test data, on the basis of their judgment.

(b) In May 2004, the Sectoral Annex on Good Manufacturing Practice (GMP) for Medicinal Products included in the Agreement on Mutual Recognition between Japan and the European Community (MRA) came into effect, which aims to accept the results of conformity assessments conducted by authorities of partner states, among others, in addition to the three areas (Telecommunications Terminal Equipment and Radio Equipment, Electrical Products and Chemicals) for which Sectoral Annexes had already been implemented.

In addition, the GOJ implemented the registration of conformity assessment bodies (CAB) for Japan in the area of telecommunications terminal equipment and radio equipment (CETECOM ICT Services GmbH of Germany), registration of a CAB for Europe in the area of electrical products (Japan Quality Assurance Organization: for electrical safety-related areas under the Sectoral Annex on Electrical Products) and submission of the lists of confirmed facilities in the area of chemicals, among others, in accordance with the MRA.

Future outlook

- (1) The GOJ and the EU recognise that their on-going Regulatory Reform Dialogue is an effective tool for creating an open regulatory environment for trade and investment. Both of the Parties will continue to pursue through this Dialogue the promotion of regulatory reforms and improvement of the business environment.
- (2) The GOJ plans to revise the Three-Year Programme for Promoting Regulatory Reform and Opening up to the Private Sector in March 2005 and will conduct further reviews in accordance with the revisions to the Programme.

6. Promoting economic growth through decisive reform

BDRT recommendation

It is important that the Japanese Government continue pursuing its structural reform agenda so that the current economic recovery can be maintained.

State of the measures taken thus far

The GOJ has heretofore been engaged in measures that encourage new businesses, measures that aim to revitalise regional economies whereby local interests and endeavours such as the Special Zones for Structural Reform Program and urban renaissance programs are respected, as well as social security systems that aim to create a sustainable social structure, while taking all necessary measures to secure the safety net for employment and for small- and medium-sized enterprises (SMEs).

Future outlook

The GOJ will promote additional efforts aimed at structural reforms in order to overcome deflation, achieve sustainable economic growth driven by private demand and realise a surplus in basic fiscal revenues and expenditures for the state and local governments combined.

7. Modernising legal and tax systems to support foreign investment

BDRT recommendation

The commercial code and relevant corporate tax laws should be revised to allow for cross border share exchanges on a tax-neutral basis.

State of the measures taken thus far

The Legislative Council of the Ministry of Justice finalised the outline of the Bill on the modernization of Japanese corporate law on February 9, 2005 and submitted it to the Minister of Justice. This outline includes provisions that would introduce flexibility in merger currency for use in mergers and exchange of shares and approves the use of foreign shares as merger currency. For all aspects of the tax reform, see the attached appendix.

Future outlook

The GOJ plans to submit the Bill on the modernization of Japanese corporate law to the current regular session of the Diet.

For all aspects of the tax reform, see the attached appendix.

8. Championing business activity at the local level

BDRT recommendation

More private sector involvement in the delivery of public services should be encouraged through the use of PFI/PPP schemes. Local governments should also take a more proactive role in attracting investment beyond current promotion efforts; for example, by offering special tax and/or regulatory incentives to potential investors.

State of the measures taken thus far

The GOJ carries out procurement in a fair, transparent manner that does not discriminate domestically or internationally in accordance with the World Trade Organization (WTO) Agreement on Government Procurement and the Action Plan on Reform of the Bidding and Contracting Procedures for Public Works (approved by the Cabinet on January 18, 1994), which the GOJ formulated on its own initiative.

As of the end of December 2004, guidelines were established to implement 180 PFI projects throughout Japan and these projects are under way.

<PFI projects in progress (cumulative total)>

End of FY1999	End of FY2000	End of FY2001	End of FY2002	End of FY2003	End of FY2004
3	15	43	90	137	180

<Number of projects by area>

Area	No. of projects
Education and culture (elementary and junior high school, universities, libraries, etc.)	57
Living and welfare (welfare facilities for the elderly, etc.)	11
Health and environment (hospitals, waste disposal facilities, water supply facilities, etc.)	34
Industry (wholesale market, tourist facilities, etc.)	8
Urban development (parks, sewer facilities, port facilities, etc.)	22
Safety (police facilities, prison facilities, etc.)	5
Government offices and housing (housing for civil servants, etc.)	21
Other	22
Total	180

Compiled by the Cabinet Office

At the Japan-EU Summit in 2003 and 2004, the two sides agreed that they would further enhance exchanges of information on PFI/PPP as well as exchanges of views on good practices of PFI/PPP. As a result, information exchange meetings were held between Japan and the EU in November 2003 and November 2004. A number of local governments and the Nippon Keidanren, which dispatched a PFI investigation team to Europe, participated in the meeting held in November 2004. At this meeting, the EU side explained the results of the public comments on the new Directive on public procurement and a question and answer session was held on the articles of the new Directive such as those concerning the “competitive dialogue” (a method of forming a PPP through dialogue and negotiation between the procuring entity and bidders, which have been narrowed down to a number

of companies, without determining the specifications and service content in detail at the beginning of the process).

Japan and the EU cooperated to make a Japanese translation of the Guidelines for Successful PPPs, compiled by the European Commission. This translation was distributed at venues such as the PPP Seminar held in Tokyo in May 2004 (sponsored by the Ministry of Economy, Trade and Industry (METI), Government of France and others; participated by approximately 200 people from local governments and companies).

In the summer of 2004, the European Commission published a compilation of cases of PPP in Europe (“Resource Book on PPP Case Studies”). The Ministry of Foreign Affairs (MOFA) has commissioned the making of an explanatory book on the case studies in Japanese language.

The GOJ established the Program for the Promotion of Foreign Direct Investment in Japan to support the voluntary efforts made by local governments. The GOJ is reviewing aspects including the administrative procedure so that local governments can present conditions in a flexible and prompt manner and based on their own originality and ingenuity, to attract investment. The GOJ is following up on the status of progress accordingly.

As for efforts regarding Special Zones, 506 cases of regulatory reform have been realised in agriculture, education, medical care, welfare and other areas previously deemed difficult to tackle, bearing in mind proposals submitted by local governments and private businesses. Approval has been given for 475 plans for Special Zones, which make use of such regulatory reform.

Future outlook

The GOJ will continue to vigorously promote the use of PFI. It will also spread knowledge on PFI/PPP through efforts such as holding seminars to share European countries’ experience with PPP.

The GOJ will continue to steadily implement the Program for the Promotion of Foreign Direct Investment in Japan. It will regularly follow up on its status of progress, make efforts to appropriately review this program as necessary and strive to effectively implement policies.

The GOJ will also seek proposals on Special Zones from local governments and private businesses including foreign companies, among others. Once the proposals are received, it will seriously consider the proposals in a forward-looking manner to find out what steps are necessary in order to realise these proposals.

9. Creating a strong competition regime

BDRT recommendation

It is important that Japan strengthen its competition regime to prevent anti-competitive behaviour. Reforms to the Anti-Monopoly Act proposed by the Japan Fair Trade Commission should be submitted to the Diet and implemented as soon as possible.

State of the measures taken thus far

The bill to amend the Anti-Monopoly Act includes the revision of the surcharge system, introduction of a leniency program, introduction of compulsory measures for criminal investigations and revision of hearing procedures. This bill was submitted to the 161st extraordinary session of the Diet on October 15, 2004. It was decided that this bill would be carried over to the next Diet session.

Future outlook

The GOJ will strive for the early establishment, at the 162nd ordinary session of the Diet, of the bill to amend the Anti-Monopoly Act, which was carried over to the next regular session of the Diet. The GOJ intends to continue to respond stringently and vigorously to violations of the Anti-Monopoly Act.

10. Privatisation of Japan Post

BDRT recommendation

The privatisation of Japan Post is an important element of the Japanese Government's ongoing structural reform efforts and, if implemented effectively, will contribute to the reinvigoration of the Japanese economy. It is imperative, however, that the framework for privatisation ensures a level playing field for private sector competitors in Japan Post's three core business lines: insurance, banking and delivery services.

State of the measures taken thus far

- (1) In terms of the privatisation of the Japan Post, the Cabinet decided the "Basic Policy on the Privatization of the Japan Post" on September 10, 2004, after considering such aspects as ensuring Japan Post's equal footing with the private sector.
- (2) The "Basic Policy on the Privatization of the Japan Post" stipulates as follows with regard to ensuring Japan Post's equal footing with the private sector.
 - The competitive conditions will be equalised with other private companies.
 - Each of the companies established through privatisation will be subject to tax obligations, just like any other private company.
 - Contracts for postal savings and postal life insurance will be differentiated between those concluded before (hereinafter referred to as "old contracts") and those concluded after (hereinafter referred to as "new contracts") privatisation. As such, new contracts will be subject to the Deposit Insurance Corporation of Japan or the Life Insurance Policyholders Protection Corporation of Japan, while government guarantees will be abolished. (Ordinary savings will be classified as new contracts.)

Future outlook

The GOJ is currently drafting bills in accordance with "Basic Policy on the Privatization of the Japan Post".

The GOJ shall submit the basic bill to the current 162nd session of the Diet with the aim of enacting it during this Diet session.

11. Facilitating business development through regulatory reform

BDRT recommendation

The Japanese Government's regulatory reform programme should be strengthened by giving the new Regulatory Reform and Privatisation Promotion Council extra powers to implement the Government's "3-year Regulatory Reform Programme" and by expanding the special deregulation zone initiative. Special attention should be paid to regulatory reform recommendations made in the context of the EU Japan bilateral regulatory reform dialogue and recommendations submitted by European business organisations such as the Council of the European Business Community in Japan.

State of the measures taken thus far

The Three-Year Programme for Promoting Regulatory Reform and Opening up to the Private Sector was approved by the Cabinet on March 19, 2004 and regulatory reform and opening up to the private sector is in progress in accordance with the Program. The Council for Regulatory Reform and Opening up to the Private Sector was established on April 1, 2004 as an advisory body to the Prime Minister. This Council submitted the First Report on Promoting Regulatory Reform and Opening up to the Private Sector to the Prime Minister on December 24, 2004 (a Cabinet decision was made on December 28, 2003 to respect the Concrete Measures in the Report to the utmost extent). The Council is also monitoring the status of progress of regulatory reform based on the Three-Year Program for Promoting Regulatory Reform and the Three-Year Programme for Promoting Regulatory Reform and Opening up to the Private Sector.

As part of this process, the GOJ takes into consideration recommendations on regulatory reform submitted by the EU at the Japan-EU Regulatory Reform Dialogue as well as opinions from within Japan and overseas, including those of the European Business Community (EBC).

Future outlook

The Council for the Promotion of Regulatory Reform and Opening up to the Private Sector is scheduled to submit the First Report on Promoting Regulatory Reform and Opening up to the Private Sector (Additional Report) (tentative title) concerning specific areas to the Prime Minister in March 2005. The GOJ will revise the Three-Year Programme for Promoting Regulatory Reform and Opening up to the Private Sector by the end of March 2005, following the First Report and the Additional Report. The GOJ will advance regulatory reform and opening up to the private sector in accordance with the Programme.

The GOJ will also take into account the discussions that have taken place at the Japan-EU Regulatory Reform Dialogue and continue to consider the EU's proposals for regulatory reform in Japan as well as recommendations from within Japan and overseas, including those of the EBC.

12. Ensuring transparency and consistency in the regulatory process

BDRT recommendation

Japanese regulators should make more efforts to improve the transparency and consistency of regulation, including for tax-related matters.

State of the measures taken thus far

The Council for the Promotion of Regulatory Reform and Opening up to the Private Sector has been discussing and examining on the theme of “Establishing standards for reviewing regulations, etc.” The Council submitted the First Report on Promoting Regulatory Reform and Opening up to the Private Sector to the Prime Minister on December 24, 2004.

Since September 2001, the GOJ has implemented the procedure of providing written replies to inquiries submitted before the tax filing deadline (pre-declaration inquiries) concerning tax treatment of individual transactions and other issues and publicising the content. The GOJ later prepared abuse prevention measures, among others, and conducted a review to expand the scope of these measures. These measures have been applied to inquiries beginning with those received on March 29, 2004.

Major changes are as follows.

- (1) “Transactions involving individual circumstances of specific taxpayers, etc.” were previously not covered under the scope of the written reply procedure. They are now covered under this procedure as long as they do not fall under certain conditions that have been introduced to prevent abuse of measures, among others.
- (2) Regarding general inquiries common to parties belonging to the same industry or business category, a separate procedure was established to provide general replies to inquiries submitted by these parties based on certain conditions.

(Note) The GOJ interprets this recommendation as referring to the written reply system for pre-declaration inquiries because the pre-declaration settlement procedure does not exist in Japan’s tax administration system.

Future outlook

The Council for the Promotion of Regulatory Reform is scheduled to submit the First Report on Promoting Regulatory Reform and Opening up to the Private Sector (Additional Report) (tentative title), including the Basic Rules on regulations, to the Prime Minister in March 2005.

The Japanese tax authorities intend to continue responding appropriately, giving consideration to the content of the abovementioned revisions, to ensure uniformity and transparency in the handling of taxation and predictability in interpretation and application of the tax law for taxpayers.

13. Modernising Japan's food additives list

BDRT recommendation

The 46 food additives submitted by the Ministry of Health, Labour and Welfare (MHLW) to the Food and Sanitation Control Council on December 19, 2002 should be reviewed and approved for use in Japan without delay.

State of the measures taken thus far

(1) In Japan, food additives, including flavouring agents, are permitted for use only when they are designated by the Minister of Health, Labour and Welfare under the Food Sanitation Law as substances that are unlikely to cause health hazards.

Also, the Food Safety Basic Law requires that the opinions of the Food Safety Commission and the Pharmaceutical Affairs and Food Sanitation Council be heard when the Minister permits the use of new substances as food additives.

(2) The GOJ gives priority to evaluation for the authorisation of certain food additives and flavouring agents including those proposed by the EU, which have been proven safe internationally and widely used. The Minister already took necessary procedures to hear the opinions of the Food Safety Commission on the twenty food additives for which full documents had been prepared. This means procedures for designation such as risk assessment have been initiated for more than 40 per cent of the 46 food additives.

Of the above-mentioned substances, two have already been assessed by the Food Safety Commission. Considerations for one of these, calcium stearate, have been completed in the Pharmaceutical Affairs and Food Sanitation Council and approval for use in Japan was granted in December 2004. Nitrous oxide is also scheduled to be approved for use in Japan at the end of March 2005.

(3) In addition, three flavouring agents were permitted for use in December 2004.

Future outlook

(1) The Ministry of Health, Labour and Welfare will continue to prepare necessary documents, have discussions, and then consult the Food Safety Commission and the Pharmaceutical Affairs and Food Sanitation Council with a view to designating food additives.

(2) The GOJ would like to continuously request the EU to provide information including documentation used as a basis for scientific assessment in the EU, in order to expedite evaluation in Japan.

14. Protecting test data in new drug applications

BDRT recommendation

Protection for data submitted as part of a new drug application should be made equivalent to the protection currently provided for in Europe. We support the Federation of Pharmaceutical Manufacturers' Association of Japan (FPMAJ) call for an eight-year protection period, noting that a similar period of protection was approved by the EU Council on March 11, 2004.

State of the measures taken thus far

FPMAJ submitted a request dated April 14, 2004 to set the period of protection for data on new drugs at eight years. With this in mind, the GOJ is considering improving protection of test data submitted for new drug application, to ensure the protection of intellectual property rights and to increase incentives for new drug development.

Future outlook

The GOJ will continue to discuss this issue, gathering opinions from the industries concerned and considering a wide range of perspectives such as striking a balance between the need for and effect of establishing a period of protection for data as well as promoting generic drug use. The GOJ intends to reach a conclusion by the end of FY2005.

15. Strengthening market mechanisms in the telecommunications sector

BDRT recommendations

- (1) Japan should take immediate steps to exclude NTS costs from the interconnection charge and require the incumbent to absorb rebalanced costs through efficiency and other improvements.
- (2) Japan should introduce a legislative requirement that the regulator ensure its decisions promote the long-term interests of end-users by focussing on key economic factors, including the need to promote economic efficiency, innovation, investment, and effective competitive outcomes.
- (3) Japan should strengthen competitive safeguards against abuse of dominance by:
 - (a) Reinstating the obligation for NTT to notify and price on tariff in all market segments where it is dominant;
 - (b) Requiring NTT to publish regulatory accounts horizontally across its different businesses and vertically between the network and retail parts of its horizontal business; and
 - (c) Strengthening firewalls to prevent NTT from leveraging its dominant position in the local loop into new business areas.
- (4) Inequalities in existing spectrum allocations between mobile operators should be addressed before considering further entry into the market. Payment for spectrum usage should reflect the volume of spectrum used.

State of the measures taken thus far

- (1) Japan has included NTS costs in costs for interconnection charges from a viewpoint of tariff policy. In October 2004, the Ministry of Internal Affairs and Communications (MIC) received a report from the Information and Communications Council stating that it would be appropriate to phase out NTS costs from the costs for interconnection charges over a five-year period, regarding the calculation of interconnection charges that will be applied in FY2005 and thereafter. Bearing this report in mind, the MIC submitted a draft ministerial ordinance for the partial amendment of regulations for interconnection charges to the Information and Communications Council. On January 31, 2005, the GOJ received a report from the Council stating that it would be appropriate to amend the regulations in line with the draft.
- (2) Article 1 of the Telecommunications Business Law provides that the purpose of this law is to “promote fair competition” and “protect the users’ [of telecommunications service] benefit and thereby to ensure the convenience of the people.” In this way, legal stipulations for promotion of competitive market environment and the interests of consumers already exist. Article 1 also stipulates that “the proper and reasonable operations [of telecommunications business] shall be ensured.” Thus, considerations on economic factors in decision-making are already included in the legal stipulations.
- (3) Even after the amended Telecommunications Business Law went into effect in April 2004, telecommunications carriers which establish so-called bottleneck facilities are obliged to carry out the following tasks. The MIC can thus sufficiently monitor potential abuse of market power.
 - (i) The accounting for the bottleneck facility management division and bottleneck facility use division shall be kept separate and the accounting results should be publicly released.
 - (ii) Interconnection tariffs shall be established and authorisation from the Minister for Internal Affairs and Communications shall be obtained.
 - (iii) In order to appropriately calculate charges, accounting shall be maintained for each service and publicly disclosed in accordance with the procedures established by the ministerial ordinance of the MIC.
 - (iv) Tariffs shall be established and filed for universal telecommunications services and designated telecommunications services (services that are established considering that alternative services are not fully provided by other carriers, among other factors).

If telecommunications carriers establish inappropriate charges or conditions of provision for services for which tariffs are not required to be filed, the Minister for Internal Affairs and Communications can issue an order to improve business activities to rectify the situation.

- (4) As regards frequencies for mobile phones, the “Guidelines for frequency refarming,” which were released in October 2003, proposed consideration of frequency refarming to ensure frequency bandwidth of, for mobile communications system use, 330 to 340MHz over the medium term and up to 1.38GHz over the long term.

With respect to spectrum user fee, the MIC established the Sub-Group on Spectrum User Fee under the Study Group on Policies Concerning the Effective Radio Spectrum Use in January 2003. This Group has been investigating a framework for a new spectrum use fee system. As a result, the Final Report from the Study Group on Policies Concerning the Effective Radio Spectrum Use (the basic approach concerning the revision of spectrum user fees) was compiled and publicly released in October 2004. This final report includes recommendations to take into account the degree of congestion of frequencies and quantitative factors (bandwidth, antenna power) in calculating spectrum use fees with the aim of promoting the effective utilisation of radio spectrum.

Future outlook

- (1) The MIC plans to make a partial amendment of regulations for interconnection charges respecting the contents of the report of the Information and Communications Council issued in January 2005.
- (2) and (3) As detailed in “State of the measures taken thus far,” the necessary systems have already been established and the MIC will deal appropriately with these systems.
- (4) As regards frequencies for mobile phones, the GOJ has begun giving consideration to the draft guidelines on the licensing of radio stations to newly enable the use of bandwidths including 1.7GHz and 2GHz (TDD mode) for mobile phones.

The MIC will introduce calculation methods for spectrum use fees, among other things, that take into account the economic value of the radio spectrum based on recommendations in the Final Report of the Study Group on Policies Concerning the Effective Radio Spectrum Use and other items. The MIC intends to promote research and development to increase radio spectrum resources and expansion of areas where mobile phones can be used, financed by the abovementioned spectrum use fees. To this end, the MIC has submitted the necessary bill to amend the Radio Law to the current ordinary session of the Diet and review the system.

16. Foreign tax credit

BDRT recommendation

The Japanese government should expand the number of tiers subject to foreign tax credit considerably. Furthermore, the minimum shareholding requirement should be reduced from the current 25% to 5 or 10%.

State of the measures taken thus far

For all aspects of the tax reform, see the attached appendix.

Future outlook

For all aspects of the tax reform, see the attached appendix.

17. CFC rules

BDRT recommendation

We recommend the following two points concerning Japanese CFC rules.

- (1) To exempt profits for re-investment
- (2) To increase certainty in their application

State of the measures taken thus far

For all aspects of the tax reform, see the attached appendix.

Future outlook

For all aspects of the tax reform, see the attached appendix.

WP2: Accounting and Taxation

18. Accounting Issues

BDRT recommendations

- (1) We ask that the Government of Japan promotes wider understanding in the European Commission of the fact that Japanese accounting standards have been developed in recent years and are now broadly consistent with international accounting standards.
- (2) We ask that the public authorities in Japan and the European Union make steady progress towards adoption and implementation of IAS.
- (3) We ask the public authorities to observe closely the process of rule setting and revision by IASB and, in particular, to have regard for the interests of companies and investors (whether European or Japanese) in the opinions they transmit to the IASB.
- (4) Recognising that convergence of international standards of accounting, auditing, and disclosure is a long-term objective, we ask that the public authorities adopt mutual recognition as a short-term target on a course toward convergence in the future.

State of the measures taken thus far

- (1) In cooperation with interested private parties, the GOJ is actively explaining to a wide range of EU interested parties about the importance of raising funds for Japanese companies in European market and that the recent rapid revision of accounting standards has made Japan GAAP consistent with high quality International Accounting Standards (IAS). In addition, the GOJ continues to request EU to promptly establish equivalence between Japan GAAP and IAS in the Japan-EU Regulatory Reform Dialogue
- (2) Regarding cross-border companies, Japan is beginning to approve the use of financial statements produced in accordance with IAS for German and Swiss companies.
- (3) The Japanese interested parties are also greatly interested in the process of rule setting and revision by the International Accounting Standards Board (IASB). Therefore, these parties are vigorously giving their opinions through hearings and comment letters regarding a balanced composition of members and an appropriate dual process in the discussion on the review of the articles of association of the International Accounting Standards Committee (IASC) Foundation. In the discussion on the review of the articles of association, the parties also noted that the IASB should set up an opportunity to thoroughly listen to the concerns of investors and preparers regarding due process to consider the opinions appropriately.
- (4) Convergence of accounting standards is an important goal in light of the growing number of cross-border capital transactions. The Accounting Standards Board of Japan (ASBJ), the primary body for setting accounting standards in Japan, decided that it would begin a joint project with the IASB in order to minimise the differences between the current standards as much as possible, with the final goal of convergence with the accounting standards of the IASB.

However, on the basis of that Japanese GAAP has become consistent with IAS, the GOJ is explaining to the EU interested parties that the continued use of Japanese GAAP should be permitted.

Future outlook

To ensure that Japanese GAAP will continue to be recognised in Europe after 2007, the GOJ intends to continue explaining to a wide range of EU interested parties about the importance of raising funds for Japanese companies in European market and that Japanese GAAP is consistent with IAS as a result of the recent rapid revision of accounting standards. The GOJ also intends to support efforts for a joint project between the ASBJ and IASB.

Furthermore, it is important that the IASB conforms to appropriate due process and the GOJ will continue to closely observe the situation. The ASBJ has played a central role in giving Japan's opinions to the IASB on each accounting standard. The GOJ intends to continue giving opinions to the IASB as necessary.

19. Tax Issues

BDRT recommendations

(1) We ask that the government of Japan quickly reform the consolidated tax system, allowing the carrying forward of tax losses in subsidiaries incurred before the system came into effect, exempting revaluation of subsidiaries at the initiation, and allowing tax deduction of transfers between consolidated entities.

(2) In order to promote mutual investment between the EU and Japan, the BDRT asks the Government of Japan to reduce or eliminate certain withholding taxes.

State of the measures taken thus far

For all aspects of the tax reform, see the attached appendix.

Future outlook

For all aspects of the tax reform, see the attached appendix.

WP3: Information Communication Technology

20. Revision of target number of broadband subscription

BDRT recommendation

Both governments should accelerate broadband penetration based on the development of e-Japan Strategy II/ e-Europe Action Plan. Regarding a target number of broadband subscribers, each member country's goal needs to be revised ceaselessly to a higher level. The governments should also encourage the freedom of consumers to be able to have access to services they choose any time and any place. Finally, governments can do a great deal by transforming public services for multiplatform delivery and adopting new on-line or wireless solutions to improve the efficiency of the back-office processes.

State of the measures taken thus far

With the e-Japan Priority Policy Program-2004 (decided by the IT Strategic Headquarters in June 2004), the GOJ re-established its goal to have 40 million subscribers to high-speed Internet access (144kbps and over to under 30Mbps) and 10 million subscribers to ultra high-speed Internet access (30Mbps and over), either wired or wireless, by encouraging their use and enhancing content and services by 2005, among other measures.

In December 2004, the Policy Roundtable for Realizing Ubiquitous Network Society, which was established at the Ministry of Internal Affairs and Communications (MIC), defined the "u-Japan" (Ubiquitous-net Japan) as the vision for Japanese society in 2010 and made recommendations such as "u-Japan policy package" for its realisation. One of the basic pillars of this policy package is to create a society in which 100% of the people have either high-speed or ultra high-speed Internet access by 2010 with the purpose of establishing a seamless ubiquitous network.

Future outlook

The GOJ will strive to achieve its goals by 2005 by steadily implementing the e-Japan Priority Policy Program-2004. It will also continue to bear in mind the recommendations given by the Policy Roundtable for Realizing Ubiquitous Network Society.

21. Promotion of broadband utilization

BDRT recommendation

Both governments should promote further development of ICT environment aiming effective utilization of broadband network and generalize the use of applications such as e-Government, e-Health, e-Education relying on broadband. This is one essential part of the productivity increase and an answer to problems related to the ageing of the population. Policy makers should not deteriorate the vitality of private sector, but support the emergence of new application services and convert them into tangible forms. Especially, in areas such as employment and labour, medical services, and education, which have close relation to people's lifestyle and are expected great innovation effect, the role of government is extremely important. E-Japan II provides leading model and activities in 7 fields, and it is important to implement these activities from consumers' and users' view points.

In order to make further advances in broadband utilization, the following actions are considered to be valid as well: links between Japan and the EU in such next-generation ICT fields as IC tags, mobile phones, basic software (OS), and Internet standards (IPv6), as well as the promotion of R&D and empirical experiments between government and citizens, the establishment of test beds, the launch of forums and other links between governments. In addition, it is also valid to share success model by comparing progress of ICT policies through common benchmark in every field of ICT.

State of the measures taken thus far

In the e-Japan Strategy II (decided by the IT Strategic Headquarters in July 2003), the IT Strategic Headquarters established that both the GOJ and private sector will coordinate and play a leading role in promoting IT utilization in seven areas which are important and within reach of the people (medical services, food, lifestyle, small and medium enterprises financing, knowledge, employment and labour, and public service).

In the e-Japan Strategy II Acceleration Package (decided by the IT Strategic Headquarters in February 2004), the IT Strategic Headquarters compiled the priority measures that should be established in six areas (international IT strategies in Asia, reinforcement of security measures, promotion of content measures, promotion of IT regulatory reforms, evaluation, promotion of e-government and e-local government) in order to further accelerate the e-Japan Strategy II.

The IT Strategic Headquarters incorporated concrete measures bearing in mind the above in the e-Japan Priority Policy Program-2004 (decided by the IT Strategic Headquarters in June 2004). The GOJ is therefore making a concerted effort to strategically, intensively and swiftly promote the necessary measures with the aim of realizing a vibrant IT society.

Future outlook

The GOJ will strive to steadily implement the e-Japan Priority Policy Program-2004. It also intends to promptly implement the Policy Package (tentative name) (scheduled to be decided by the IT Strategic Headquarters in February 2005), which compiles enhanced measures emphasizing the users' perspective in areas within reach of the people, such as public service, medical services and education.

22. Establishment of secure network environment

BDRT recommendations

- (1) Governments on both sides and private sector should cooperate to overcome the issues of increasing traffic, cyber terrorism and others accompanying the spread of applications, and take measures to establish secure network environment.
- (2) To address sudden increases in traffic, governments on both sides and private sector need to conduct R&D in such areas as large-capacity networking technologies, including improvements of backbone, routers and switches. Governments should intensify both, technical and institutional cooperation to better trace the sources of attacks, while respecting the principle of freedom of communication.

State of the measures taken thus far

- (1) The e-Japan Priority Policy Program-2004 states that the GOJ will enhance safety and security policies. As concrete measures to this end, the GOJ is promoting steps such as ensuring information security of the ministries, agencies, local governments and important infrastructure and enhancing information security in the private sector with the aim of developing an environment where people can safely use the Internet, among other things. In particular, the MIC began the Program to set up information communications security personnel training centers in FY2004. The MIC is therefore promoting the development of training facilities where people can learn practical ways in which to deal with cases of information security violations, among other things.

The u-Japan Policy (December 2004) of the MIC mentions one of the basic pillars of this policy as being to create, by 2010, a society in which 80% of the people feel secure about ICT by fundamentally enhancing the environment for using ICT.

Meanwhile, the Ministry of Economy, Trade and Industry (METI) compiled the Comprehensive Strategy on Information Security in October 2003. Consisting of three strategies and 42 policy items, this policy promotes comprehensive measures to ensure information security including countermeasures against computer viruses, illegal access and cyberterrorism.

To ensure international Internet stability, the GOJ also supports international Internet management systems such as the Internet Corporation for Assigned Names and Numbers (ICANN) so as to enable Internet infrastructure including route name servers to function stably. The GOJ cooperates with ICANN and other bodies and takes the necessary measures.

Japan and the EU announced the Joint Statement on Cooperation on Information and Communication Technology at the 13th Japan-EU Summit in June 2004. In this statement, Japan and the EU agreed to share their perspectives and policy thinking to ensure the security of information systems and networks and the safety of Internet users.

- (2) In consideration of the further development of IP and broadband that is expected from now on, since February 2004 the MIC has been convening the Study Group on Next-Generation IP Infrastructure to study prospects for strengthening of next-generation network infrastructure capable of responding to issues such as the rapid increase of traffic in the future. The Study Group issued its first report in June 2004.

Future outlook

- (1) The GOJ will continue to make an effort to enhance security in line with the e-Japan Priority Policy Program-2004. It will also consider the recommendations made by the Policy Roundtable for Realizing Ubiquitous Network Society. Japan and the EU will cooperate appropriately to

establish a secure network environment, bearing in mind the Joint Statement on Cooperation on Information and Communication Technology.

- (2) The MIC will promote the strengthening of network infrastructure as part of its efforts to develop a cutting-edge ubiquitous network environment. More specifically, in FY2005, the MIC plans to develop a next-generation wireless system and conduct research and development on a next-generation backbone network, basic technology for ubiquitous networks and other aspects.

23. Establishment of PDCA cycle for evaluation of IT policy development

BDRT recommendations

- (1) To evaluate ICT policy development, both governments should establish PDCA cycle, actively reflecting private sector's requests. Both public and private sectors should make and carry out necessary action plans.
- (2) In Japan, upon the request of IT strategy headquarters, it is significant that the professional evaluation committee consisted of private intellectuals issued a mid-term report and handed it over IT strategy headquarters in March 2004. The government should respect the committee's regular measurement and progress management in the course of policy implementation.
- (3) In the implementation course of IT Strategy, it can be possible that each action will not lead to realization of targets, even if its implementation is achieved as it expected. Comprehensive evaluation is required by use of the following benchmarks: kind of action, degree of contribution and extent of nationals' benefit received from the action's outcome.

State of the measures taken thus far

- (1) By reflecting the results of evaluation by the Expert Committee on IT Strategy Evaluation consisting of private intellectuals in the policymaking process for the e-Japan Priority Policy Program-2004, the GOJ established the Plan-Do-Check-Act (PDCA) Cycle in the IT policy framework and created a positive cycle wherein items that are missing are immediately added and items whose direction needs to be changed are done so immediately. In this way, the GOJ has set up a mechanism that ensures the appropriateness of measures aimed at attaining the goals. Japan has been broadly incorporating opinions from the private sector in establishing priority policy programs by calling for public comments.
- (2) The Expert Committee on IT Strategy Evaluation compiled mid-term reports in September and November 2004. These reports were successively submitted to the IT Strategic Headquarters and are valued as important recommendations in policy implementation.
- (3) In the course of establishing the e-Japan Priority Policy Program-2004, it was decided to newly establish the Outcome Goals, which indicate the social outcome to be realized from the end-users' point of view. Both the Performance Goals and Measures Implementation Goals concerning the status of the measures implemented by the responsible departments will be clearly compared so that simultaneous progress is made.

Future outlook

The GOJ will continue to actively incorporate the Expert Committee on IT Strategy Evaluation's regular measurement and progress management as well as the recommendations it makes based on these two items. The GOJ intends for both the private and public sector to make a concerted effort to plan and implement the necessary measures with the aim of realizing the e-Japan strategy, while firmly maintaining the PDCA Cycle.

24. VoIP

BDRT recommendation

Regarding VOIP services, both governments need to provide clarity for regulatory policy for VOIP in comparison with traditional PSTN voice regulation. A well-balanced, technologically neutral approach is recommended, reusing a list of well-specified fundamental service obligations applicable to VOIP when it is used as a substitute to PSTN voice. The implementation of regulatory obligations on VOIP services should always be specified in close cooperation with industry and manufacturers in view of economic and technical feasibility. Industry also recommends to align VOIP quality of service and performance requirements with the lighter mobile regime. Conversely, the regulation of PSTN voice should be evaluated in view of possible “lighter” regulation which could be applicable in a new IP-based environment. More generally, the EU should learn from Japanese leading experience in the field based on the successful VOIP adoption by Japanese subscribers (4 Mn end 2003).

State of the measures taken thus far

In Japan, the MIC has assigned location-free 11-digit numbers beginning with “050” to VoIP since 2002, with a view to encouraging communication between VoIP and existing telephones with users given explanations on the difference between VoIP and existing telephone (PSTN telephone). Beginning in 2003, numbers for existing fixed telephone (0AB-J numbers) could be used for VoIP that meets the same requirements for such aspects as quality and emergency calls as for existing telephones, and number portability from existing telephones was also introduced. Japan has been providing users with incentives to convert to VoIP through these policies.

Future outlook

While the spread of VoIP brings benefits such as upgrading services and lowering charges, it may decrease volume of traffic concerning existing telephones and make it difficult to maintain the existing telephone network. Because this implies that telephone charges may increase particularly for people who live in regions that cannot use broadband/VoIP, The MIC, bearing such issues in mind, will promote policies that pay attention to user benefits.

25. Encourage “consumer confidence” and create a regulatory environment favouring investment

BDRT recommendation

On the consumer side, broadband has first of all been a means to have faster and continuous access to the internet. Today, the “new wave” proposed by operators and service providers, is the arrival of Triple Play: VOIP, Internet access and Internet broadcasting.

The public policy challenge is twofold. On the investor side, we must ensure that this “new wave” is not hindered by regulatory uncertainty – for instance service providers should have no limitations to access the content they need. On the consumer side, a balance must be reached regarding safety and security in order to ensure a high level of trust and confidence. At the same time right-holders need a strong protection against IPR infringements. In this respect the implementation Digital Rights Management would provide a solution.

State of the measures taken thus far

For a period of three fiscal years beginning in FY2002, the MIC has been working to establish a general purpose meta-data (descriptive information on content) system that can facilitate rights clearing and has been conducting trials on the development and demonstration of a rights clearance mechanism that harnesses this meta-data system with the aim of promoting the creation and distribution of content using broadband networks. In order to realize the safe, steady and diverse distribution of broadband content such as broadcast content, the MIC has also been conducting trials on the development and demonstration of technology that will enable various viewing of content that uses meta-data and advanced rights protection, as well as technology that will enable the high-quality distribution of data such as content and meta-data. A certain level of results has been attained for each type of technology.

In order to enable users to easily judge the safety of content, the MIC from FY2004 is considering the establishment of a Content Safety Mark system (tentative name) so that site operators can indicate the safety of their own sites.

Future outlook

Bearing in mind the abovementioned policies, the MIC intends to begin conducting trials on the development and demonstration of technology for using and collaborating on multi-content in FY2005 in order to promote the distribution of multi-content in the ubiquitous network era and strike a balance between ensuring a high degree of freedom and user-friendliness in using content on personal communication networks and providing appropriate protection for content rights.

As was the case in FY2004, the MIC will continue to consider the establishment of a Content Safety Mark_System (tentative name) and plans to promote trials on the development and demonstration of a system to administer the Content Safety Mark and an access control system.

WP4: WTO

26. Policy Statement concerning the World Trade Organisation

BDRT recommendations

- (1) We welcome that, following the enlargement on 1 May 2004, the European Union's WTO commitments and obligations were extended to its 10 new Member States, and that the European Union is now speaking on behalf of 25 Member States. This enlargement is an event of great significance for Europe, which may bring important economic and trade opportunities to Europe and to its trading partners, including Japan.
- (2) The current trading Round continues to be immensely important for economic growth, stability and development prospects of all stakeholders in the multilateral trading system. We strongly believe that there is no substitute for the multilateral trading system for achieving the [goal] [prospects], these objectives and those positive results on the Doha Development Agenda (DDA) will help strengthen trust in that system.
- (3) As stated at our last annual meeting held in Brussels in May 2003, we continue to believe that the successful conclusion of an ambitious Round can help to improve global efficiency and international economic integration, and to provide meaningful answers to the challenges of sustainable development in the global economy, the realisation of a highly sophisticated Information Society, and the innovation of new technologies.
- (4) Expressing our deep concern about the failure to reach the agreement to enhance the negotiation on WTO's New Doha Round at the Ministerial Conference in Cancun last September, we sent a message to the EU Commission and the Japanese government on December 18, 2003 that all parties would demonstrate flexibility such that satisfactory results for all parties may be achieved as soon as possible. We welcome the renewed political will of WTO Members to take advantage of the window of opportunity that has opened in the last recent months to reach a basic agreement on the framework modalities for further negotiations by July 2004. This agreement needs to build on the lessons learned in Cancun and on the progress made since then. Political will must now be further transformed into concrete and decisive actions to ensure a successful outcome of the Doha Round.
- (5) Progress on core issues of the DDA, such as agricultural and industrial market access, services, rules and development issues is key to advance the negotiations. We recognise the importance of achieving progress in the agricultural negotiations for the majority of WTO Members, and we encourage all Members to show the required flexibility in order to favour a balanced agreement in all three major pillars of the agriculture negotiations - export competition, domestic support and market access. In this regard, we welcome the European Union's readiness to further move on export subsidies, provided there is full parallelism by other members and an acceptable outcome in the other pillars, as well as its willingness to find a constructive solution on cotton. We also welcome that Japan, as a member of G10 group, is prepared to discuss various types of tariff reduction formula, if its concerns and sensitivities are duly taken into account, while admitting that the framework for agriculture is a necessary step to ensure reaching the results mandated by the Doha Declaration, and we recognise a need for coherence, flexibility and balance in order to accommodate the diversity of members' types of agriculture.
- (6) We note that on the Singapore issues an emerging agreement exists among WTO Members to launch multilateral negotiations on Trade Facilitation. It is important to ensure that the necessary decisions on the modalities for these negotiations are taken by July 2004. With regard to the other three issues - transparency in government procurement, investment and competition - we stress the importance of keeping them within the WTO context, given the potential benefits that framework agreements in these three areas would provide to all WTO Members. We also expect that the rules and procedures for anti-dumping will be clarified and strengthened, as well as for subsidies and regional trade agreements.

- (7) Another crucial area where further progress must be made is trade and development. Some achievements have been accomplished since the launch of the DDA, but further movement is urgently needed. Whilst acknowledging the real benefits that multilateral trade and investment liberalisation can bring to development, we reiterate our wish that the concerns of the poorest and weakest countries are taken account of in the negotiations and in the final DDA agreement. The European Union and Japan should also continue their efforts for assisting developing countries to build their technical and administrative capacity in order to allow their effective participation in the WTO's decision-making process.
- (8) We strongly encourage the European Union and Japan to be pro-active in the negotiations and multiply their efforts towards achieving an agreement on frameworks by July 2004. To this end, the European Union and Japan should keep close bilateral contacts on all DDA issues and use all opportunities to co-ordinate their positions to favour solutions, which can bring the multilateral trade agenda forward.

State of the measures taken thus far

- (1) Following the Doha Ministerial Declaration in 2001, Japan has been actively engaged in the Doha Development Agenda (DDA) negotiations, which include negotiations on the issues of agriculture, non-agricultural market access (NAMA), services and rules such as anti-dumping rules, trade and development and trade facilitation. The GOJ has participated in the negotiations to obtain balanced and comprehensive results as early as possible, focusing not only on market access, but also on the areas of rule-making and its strengthening. In particular, given the framework agreed upon last year in July, further efforts will now be required towards the compilation of future modalities. It will also be necessary to make substantial progress in discussions pertaining to services, rules and trade facilitation, among others.
- (2) As the DDA round of negotiations positions development as the central agenda item, the GOJ has been intensifying dialogues with developing members and nations and has placed emphasis on the capacity building of developing members so that they can benefit sufficiently from the trade expansion.
- (3) Protection of intellectual property rights is critical for the industries in Japan, and the GOJ has been observing the compliance of the TRIPS Agreement by WTO members such as China. From this point of view, the GOJ and EU issued "Japan-EU Joint Initiative for the Enforcement of Intellectual Property Rights (IPR) in Asia" at the Japan-EU Summit in June 2004 and held a joint seminar on IPR in Beijing, China in October 2004, with the aim of supporting efforts for protection of IPR in China and other Asian countries.

Future outlook

- (1) Given the framework agreement agreed upon at the General Council of the WTO in July last year, the DDA round of negotiations has moved back on track. From now, and towards the Sixth WTO Ministerial Conference in Hong Kong in December 2005, Japan will aim to establish modalities for agriculture and NAMA, and develop negotiations on trade in services, rules and trade facilitation. Towards a final agreement, Japan will continue to make utmost efforts to reach an early conclusion of an ambitious and well-balanced package for all members, including Japan.
- (2) The GOJ will endeavour to revitalise the negotiations, not only through the talks in Geneva, but also through various contacts with our counterparts in their capitals. The GOJ will offer meaningful inputs at Geneva through discussions with developed and developing members.
- (3) The GOJ has made frequent contacts with the private sector, including exchanges of opinions with Nippon Keidanren. The government will continue to cooperate with the private sector.

WP 5: Life Sciences & Biotechnology (LS&BT)

27. General Recommendations

BDRT recommendations

- (1) Implement with urgency the Action Plans of the Strategic Guidelines issued by the EU in 2002 and by Japan in 2002 through the strong initiatives by both Governments through the strong initiatives by both Governments. Continuous review follow-up and amendments of these Action Plans is recommended to ensure that they keep pace essential to catch up with the advances in LS&BT and the changes of society and meet changes taking place in society.
- (2) Maintain a continuous dialogue at regular intervals between both Government and Industry in both the EU and Japan to discuss issues and implement the resulting Action Plans. Current important issues include:
 - (a) Reassessment and harmonisation of current regulations of the EU and Japan to facilitate commercialisation of products of LS&BT
 - (b) Cooperation to improve public understanding and acceptance of LS&BT, in particular taking into consideration EU enlargement
 - (c) Sharing of best practice regarding successful business concepts for start-up companies and Bio-ventures between the EU & Japan
 - (d) Support an annual LS&BT Workshop such as the BDRT WP5 Bioseminar that took place in December 2003 in Tokyo to be held each year preferably alternating the meeting place between the EU and Japan. Representatives from both the EU (in particular from Accession countries) and Japanese governments should be encouraged to participate.
- (3) Strengthen the coordinating functions of the Government across the Ministries to implement more efficiently and effectively the Action Plans in the Biotechnology Guidelines. This needs additional resource in the form of both budget and manpower. It is recommended to have better interactions with industries on the governmental policies and measures from the planning to evaluation stages.
- (4) Encourage academics in particular scientists from prestigious public universities, to play a greater role in fostering public understanding of Biotechnology. Academics should be intensified and encouraged to spend part of their time fulfilling this role.

State of the measures taken thus far

- (1) The Biotechnology Guidelines, established by the Biotechnology Strategy Council in December 2002, outline Japan's national strategy on biotechnology. The GOJ has made a concerted effort to promote biotechnology policies based on these Guidelines. At the meeting of the Biotechnology Strategy Council in January 2004, a follow-up was conducted on the status of progress of policies based on the Guidelines. It was confirmed that of the 200 specific Action Plans in the Biotechnology Guidelines, 199 of them were either completed or under way.
- (2) Since 1995, the Ministry of Economy, Trade and Industry (METI) and the Enterprise and Industry Directorate-General of the European Commission have held regular meetings of the Japan-EU Industrial Policy and Industrial Cooperation Dialogue Biotechnology Policy Working Group, in which members of the public and private sectors (such as the Japan Bioindustry Association (JBA) and EuropaBio) have participated, and exchanged information and opinions on industrial policy involving biotechnology and other issues. The Working Group handles a wide range of themes. At the 8th meeting of the Working Group held in September 2004, the members introduced the policies of Japan and the EU and the efforts made by industry on each side, and held discussions on specific themes such as tissue engineering and public acceptance.

Then-Parliamentary Secretary for Economy, Trade and Industry Yasuyuki Eda and the Director of the Bio-Industry Division of METI attended the 1st BDRT Biotechnology Seminar held in Tokyo in December 2003 and gave presentations on topics such as biotechnology strategy.

- (3) Recognising the need to effectively and efficiently promote the Action Plans in the Biotechnology Guidelines, the Council for Science and Technology Policy considers the opinions of outside experts from industry, among others, and decides on the Guidelines on Budgetary/Personnel Resource Allocation in Science and Technology every fiscal year. These Guidelines identify the four priority areas including life science to which research and development funds will be allocated. The GOJ is currently formulating budget measures and making comprehensive adjustments based on these Guidelines. When submitting budget requests for FY2005, the GOJ decided to check all the items in the science and technology budget in order to accelerate steps to create higher quality services and aim to establish a clear-cut budget that sets out priorities. The GOJ also created the Science and Technology Coordination Policies, bearing in mind the opinions of outside experts including those from industrial circles, with the aim of improving the vertically aligned policies, which are individually set by the ministries and agencies concerned and reconfiguring them from a cross-sectional and cross-ministerial viewpoint. The GOJ decided it would give priority to promoting biotechnology-related policies such as post-genome research (promotion of health science), emerging and re-emerging infectious diseases and nanobiotechnology.
- (4) The GOJ is actively striving to disclose information by providing information through the mass media, making universities and research institutions available to the public and other means. It is also creating material to provide easy-to-understand information. The GOJ is also spreading information on biotechnology through the Science Channel and National Museum of Emerging Science and Innovation (Miraikan) and other ways.

Future outlook

- (1) The GOJ is considering holding a meeting of the Biotechnology Strategy Council to follow up on the Biotechnology Guidelines, among other things. The GOJ plans to make efforts to promote research and development in biotechnology.
- (2) The GOJ recognises that the Japan-EU Industrial Policy and Industrial Cooperation Dialogue Biotechnology Policy Working Group is a valuable opportunity to have exchanges of opinions among four members from the public and private sectors at once. The GOJ therefore intends to continue holding these meetings regularly and make further use of them in policymaking on issues that are important to both Japan and the EU. The GOJ would also like to continue actively participating in the BDRT Biotechnology Seminar.
- (3) As an entity that overlooks the ministries, the Council for Science and Technology Policy will continue to play a coordinating role among them and strive to promote research and development in biotechnology.
- (4)
 1. The GOJ will take steps to enhance the I Love Science and Technology Plan that includes Super Science High Schools (SSHs), which are high schools that concentrate on science and technology education including biotechnology, as well as I Love Science Schools, which are elementary and junior high schools. The GOJ will also take measures to assist the boards of education, universities, research institutions and others to coordinate with each other to conduct training for elementary school teachers and science teachers who teach at junior and senior high schools, on the teaching of science and technology including biotechnology.
 2. The GOJ will hold seminars to foster instructors who can conduct recombinant DNA experiments for educational purposes in senior high schools and other places.
 3. The GOJ will improve public lectures on biotechnology in universities and other places and encourage lectures on biotechnology to be held in locations such as public halls and community centres. The GOJ will provide information to arouse curiosity and interest in science and

technology including biotechnology and spread information in science museums and through other means.

28. LS&BT for Health

BDRT recommendations

- (1) Work together to ensure that the value of innovation is recognised in the pricing of medicines in EU Member States and Japan.
- (2) Support clinical research by addressing regulatory barriers, public involvement in clinical trials and facilitating development of an improved infrastructure for clinical research. The government should make clinical research a priority area for funding in Government research programmes.
- (3) Facilitate regulatory harmonisation where possible and practical by supporting international regulatory harmonisation through the International Conference on Harmonisation (ICH).
- (4) Work with industry to make changes to the current pricing system including revision of the ‘repricing rule’ to ensure that a price is high enough to reward innovation is granted and maintained for all innovative medicines, rather than just a few.
- (5) Ensure the development of a fast, efficient and transparent process under the new regulatory organisation (PMDA) in Japan. In particular – attention needs to be focused on international regulatory harmonisation for ethnic bridging clinical studies, application of new technologies and evaluation of associated Bio-risks, and harmonisation of specifications and testing methodologies.

State of the measures taken thus far

- (1) While the research and development (R&D) of new medicines requires tremendous amounts of time and financial resources, given that the success rate for the R&D cannot be particularly high. It is, therefore, essential that future R&D resources be secured to ensure that people will be able to receive the benefits of new drugs in the future.
- (2) Based on the “Three Year Plan for National Clinical Trial Revitalization” which was jointly formulated by the Ministry of Education, Culture, Sports, Science and Technology and the Ministry of Health, Labour and Welfare in 2003, the infrastructure and environment for clinical trials is being enhanced. Specifically, as one of the measures to support patient participation in clinical trials, educational activities for raising awareness of the significance of clinical trials have been implemented in Japan. In addition, as a measure to develop the infrastructure and improve the environment for clinical trials in medical institutions, the GOJ is making efforts to enhance the implementation system for clinical trials, advancing the cultivation of clinical trial coordinators.

In accordance with the Guidelines on Good Clinical Practice (GCP) agreed on at the International Conference on Harmonisation (ICH), the GOJ is requesting relevant institutions to implement clinical trials in an appropriate manner.

In the FY2005 Guidelines on Budgetary/Personnel Resources Allocation in Science and Technology, the Council for Science and Technology Policy highlights the prioritisation of clinical research such as translational research from basic to clinical research and clinical trials as measures that the government should promote.

- (3) Since the establishment of the ICH, the Ministry of Health, Labour and Welfare has been promoting harmonisation of pharmaceutical regulations related to new drug products through the activities of the ICH and has contributed to the activities of the ICH.
- (4) With regard to the drug pricing system in Japan, as part of the drug pricing reforms carried out in FY2002, various measures have been taken to establish an improved evaluation system for innovative new drugs, from the perspective of promoting innovation, for example, by increasing the rates for innovativeness and usefulness premiums.

- (5) The GOJ has made thorough efforts to put the E5 Guidelines of the ICH into effect with transparency and consistency. In this process the GOJ has engaged in frequent exchanges of opinions with overseas industry delegations, including those from Europe. The Q&A arising from the operation of the Guidelines reached agreement as part of Step 4 of the ICH Meeting held in Osaka in November 2003, and from February 2004 they have been widely announced and put into operation in Japan.

Future outlook

- (1) The GOJ will continue to operate the system in an appropriate manner.
- (3) The GOJ will continue to actively cooperate for international regulatory harmonization and promotion of innovative medicine.
- (4) The GOJ will continue to operate the system in an appropriate manner, and, while bearing the above-mentioned in mind, will aim at achieving an appropriate and rewarding drug pricing system, promoting discussion on the drug pricing system as part of the reform of the medical insurance system.
- (5) The GOJ will introduce a new system whereby the PMDA will form a review team to jointly undertake clinical-trial consultations and reviews. The GOJ will make every effort to see that drug evaluation and the process of review are carried out effectively.

29. LS&BT for Industrial/Environmental Uses

BDRT recommendations

- (1) Provide incentives to enable industries to switch towards more sustainable production processes.
 - (a) Make research for Industrial/Environmental Biotechnology (IEB) a priority in public research funding schemes (e.g. Framework Programme 7 in the EU)
 - (b) Consider Tax abatements and investment tax credits could to incentivise and speed up the implementation of sustainable production technologies.
 - (c) Provide financial support for highly promising Bio-based technologies at the proof-of-concept stage.
- (2) Work with industry to establish standards for Bio-materials such as biodegradable polymers in order to facilitate commercialisation of products from the Bio-materials etc.

State of the measures taken thus far

- (1) The Ministry of Economy, Trade and Industry (METI) and New Energy and Industrial Technology Development Organization (NEDO) are conducting research and development on conversion to renewable resources using biomass, changing over to environmentally friendly industrial processes using bioprocesses, and development on the biodegradation and disposal of waste, pollutants and other things, in order to promote the use of biotechnology in industrial processes and environment-related areas. The two entities commission research and development and provide subsidies to companies and research institutions by implementing research and development programs (Green Biotechnology Program) aimed at creating a cyclical industrial system.

For all aspects of the tax reform, see the attached appendix.

- (2) As for standards for biodegradable plastics, the Biodegradable Plastics Society (BPS), an industry group, established the GreenPla^{*1} identification system in June 2000 based on examinations of the experiment and assessment methods for biodegradable plastics and their safety that METI (then the Ministry of International Trade and Industry) carried out from 1989 to 1999. Plastic products composed only of material whose safety and biodegradability has been confirmed are certified as GreenPla products and efforts are being made to differentiate these products from other plastic products by using the unified symbol mark^{*2}. Starting in FY2002, the BPS established and began administering standards on the compostability of certified products. By the end of 2004, over 700 products had obtained the GreenPla mark.

In December 2001, the BPS began cooperating with DIN CERTO, the German certification organisation for GreenPla products, and the International Biodegradable Products Institute (BPI), which is the US certification organisation, to reciprocally use testing results, among other things.

(*1) GreenPla is a nickname for biodegradable plastics. The then-Ministry of International Trade and Industry, Japan Bioindustry Association (JBA) and BPS jointly called for applications for nicknames. GreenPla won the Minister of International Trade and Industry Prize.

(*2) GreenPla mark



Japan is striving to spread and promote products that use biomass by supporting private-sector entities to voluntarily establish standards for these products with the aim of building a society in which sustainable development is possible.

Future outlook

- (1) The Green Biotechnology Program aims, by the end of FY2010, to build a technological foundation that can contribute to establishing a cyclical industrial system, under which useful material is produced through bioprocesses and waste and pollutants are either disposed or converted to renewable resources by micro-organisms, while ensuring safety and protecting ecosystems.
- (2) Steps are currently being taken to establish Japanese Industrial Standards (JIS) for the biodegradable plastics identification system. Safety standards, biodegradability standards, compostability standards and identification standards are scheduled to be successively established by 2009.

30. LS&BT for Plants

BDRT recommendations

- (1) Formulate and implement joint Action Plans to promote public understanding of acceptance for Biotechnology, including the use of GM-technology in the EU and Japan.
- (2) Provide long-term perspectives for risk assessment procedures and general provisions for the regulatory approval process for new types of Biotech traits, such as improved nutritional value and high-valued pharmaceutical precursors or other functional agents produced in plants.
- (3) Make a public announcement about the strategic central government's position of the central government in utilisation of GM technology, including measures to help the public understand the benefits of the technology, and show strong leadership toward harmonising the actions of central and local Governments.

State of the measures taken thus far

(1) (3) The Biotechnology Strategy Guidelines, which are the basic strategy in Japan on biotechnology (BT), including GM technology, have set forth “thorough permeation of public understanding” as one of the three strategies for the significant advancement of BT.

GM Technology has tremendous potential to make a significant contribution to the realisation of a fulfilling and vibrant lifestyle for the people. Not only securing safety but also developing technology with the understanding of the people is vital, and therefore, in cooperation with concerned groups and local governments, the GOJ is providing information to the general public on the effectiveness and potential of GM technology. In particular, BT in the agriculture, forestry and fisheries sectors, including GM agricultural products is the area in which the people harbour concerns and uneasiness. Accordingly, as means of promoting mutual understanding through exchanges of opinions among citizens and those with different views on the issue, the GOJ has been holding symposia and compiling and distributing brochures to provide information. The GOJ has also constructed a system which provides comprehensive information and chances to freely communicate through homepages, as well as implementing human resource development and training to foster those who can understand GM technology from a scientific standpoint and facilitate smooth communication.

(2) The Food Safety Commission (FSC) is an agency designated to conduct risk assessment. The Commission conducts safety assessments for individual GM foods based on requests from the Ministry of Health, Labour and Welfare (MHLW) and others. More specifically, the Commission evaluates whether or not GM plants (seed plants) used in foods or feed affect human health, in accordance with the Standards for the Safety Assessment of Genetically Modified Foods (Seed Plants) formulated by the Commission. We have attached an assessment flow chart for reference.

The Standards for the Safety Assessment are available on the website of the Food Safety Commission: <http://www.fsc.go.jp/english/index.html>.

In addition to assessing food safety, the Commission conducts scientific evaluation on whether GM foods have any adverse effects on wildlife in accordance with the Law Concerning the Conservation and Sustainable Use of Biological Diversity through Regulations on the Use of Living Modified Organisms, and on whether GM feed can be used for livestock and others, according to the Law Concerning the Safety Assurance and Quality Improvement of Feed.

As a result of those assessments, only GM foods and feed without any problems are approved and authorised for sale and distribution.

Future outlook

(1) (3) The GOJ will continuously and effectively work on promoting understanding of the public with regard to BT and its development, including GM technology. In addition, regarding GM crops, with the aim of securing further safety and alleviating public concerns, priority will be placed on developing safety guarantee technologies that prevent the diffusion of modified genes from GM crops, and on the development of GM crops that bring direct benefits to consumers.

(2) Japan formulates and revises safety assessment standards whenever necessary as GM technology advances. Therefore, if, for example, GM crops with fortified nutrients are put to practical use, Japan will conduct scientific assessment based on the characteristics of the GM crops.

30. Attached reference: State of the measures taken thus far for LS&BT for Plants (assessment flow chart)

WP 6: Sustainable Development

31. Voluntary Actions

BDRT recommendation

While in Japan many industries are participating in the Keidanren Voluntary Action Plan on Environment and have made steady achievements, voluntary efforts of industries in Europe have hardly been recognised by authorities. Moreover, the EU directives on emission trading, including different approaches country by country, will negatively affect the competitiveness of industries operating in Europe. Voluntary actions should be privileged above any additional regulation by Governments, in the future.

State of the measures taken thus far

The Voluntary Action Plan on Environment of industrial circles (Nippon Keidanren), formulated in June 1997, aims to reduce CO₂ emissions in 2010 to $\pm 0\%$ of the level in 1990.

These voluntary efforts of industrial circles are viewed as one of the central pillars of Japan's efforts to prevent global warming in the Outline for Promotion of Efforts to Prevent Global Warming, which was revised in March 2002.

In order to ensure the Plan's effectiveness, the Nippon Keidanren has followed up on the status of progress of the Voluntary Action Plan on Environment every year since 1998 and released the results, while the relevant councils, among others, have followed up on the status of progress.

Future outlook

The Voluntary Action Plan on Environment is an effective method to promote industry-driven efforts based on the principle of "simultaneous pursuit of environmental preservation and economic development". It is important to further enhance the transparency and reliability of the Voluntary Action Plan in the future.

As for how to handle the emissions trading system, it is important for it to be discussed comprehensively and carefully, while giving due consideration to various opinions and thoroughly considering comparisons with other methods, international trends, past performance and evaluation of efforts to prevent global warming to date.

32. Sufficient prior consultations

BDRT recommendation

To avoid jeopardising the competitiveness of companies, there should be an enhanced dialogue between industry and the Authorities before any legislation is enacted. The implementation of the Kyoto Protocol, Emission Trading Directive and the REACH project in Europe are examples of insufficient dialogue between Industry and Authorities, prior to decisions. Sufficient prior consultations, including with European and Japanese Authorities together, are proposed by the business community.

State of the measures taken thus far

The public comment system serves as an opportunity for the GOJ to gather a broad range of opinions from the general public regarding the establishment of basic policy, plans that concern changes, introduction of new systems that will affect the rights and obligations of the people, among other things, in the policymaking process.

The Public Comment Procedure for Formulating, Amending or Repealing a Regulation was adopted by the Cabinet in March 1999. In the process of establishing regulations or enacting government ordinances or ministerial ordinances, among others, as a result of setting, amendments or abolition, the GOJ releases drafts and other documents in accordance with the abovementioned procedures adopted by the Cabinet and gathers opinions and information (public comments) from within Japan as well as overseas. A decision is made taking into consideration the submitted public comments.

In line with the abovementioned procedure approved by the Cabinet, the GOJ gathered public comments on Future Measures for Global Warming, an Interim Report by the Global Environmental Subcommittee, Environmental Committee, Industrial Structure Council, which discusses measures to prevent global warming (August 2004). A total of 98 comments, including 29 from businesses (industrial circles), were submitted. Twelve comments were submitted from abroad through the public comment system on Climate Regime Beyond 2012 - Basic Considerations, an Interim Report compiled by the Global Environment Committee, Central Environment Council in January 2004. The comments that were submitted will be used for future measures to prevent global warming on an equal basis with other opinions.

The GOJ regularly holds exchanges of opinions with the Nippon Keidanren and circles of various industries. The GOJ also strives to respond appropriately to opinions given by industrial circles in policymaking by having people from industrial circles participate as members in various councils. For example, 10 out of a total of 32 members, approximately one-third, of the aforementioned Global Environmental Subcommittee, Environmental Committee, Industrial Structure Council have been widely selected from industrial circles including Nippon Keidanren.

These are particular cases of how the GOJ has listened to the opinions from industrial circles in the course of promoting measures to prevent global warming.

In addition, the GOJ has requested the EU member states which do not have consultation system (public comment) to implement the system at an early date and also requested that the system be harmonized at the EU level in the Japan-EU Regulatory Reform Dialogue in 2004.

As regards proposals for environment-related regulations and directives in EU such as REACH, EuP (eco-design requirements for Energy-using Products), Directive on battery, etc., the GOJ repeatedly conveyed its view that EU should not impose excessive obligations or burden on

business operators on the occasion of the Japan-EU Regulatory Reform Dialogue, among others, while continuously hearing the opinions of the industrial circles.

Future outlook

As for the process of establishing the Kyoto Protocol Target Attainment Plan, after intra-governmental adjustments have been completed, a wide range of opinions will be gathered from the people, including industrial circles, through the public comment procedure and the Plan will finally be adopted by the Cabinet.

In considering environmental taxes and the emissions trading system, the GOJ intends to hold thorough discussions in the councils of each ministry and continue to seek the participation of industrial circles in these discussions as it has done thus far. The GOJ also intends to fully listen to the opinions gathered from within Japan and overseas through the public comment system.

33. Promotion of innovations/partnerships

BDRT recommendation

The Authorities should participate in funding and/or other efforts to promote ambitious projects. After the Aeronautic Platform (ACARE), the Rail Transportation Platform (ERRAC), the European Steel Technology Platform has been recently launched, involving the European Commission and a large scope of industries to pave the way for next 25 years of research in Europe. While companies are also joining their efforts in favour of ambitious but expensive research projects, EU and Japanese Authorities could initiate a platform for joint research projects in some sustainable development areas.

State of the measures taken thus far

The Government of Japan and the European Commission conducts dialogues at various forums including the EU-Japan Science and Technology Forum, established to promote cooperation in the fields of R&D and science technology. In addition, the GOJ and EC have been discussing ways to facilitate cooperation for R&D on the occasion of consultation for the Japan-EC Science and Technology Cooperation Agreement. As for international cooperation in the area of measures to prevent global warming, exchange of information and other steps are being taken primarily through multilateral frameworks.

Future outlook

In order to facilitate cooperation for R&D between Japan and EU, the GOJ and the European Commission will hold in the end of May a governmental meeting to exchange information on EU Framework Programme for Research (FP), among others. On the same day, a seminar will be held to inform Japanese researchers of FP and to facilitate cooperation for R&D. After signing and entry into force of the Japan-EC Scientific and Technology Cooperation Agreement, the GOJ and EC will regularly hold meetings and conduct activities to facilitate cooperation in accordance with the Agreement. The GOJ will continue to respond to the various needs, including those of industrial circles, in view of circumstances concerning R&D and science and technology.

34. Promotion of Technological Development of Alternative Energy

BDRT recommendation

Nuclear energy should be promoted as it does not emit CO₂ and allows for departure from oil supply structure, depending mostly on Middle East. When dealing with global warming from a mid-to-long term perspective, it is important to convert from fossil fuel to carbon-neutral energy such as biomass or hydrogen. The key to realising this conversion is technological development through active cooperation between European and Japanese Industry. The European Commission and the Japanese Government should financially support the acceleration of this technological development and develop incentives for the industry to move to these new technologies.

State of the measures taken thus far

- (1) Nuclear energy will contribute to ensuring a stable energy supply. In addition, given its excellent properties in contributing to the prevention of global warming, the GOJ will promote nuclear power generation as a key energy source, including nuclear fuel cycles, premised on the fundamental assurance of safety.
- (2) The GOJ believes that it is important to maximise its efforts to develop technology and promote the introduction of new energy sources such as Photovoltaic power generation, Bioenergy and fuel cells from the standpoint of addressing global warming issues and diversifying energy sources.

Meanwhile, the GOJ currently faces the economic issue that generation costs are higher for these new energy sources than they are for traditional energy sources, as well as the issue of stability where generation is easily influenced by natural conditions.

In order to overcome these constraints, in the case of Bioenergy, for example, Japan is developing technology to efficiently convert it to energy, and is conducting verification tests to facilitate the implementation of technology that is already on the verge of being put to practical use.

At the same time, fuel cells have properties including reducing the environmental burden, conserving energy and diversifying energy sources. It is thus expected that fuel cells will lead to the creation of new industries and employment since they involve a wide range of relevant industries. Japan is therefore engaging in research, technological development and verification of fuel cells with the aim of putting them into practical use and spreading their use.

Moreover, the GOJ is taking measures such as subsidising the cost of installing energy systems to promote price falls in overall system costs by reducing the burden on installers and striving to create initial demand.

Future outlook

The GOJ will continue to promote nuclear energy and make every effort to introduce new energy sources by expanding assistance measures that respond to the characteristics and challenges associated with each new energy source.

35. Post Kyoto Protocol

BDRT recommendation

Global warming is an issue that must be addressed on a global scale. It is called for the creation of the framework beyond 2013 for reducing greenhouse gases with the inclusion of the US, Russia and developing countries that are expected to substantially increase their emissions so that it becomes a practical and flexible framework and does not endanger the competitive position of Japanese and European companies. And in case of non ratification of the current Protocol by Russia and the US, a revised climate change strategy needs to be urgently designed to secure European and Japanese industry competitiveness.

State of the measures taken thus far

- (1) Russia ratified the Kyoto Protocol in November 2004 in response to Japan's repeated encouragement, among other factors. As a result, the Kyoto Protocol entered into force on February 16, 2005 and by the end of 2005, considerations will begin on the commitments for the period following the Kyoto Protocol's first commitment period (2008-2012).
- (2) At the Tenth Session of the Conference of the Parties to the United Nations Framework Convention on Climate Change (COP10) held in December 2004, (i) the contracting parties decided to begin efforts through information exchange aimed at mid- to long-term future actions in which all countries would participate, bearing in mind that considerations for the post-Kyoto commitments would begin by the end of 2005. It was decided that a Seminar of Governmental Experts would be convened among contracting parties in May 2005 and information would be exchanged on actions necessary for establishing effective, appropriate measures and the proceedings would be given to the contracting parties.
 - (ii) The GOJ welcomed the idea of holding this Seminar from the early stage. It also encouraged consensus building on this decision while emphasizing the importance of making progress with the participation of all countries. The GOJ also expressed its intention to proactively explain its position and contribute to invigorating the discussions at the Seminar.
 - (iii) At bilateral meetings held at COP10, the GOJ encouraged each of the major countries to cooperate through various bilateral, multilateral and other opportunities to take steps after the first commitment period of the Kyoto Protocol.
- (3) Japan's position is that building a framework in which all countries participate, including the United States and developing countries, is important for reducing greenhouse gas emissions on a global scale. Based on this position, Japan has taken opportunities such as the Japan-US High-level and Working-level Consultations to urge the United States to participate in the Kyoto Protocol and make further efforts in reducing greenhouse gas emissions. As was the case in 2003, Japan and Brazil co-chaired the Informal Meeting on Further Actions against Climate Change in Tokyo in September 2004 and invited major developed and developing countries to participate. At this meeting, Japan and Brazil encouraged and held a frank exchange of opinions with the participating countries on concrete actions to reduce emissions in the future. This meeting was highly appreciated by the various countries.

Future outlook

- (1) The GOJ will continue to make efforts to establish a set of common rules in which all countries will participate.
- (2) Considerations are underway within the government to play an active role in building a future framework in which all countries will participate. The GOJ will play such a role at the Seminar of Governmental Experts, which will be held in May 2005, as well as the Fourth Informal Meeting on Future Actions against Climate Change, scheduled in the second half of this year.

36. Importance of education

BDRT recommendation

The media and the Authorities place most of the responsibility for achieving sustainable development on industry. Whilst industry must clearly make its contribution, so should private individuals in their car usage or power consumption at home. The Authorities should tackle the education and enlightenment issue, from primary school to university, to ensure that society makes its contribution.

State of the measures taken thus far

In order to realize sustainable development, it is necessary to promote educational and enlightenment activities not only through education within and outside schools, but also in coordination with various entities including international organizations governments, non-governmental organizations (NGO) and companies.

- (1) The Ministry of Education, Culture, Sports, Science and Technology (MEXT), Ministry of the Environment (MOE) and other relevant Ministries are promoting environmental education, among other things, with the aim of realizing a sustainable society in accordance with the Law for Enhancing Motivation on Environmental Conservation and Promoting of Environmental Education (Law No. 130 of 2003) and the basic policy of the GOJ (adopted by Cabinet decision in September 2004) based on this law.
- (2) Environmental education has been traditionally conducted in Japan through school educational activities as a whole, including subjects such as social studies, science and home economics, moral education and special activities. The GOJ, in its New Courses of Study, has further enhanced environment-related content in various subjects such as science. The GOJ also enabled a deeper understanding of environmental issues in a more cross-curriculum and comprehensive manner through an experiential and problem-solving approach to learning in the Period for Integrated study.
- (3) MEXT will implement the following measures, among others, in an integrated manner with the aim of further promoting environmental education in schools: promoting and spreading excellent practices regarding environmental education and developing an information service system, the Green Plan for Advancing Environmental Education, the Rich Experience Activity Model Program, which promotes hands-on activities in school education, and the Eco-School Pilot Model Project, which promotes the development of environmentally friendly school facilities.
- (4) It is necessary to make social education that deepens understanding and concern for environmental education available to all people throughout their lives, regardless of age. The GOJ encourages and supports learning activities through various content, opportunities and forms adapted to respective regional circumstances.
- (5) The MOE is carrying out the Junior Eco-Club Program that supports the regional environmental conservation activities of elementary and lower secondary school students and the Environmental Counselor Registration System, which provides advice on environmental protection, among other things. The MOE is also conducting the Basic Course on Training Environmental Leaders and Project to Comprehensively Develop Environmental Education and Environmental Learning Database in coordination with MEXT. In addition, the MOE has included the Environment Minister of My Home program for supporting households striving to protect the environment, as well as the Model Project to Repair Schools and Others in Eco-friendly Ways and Environmental Education with the aim of reducing the environmental burden, in the budget proposal for FY2006.

Future outlook

With regard to the fact that the United Nations Decade of Education for Sustainable Development (UNDESD) has begun this year, the GOJ will further promote human rights education, environmental education and cross-cultural understanding, in which the GOJ has made efforts for a long time, and conduct activities to raise awareness at the individual level so that everyone can recognize the importance of the sustainable use of resources including recycling as well as the importance of environmental conservation.

37. Aid for developing countries

BDRT recommendation

When multinational companies conduct business activities in developing countries they act following economic, social and environmental sustainability and make efforts to transfer such principles to those countries. Both Japanese and European authorities are also asked to aid developing countries – not only financially but, for example, through transferring technologies which help reduce greenhouse gas. Such technology can be easily introduced by creating “clearing house” (websites with publicly available information).

State of the measures taken thus far

Japan presented the Kyoto Initiative on the occasion of the Third Session of the Conference of the Parties to the United Nations Framework Convention on Climate Change (COP3), which was held in Kyoto in December 1997. Mainly through this Initiative, Japan has provided assistance to developing countries for global warming prevention measures in a variety of areas.

For example, the GOJ offers training such as “Development of Strategies on Climate Change” and “Capacity Building for Policy Makers Regarding Global Warming (Kyoto Mechanism)” through the Japan International Cooperation Agency (JICA).

The International Center for Environmental Technology Transfer (ICETT) has a website through which it spreads information on environmental technology concerning the effective use of energy, among other topics. In this way, Japan is making progress in its efforts to create a clearing house.

The Asia-Pacific Network for Global Change Research (APN) has been assisting a variety of researchers on global environmental changes including climate change with the purpose of promoting research on global environmental changes in the Asia-Pacific region and encouraging participation of developing country researchers to enhance cooperation between scientists and researchers and policymakers.

Future outlook

The GOJ will continue to provide assistance to developing countries in the area of global warming prevention mainly through on the Kyoto Initiative.

The GOJ will continue to provide training such as “Development of Strategies on Climate Change” and “Capacity Building for Policy Makers Regarding Global Warming (Kyoto Mechanism)” through JICA. As for the clearing house of ICETT, which has already been established and is running, the GOJ plans to enhance the website’s function by expanding technological information and striving to make this website more well-known.

A clearing house has also been established at the United Nations Framework Convention on Climate Change (UNFCCC) Secretariat. A technology matching system in the area of climate change is operating on an international basis and Japan’s technology has been registered on this system. Japan is vigorously contributing to the discussions on development and transfer of technologies at the Conference of the Parties on Climate Change (COP) and other venues, and it will continue to play a role in ensuring the effective operation of this system.

Tax System-related Proposals

In the annual tax revision process, decisions are made on requests and opinions submitted to the tax authorities by each ministry and agency, bearing in mind factors including economic circumstances, financial situation and discussions held by the Government Tax Commission and LDP's the research commission on the Tax system. Each ministry and agency refers to the opinions gathered at various levels, including proposals raised by the BDRT, when compiling its tax revision requests. These opinions have been reflected in the tax revisions that are made every year.

Tax system-related proposals have been made for the following items in the recommendations from the 6th Japan-EU BDRT meeting.

- WP 1: Trade and Investment
 2. The optimisation of returns on investment
 4. Supporting timely and smooth business reorganisation from legal and tax points of view
 7. Modernizing legal and tax systems to support foreign investment
 16. Foreign tax credit
 17. CFC rules
- WP 2: Accounting and Taxation
 19. Tax Issues
- WP 5: Life Sciences & Biotechnology (LS&BT)
 29. LS&BT for Industrial/Environmental Uses

Japan will use the requests it deems appropriate as reference from the standpoint of improving the business environment.

For example, a measure was taken in the FY2004 tax reform to abolish the consolidated surtax mentioned in “20. Improvements to the consolidated tax system” of the recommendations from the 5th Japan-EU BDRT meeting.

The GOJ and the United States exchanged in March 2004 the instruments of ratification of the Japan-US Income Tax Convention to further promote international investment exchange. Under this new Tax Treaty, while taking the Organisation of Economic Cooperation and Development (OECD) model as a basis, the withholding taxes imposed on Dividends, Interest and Royalties have been significantly reduced. In addition to these exemptions, this new treaty stipulates that measures will be taken to prevent treaty abuse and tax avoidance, among other items.

The GOJ intends to continue negotiating with European countries to revise existing income tax conventions or conclude new income tax conventions as necessary, with the new Japan-US Income Tax Convention as a basic model.