



EUROPEAN COMMISSION

Commission Services Progress Report
on the
EU-Japan Business Dialogue Round Table 2004 Recommendations

Brussels, April 2005

Under the heading “*Giving a new Impetus to EU-Japan Relations and Addressing New Sectors*”, the European Union – Japan Business Dialogue Round Table (BDRT) issued in 2004 its recommendations to the leaders of the EU and Japan.

Adopted during the BDRT annual meeting held in Tokyo on 20 and 21 June 2004, those recommendations have been duly studied by the European Commission Services.

The following document outlines progress made in considering or implementing the various recommendations put forward by the BDRT.

For each recommendation (or set of recommendations concerning the same issue / topic), a summary is proposed before describing the action taken and the state of play. Finally, a paragraph is dedicated to the prospects for implementation.

The progress report is divided into 5 parts dealing with the following issues:

- Trade and Investment,
- WTO,
- Accounting and Tax Issues,
- Information Society,
- Sustainable Development.

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1. TRADE & INVESTMENT

1.1. Joint declaration on direction to enhance foreign direct investment between the heads of the governments of the EU and Japan (1-EJ-1)

1.1.1. Summary of recommendation

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.

Such a joint declaration should explicitly refer to the following four priorities: the optimisation for the return on investment; supporting timely development for business; supporting timely and smooth business reorganisation; and promotion of regulatory reforms.

1.1.2. Action taken and state of play

At the 2004 EU-Japan Summit in Tokyo President Prodi, Prime Minister Ahern and Prime Minister Koizumi adopted an investment framework agreement (“Cooperation Framework for Japan-EU Two-Way Investment Promotion”). The Investment Framework responded to a policy decision at the previous summit and a recommendation by the EU-Japan Business Dialogue Round Table (BDRT) to give particular priority in the bilateral relations to the promotion of foreign direct investment.

The “Cooperation Framework for EU-Japan Two-Way Investment Promotion” is a non-binding political framework that brings together various investment related aspects. This initiative is part of the implementation of the EU-Japan Action Plan. One of the main objectives of the economic part of the Action Plan is to increase bilateral investment. In general terms the Investment Framework brings together in a coherent form all investment related aspects of the Action Plan that are currently dealt with in different fora, such as the summit statements and the Regulatory Reform Dialogue. In doing so it gives certain issues of interest for the business community more visibility, clearer government policy backing and their implementation an increased sense of urgency. The real measurement for the initiative is its value-added. In the framework there are a number of particularly useful elements: Early notification/information and dissemination regarding new regulations; a call for acceptance of testing data or evaluation results concerning certain standards; improved transparency for business on regulatory procedures; a push to allowing the use of stock-for-stock merger and acquisition for cross border investment and to achieve tax deferral for share-by-share mergers and acquisitions and facilitation/improvement of work permits procedures and administrative problems.

Both sides have decided against an overly ambitious and slow mechanism (such as a legally binding treaty) and opted instead to focus efforts on an instrument that provides practical solutions, is faster to implement and does not require new fora.

1.1.3. Prospects for implementation

The European Commission and the Japanese Government have used the existing fora in particular high level meetings between the Japanese Government and services concerned and the regulatory reform dialogue to implement the investment initiative. There are already a number of deliverables:

- Equivalence of accounting standards: The European Commission has given a mandate to CESR (the Committee of European Securities Regulators) to give technical advice on the equivalence between IAS (International Accounting Standards) and the Japan standards GAAP (Generally Accepted Accounting Principles). CESR will conduct the technical assessment, based on a concept paper to which Japan was invited to comment, and submit its evaluation by 30 June this year.
- The EU acceded to the Madrid protocol (concerning the international registration of marks) on 1 October 2004.
- Data Protection Directive: The European Commission adopted the “alternative standard contractual clauses” submitted by a coalition of business associations, including the Japan Business Council of Europe on 27 December 2004.
- Revision of the Japanese Commercial Code is being undertaken with a view to allow triangular stock-for-stock merger, although this process is now being delayed by one year.
- Negotiations for a Customs Cooperation Agreement have been launched and are expected to be finalised still this year.
- Japanese request concerning the procedures governing driving licences have been solved.

However a number of activities remain to be implemented. This relates to the need for a revision of the Commercial Code to allow triangular stock for stock swaps in merger and acquisition investment, as well as to extending the same tax deferral rules on capital gains for Japanese companies to cross border mergers involving EU companies. By contrast the planned anti-take over measures should not raise further barriers for M&A investment. On the European side adoption of the Community patent regulation would be a useful step to create a better environment for foreign investment.

1.2. The optimisation of returns on investment (1-EJ-2)

1.2.1. Summary of recommendations

1.2.1.1. 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.

1.2.1.2. 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.

1.2.1.3. Participation exemption

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

1.2.2. Action taken and state of play

1.2.2.1. Avoidance of double taxation

To reduce the possibility of double taxation withholding taxes should be exempted on dividends from subsidiaries to its parent company and on royalty and interest payments between related companies.

The new Japan-USA tax treaty - effective from 1st January 2005 - provides that dividends paid by a company, which is a resident of USA, to a resident of Japan shall not be taxed in the USA if the beneficial owner is a Japanese resident that has owned, directly or indirectly, more than 50 percent of the voting stock of the company paying the dividends. Royalties and interest - under special circumstances - may be taxed only in the country of residence of beneficial owner. To make this kind of benefits available to investment flows between the EU and Japan, it would be necessary to modify the double taxation treaties between each EU Member State and Japan.

However, such modifications require action under the competence of individual Member States. In this context, any exemption from the withholding taxes should be negotiated by Member States individually, by revising their Double Taxation Treaties with Japan, should they wish to do so. In 2004, the Netherlands and the United Kingdom have announced that they started to negotiate with Japanese tax authorities to revise their tax treaties.

1.2.2.2. Reducing compliance costs associated with transfer pricing

In its October 2001 Communication on company taxation "Towards an Internal Market without tax obstacles" (COM(2001) 582), the Commission outlined its twofold strategy to tackle transfer-pricing problems, notably in the form of high

compliance costs and potential double taxation, that companies face when doing business across borders.

On the one hand, the Commission intended to encourage the use by Member States of Advance Price Agreements (APAs) and, on the other hand, it favoured better co-ordination of transfer-pricing policies within the EU, notably by establishing in July 2002 the "EU Joint Transfer Pricing Forum".

Since its inception, the "EU Joint Transfer Pricing Forum" has met ten times, and primarily discussed pragmatic, non-legislative recommendations to solve the problems in the application of the Arbitration Convention and the mutual agreement procedures under Member States' double taxation treaties. On 7 December 2004 the Council adopted a Code of Conduct on the effective implementation of the EU Arbitration Convention.

The "EU Joint Transfer Pricing Forum" has also discussed standardised documentation requirements in the EU to reduce compliance costs. A Commission Communication on this issue is to be published later this year.

In June 2005 the Forum is scheduled to start discussions on APAs and other procedures to avoid double taxation in the area of transfer pricing¹.

1.2.2.3. Participation exemption

The recent amendments (Council Directive 2003/123/EC) to the Parent-Subsidiary Directive have reduced, and will reduce further, the threshold requirements for benefiting from exemption from withholding tax on dividends.

1.2.3. Prospects for implementation

1.2.3.1. Avoidance of double taxation

Only 17 EU Member States have signed a tax treaty with Japan and the most part of these treaties is really old. Significant differences between Member States' treatment of withholding taxes could be damage the integrity of EU Single market (*see table next page*). In this context, it has to be mentioned that the Commission intends to present in 2006 a Communication on the Member States' bilateral tax treaties - between Member States and with Third Countries - and their interaction with the EU legislation, and the possible implications for co-operation in this matter.

¹ Further information can be found at the following address:
http://europa.eu.int/comm/taxation_customs/taxation/company_tax/transfer_pricing.htm

Maximum withholding tax rate under tax treaties signed by EU Member States and Japan				
	Tax Treaty	Dividends	Royalties	Interest
AUT	1963	20 - 10	10	10
BEL	1968	15 - 5	10	10
CZ	1977	15 - 10	10 - 0	10 - 0
DEN	1968	15 - 10	10	10
FIN	1972	15 - 10	10	10
FRA	1995	15 - 5 - 0	10 - 0	10
GER	1966	15 - 5	10 - 0	10
HUN	1980	10	10	10 - 0
IRL	1974	0	10	10
ITA	1969	15 - 10	10	10
LUX	1992	15 - 5	10 - 0	10
NED	1992	15 - 5	10 - 0	10
POL	1980	10	10 - 0	10 - 0
SVK	1977	15 - 10	10 - 0	10 - 0
SPA	1974	15 - 10	10	10
SWE	1999	15 - 5 - 0	10	10
UK	1969	15 - 10	10	10
GRE, POR, LIT, EST, LAT, CYP, MLT, SLO have not signed tax treaties with Japan				

1.2.3.2. Reducing compliance costs associated with transfer pricing

It has to be noted the “EU Joint Transfer Pricing Forum” is not scheduled to address any possible co-operation between the EU and third countries, including Japan, in the field of transfer pricing.

1.2.3.3. Participation exemption

As far as a possible participation exemption for capital investment is concerned, the Commission has not presented any proposal in this respect so far. The Commission does however note the recommendation that the introduction or expansion of the participation exemption should be considered as a medium- to long-term objective.

1.3. Supporting timely development of business: smoother and swifter transfer of personnel (1-EJ-3)

1.3.1. Summary of recommendation

Social security treaties between all Member States of the EU and Japan should be concluded as soon as possible.

1.3.2. Action taken and state of play

Community provisions in the field of social security, in particular Regulation (EEC) 1408/71 co-ordinate, but do not harmonise arrangements for people who exercise their right to free movement within the European Union.

Member States continue to be responsible for the funding and organisation of their social security systems. They are therefore free to determine details of their own social security systems, including which benefits shall be provided, the conditions for eligibility and the value of these benefits, as long as they adhere to the basic principle of equality of treatment and non-discrimination as laid down in the Regulation.

The problem of double-contributions can only be addressed by concluding bilateral social security agreements with the Member States concerned. The Commission welcomes the progress of negotiations on the conclusion of such agreements between Japan and certain Member States.

1.3.3. Prospects for implementation

Given the competencies in this area, the conclusion of social security treaties between Member States and Japan has to be discussed on a bilateral basis.

1.4. Supporting timely and smooth business reorganisation from legal and tax points of view (1-EJ-4)

1.4.1. Summary of recommendation

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.

1.4.2. Action taken and state of play

On 17 February 2005, on the basis of a proposal from the Commission (COM(2003) 613 final), the Council adopted Directive 2005/19/EC amending Council Directive 90/434/EEC ('the Merger Directive').

Directive 2005/19/EC, which follows the Commission's proposal in most respects, updates, clarifies and broadens the scope of the Merger Directive, in that it:

updates the list of companies to which the Directive applies to cover new legal entities, including certain co-operatives, non-capital-based companies, mutual companies, savings banks, funds and associations with commercial activity; it also includes companies formed under the European Company and European Co-operative Society statutes;

extends the application of tax deferrals to a new form of business reorganisation – the 'partial division', which occurs when a company, without being dissolved, transfers one or more branches of activity to an existing or newly created receiving company in exchange for the issue of shares in the receiving company to the shareholders of the transferring company;

ensures that when the registered office of a European Company ('SE') or of a European Co-operative Society ('SCE') is transferred from one Member State to another deferral of tax applies to capital gains on assets which remain connected to a permanent establishment of the SE or SCE in the first Member State of;

clarifies that the tax deferral regime applies also when a company decides to convert its foreign branch into a subsidiary.

1.4.3. Prospects for implementation

Japanese-owned companies that are resident in an EU Member State and take one of the legal forms (including those new types of company which have been added by Directive 2005/19/EC) listed in the Annex to the Merger Directive would be within the scope of the Directive. As stated in the 2003 Progress Report, Member States would be most unlikely to agree to extend the scope of the Merger Directive to companies resident in Japan, considering that such matters should fall within the scope of their individual bilateral tax treaties with Japan.

1.5. Promotion of regulatory reforms (1-EJ-5)

1.5.1. Summary of recommendation

The EU and Japan should continue to cooperate with each other through their ongoing regulatory reform dialogue with the goal of creating an open environment for trade and investment.

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.

1.5.2. Action taken and state of play

The Regulatory Reform Dialogue has been acknowledged by summit leaders at the Tokyo EU-Japan Summit on 28 June 2004 on the occasion of its 10th year of existence as a “uniquely successful and adaptable instrument for dealing with regulatory issues affecting the business environment”. The two-way dialogue continued to deliver concrete results in the two meetings in November 2004 and March 2005 respectively. In both meetings prominence was given to the issue of facilitating access of products and services to the markets by cooperating on standards and conformity assessments, including the acceptance of test data. This continues to be a key element of the Regulatory Reform Dialogue and an important component of the Investment Framework that was adopted at the 2004 summit.

1.5.3. Prospects for implementation

Regarding international harmonisation and mutual acceptance of technical regulations and standards some progress can be noted on medical devices in Japan under the revised Pharmaceutical Affairs Law, on automobiles with further adoption of UN/ECE regulations by Japan in the automotive sector and further authorisation by Japan of food additives and flavourings which are proven safe by the FAO/WHO Joint Expert Committee on Food Additives. This later process continues albeit at a slower than desirable pace. On the acceptance of test results and data, some progress can also be registered for medical devices, where the Government of Japan has expanded the scope of acceptance of foreign clinical data, and in the formaldehyde case regarding the recognition of overseas organisations as performance evaluation organisations or sub-contracting, where however still capacity bottlenecks of the Japanese performance evaluation bodies continue to cause considerable costs and delays for European exporters.

Both sides will continue work to promote and enhance the acceptance, recognition or harmonisation of standards, certification and notification, where appropriate, in the context of the Regulatory Reform Dialogue, by implementing the Investment Framework and through bilateral working groups between the respective ministries of the Japanese Government and the services of the European Commission.

1.6. The policy of the EU on taxation and company organisation (1-E-1)

1.6.1. Summary of recommendations

1.6.1.1. Common consolidated tax base

The European Commission and the Member States should realise a common consolidated corporate tax base as soon as possible.

1.6.1.2. Merger Directive (90/434/EEC)

- (a) Its scope should be extended to include the deferral of taxation on unrealised gains on goodwill as well as taxation on the transfer of real estates and other intangible assets in reorganisation.
- (b) The requirements in certain Member States to maintain the holding of shares for a number of years should be abolished.

1.6.1.3. Directive on cross-border mergers (10th Company Law Directive)

The proposal for a Directive on cross-border mergers of company with share capital issued in November 2003 should be adopted and implemented without delay.

1.6.1.4. Proposal for a 14th Company Law Directive

A proposal for a 14th Company Law Directive on the cross-border transfer of the registered office of limited companies without liquidation and incorporation should be proposed, adopted and implemented as soon as possible.

1.6.1.5. Cross-border losses

The European Commission and the Member States should make a swift progress in realising the cross-border offset of losses against profits.

1.6.1.6. Interest and Royalties Directive

The BDRT welcomes the adoption and implementation as from 1st January 2004 of Directive on the elimination of withholding tax on interest and royalty payments within group companies in the EU (Council Directive 2003/49/EC).

1.6.1.7. Statute for European Private Company

A statute for European Private Company should be introduced as a short-term priority.

1.6.1.8. Corporate Governance

Corporate Governance is important for the internal control of a group of companies. There should be a guideline at the EU level on compliance matters. In addition, binding rules in Member States should not constitute obstacles to cross-border investment.

1.6.2. Action taken and state of play

1.6.2.1. Common consolidated tax base

In its October 2001 Communication on company taxation “Towards an Internal Market without tax obstacles” (COM(2001) 582), the Commission concluded that, in addition to short-term actions aimed at removing tax obstacles to cross-border trade, as a longer term objective Member States should allow companies to use a single consolidated tax base for computing their tax on EU-wide profits.

In the April 2002 European Company Tax Conference, the issue of a common consolidated tax base was widely discussed. Since then, a number of events organised by expert federations and research institutes have taken, where this issue has been debated.

The Commission in November 2003 presented an overview of its follow-up work in the company tax field. It confirmed its commitment to its 2001 strategy. Concerning the common consolidated tax base, it reported on the results of its wide consultations on this idea and announced that it plans initiatives in three areas as a result of these consultations:

Despite differences of views among business representatives, industry and Member States on the detail, there is general agreement within the business community and growing support in the political world for a pilot scheme to allow Small and Medium Enterprises to use the tax rules of their home state for calculating their EU-wide taxable profits. These companies would particularly benefit from the resulting simplification and reduction of tax compliance costs. The Commission therefore proposes to discuss with representatives of business and interested Member States the detailed arrangements for such a pilot scheme. The Commission will make a recommendation for action in this field in 2004.

The Commission established a Working Group in November 2004 composed of experts from Member State administrations to discuss progress on developing a common consolidated corporate tax base. International Financial Reporting Standards (IFRS) are used as a tool in discussing the structural elements of the new base as they are applicable across the EU but considerable work will be needed to design the tax base itself. Although all twenty five Member States participate in the technical work two have stated they do not support the introduction of a common consolidated tax base as a matter of principle.

1.6.2.2. Merger Directive (90/434/EEC)

- (a) As already mentioned in the 2004 Progress Report, the Commission consulted Member States on the possibility of extending the scope of the Merger Directive to cover tax deferral on real estate transactions and the transfer of intangible assets, but decided to limit its amendment proposal to those elements on which there appeared to be the prospect of reaching final agreement.

- (b) The Commission has already noted that several Member States have imposed holding requirements that do not appear to have support in the Merger Directive.

1.6.2.3. Directive on cross-borders mergers (10th Company Law Directive)

At the end of November 2004 the Council reached agreement on its political approach to the Directive on cross-border mergers, proposed by the Commission in November 2003. One of the main issues at stake in the Council discussions was the provision on employee participation. Pursuant to the reached agreement, employee participation in the newly created company would be subject to negotiations based on the model of the European Company Statute. In case of failure, standard rules on employee involvement would apply, stipulating that the higher standard of workers participation existing among the merging companies would apply to the merged entity if at least one third of the total number of employees before the merger were covered by a workers' participation scheme.

The proposed Directive is subject to the co-decision procedure whereby both the Council and the Parliament must agree on the final text.

Provided that the Parliament takes on board the approach endorsed by the Council, the Directive could be adopted in just one reading. The European Parliament is expected to vote on the Directive in May 2005.

Thus, there are good chances that the Directive will be adopted in 2005, possibly, even in the first half of 2005, depending on the EP's opinion and the speed of translation works (in order to be adopted the text of the Directive should be available in all 20 official languages of the EU).

1.6.2.4. Proposal for a 14th Company Law Directive

The elements that could be part of the 14th Company Law Directive are currently being discussed internally by the Commission services. No firm decision has yet been taken on such a proposal.

1.6.2.5. Cross-border losses

As mentioned in its October 2001 Communication "Towards an Internal Market without tax obstacles", after more than a decade, the Commission withdrew its 1991 proposal of Directive on cross-border loss relief with a view to considering a more complete solution to the problems in this area. There are at present major limits in cross border loss relief between Member States which can lead to (economic) double-taxation. Generally, losses of subsidiaries are not tax-effective at the level of EU parent companies and losses of permanent establishments can be offset against headquarter profits only under specific circumstances.

In its November 2003 Communication "An Internal Market without company tax obstacles: achievements, ongoing initiatives and remaining challenges" (COM (2003)726 final), the Commission announced that it would consult with Member States with a view to presenting a more comprehensive initiative in this

area in late 2004/early 2005. Such consultation may be expected to take place in the first semester of 2005.

1.6.2.6. Interest and Royalties Directive

Following a political agreement reached in January 2003 on the adoption of the so-called Tax Package, Directive 2003/49/EC exempting from withholding taxes interest and royalty payments made between associated companies of different Member States was finally adopted on 3rd June 2003.

Member States were required to implement the Directive from 1st January 2004. As a consequence, payments made by one company in any Member State in the form of interest and royalties to an associated company resident in other Member States will be exempted from any tax levied at source, either by deduction (i.e. withholding taxes) or by assessment.

It has to be stressed that the Directive applies to interest and royalty payments between associated companies established within the EU, and not to such payments when made from a European subsidiary to a Japan-based parent company and / or vice versa.

The Commission has also submitted a proposal (COM(2003) 841 final) to extend the scope of the Interest and Royalties Directive to new forms of company, including the SE and SCE. The proposal is currently being discussed in a Council working group.

1.6.2.7. Statute for European Private Company

On 14 January 2005 external consultants carrying out a feasibility study on a statute for European Private Company have presented their first findings in the workshop where interested parties and organisations took part. The finalisation of the study is foreseen for the end of 2005. Depending on the outcome of the study, pertinent legislation activity may be undertaken subsequently.

1.6.2.8. Corporate Governance

In principle, the European Commission agrees with the idea that corporate governance rules and adjacent disclosure rules should be implemented throughout a group of companies in a consistent way.

The first step made by the Commission in this direction was adoption of two corporate governance recommendations at the end of 2004 that aim at approximating Member States approaches to the key corporate governance issues.

Taking into account the very nature of corporate governance rules and the “soft law” approach chosen by the Commission and supported by Member States, it does neither seem feasible nor appropriate to mandate at the EU level “home-country” principle.

Nevertheless the issue of the consistency of corporate governance rules throughout the groups of companies could be a good topic for a discussion and research by the recently established European Corporate Governance Forum.

The role of the Forum is to allow exchange of information and best practices existing in Member States in order to enhance the convergence of national codes of corporate governance. The Forum can also provide strategic advice to the Commission – including areas of priority, concerns etc – taking into account the global dimension.

1.6.3. Prospects for implementation

1.6.3.1. Common consolidated tax base

Central to the establishment of a consolidated tax base (taxable profits) would be the arrangements for sharing tax base (taxable profits) between Member States. The Commission is continuing research into the issues that would be relevant to tax base (taxable profits) sharing, such as definitions of groups of companies and of income, formulae and weightings.

1.6.3.2. Merger Directive (90/434/EEC)

- (a) In view of the fact that agreement on even those elements proved difficult to reach, it may, at present, be unrealistic to assume that the prospect of reaching agreement on real estate transactions and intangibles has improved.
- (b) The Commission is continuing to monitor the situation closely.

1.7. Movement of workers in the EU (1-E-2)

1.7.1. Summary of recommendation

Double taxation related to occupational pension should be eliminated.

The implementation of Council Regulation 859/2003 extending the provisions of Regulation 1408/71 to nationals of third-countries is welcomed.

1.7.2. Action taken and state of play

Occupational pensions

Current Community legislation concerning social security of migrant workers (regulation 1408/71/EEC and regulation 574/72/EEC) does not cover supplementary pension schemes. Directive 98/49/EC on safeguarding the supplementary pension rights of employed and self-employed persons moving within the Community addresses only certain aspects. Its main objective is to guarantee the right to equal treatment of persons who change employment within a country and those which move from one country to another. It does not deal with problems related to the conditions of the acquisition of rights nor to their transferability.

The Commission consulted twice (in 2002 and 2003) the social partners on the need for Community action aiming to improve the portability of supplementary pension rights. All social partners recognised the need for Community action in this field, but there were divergent views on the appropriate measures. Following the second-stage consultation, social partners at European level decided not to enter into negotiations on this issue.

The Commission services are currently working on a proposal for a Directive establishing minimum requirements at European level to improve the portability of supplementary pension rights. The proposal is due to be adopted by the Commission in the first half of 2005

The Commission also launched infringement procedures against ten Member States in order to eliminate tax discrimination with regard to pension funds established in other Member States. In addition, Directive 2003/41/EC on the activities and supervision of institutions for occupational retirement provision will facilitate the mutual recognition of pension funds and will widen the scope for the cross-border management of professional pension schemes. It will thus permit pan-European groups of companies to create pan-European pension funds, which should facilitate the mobility of workers among them. Member States will have to implement this directive at the latest by 23 September 2005.

1.7.3. Prospects for implementation

Occupational pensions

The Commission proposal for a Directive establishing minimum requirements for the portability of supplementary pension rights is due to be adopted in the first half of 2005.

Directive 2003/41/EC on the activities and supervision of institutions for occupational retirement provision will have to be implemented by Member States by 23 September 2005.

1.8. Tariffs and Tariff classification (1-E-6)

1.8.1. Summary of recommendation

- (a) The tariff rates of the EU on certain manufactured goods (e.g. consumer electronic products or passenger vehicles) are very high compared with those of other developed countries and should be lowered.
- (b) The EU still changes tariff classification intentionally and arbitrarily. This is often the case with digital technology products. This situation should be improved.

1.8.2. Action taken and state of play

EU tariffs on manufactured products are largely comparable with those of other industrialised countries. According to WTO figures (2001), EU average bound tariff for industrial products is 4.1%, against 3.9% in the U.S. and 3.5% in Japan. The EU share of lines with tariff peaks (with duties above 15%) is 1.5%, against 3.5% in the U.S. and 1.8% in Japan.

Certain duty rates in the EU tariff are higher than those of other developed countries. However, it should be recalled that the duty rates in question are the outcome of GATT and then WTO negotiations for the post-UR Information Technology Agreement (ITA), and reflect an equitable balance between what the EU gave and was offered in terms of market access.

Within the current WTO Round, negotiations on tariffs and non-tariff barriers to trade in non-agricultural products remain a priority for the EU. Trade in non-agricultural products represents over 80% of world trade in goods. A substantial decrease in industrial tariff is likely to provide important trading opportunities both to developed and developing countries. All WTO Members should contribute to this process according to their level of economic development and capacities.

With reference to the EU tariff classification system, the BDRT recommendation seems to reflect an incorrect understanding of the purpose of classification. As already stated in the previous report, EU classification is made in accordance with the HS Convention rules. Its objective is to find the correct heading in the EU nomenclature, according to the physical characteristics of each product. Classification is not based on the duty rates associated with the Community subdivisions to HS nomenclature. The objective of classification is not to make new tariff concessions without proper trade negotiations. This is in conformity with Article 9 of the HS Convention which states that "The Contracting Parties do not assume by this Convention any obligation in relation to rates of Customs duty".

With reference to digital technology products, the BDRT request reflects the misunderstanding that all so-called "IT products" are covered by the ITA. Thus, it must be stressed that the ITA covers many IT products but not all products using IT, in particular consumer electronics which were excluded from the start. The suggestion to apply ITA rates for all so-called IT products whether or not covered by the ITA by means of reclassification is not viable. Duty rates are

fixed by the European Council in accordance with the EU's multilateral and bilateral tariff commitments.

1.8.3. Prospects for implementation

The multilateral market access negotiations for non-agricultural products within the current WTO Round provides an opportunity for both the EU and Japan to reduce overall tariff levels and tariff peaks as well as to seek harmonised and simpler tariff structures for all WTO Members. In the current WTO Round, the EU insists on an approach that maintains the high levels of ambition set out in the Doha mandate. The Community is committed to removing tariff quotas and reducing or, where appropriate, eliminating high tariffs, peaks and tariff escalation. The Hong Kong Ministerial Meeting in December 2005 will offer the possibility to reach an ambitious agreement on tariff reduction for all WTO members.

2. ACCOUNTING AND TAXATION

2.1. Tax issues (2-E-2)

2.1.1. Summary of recommendation

Commission should invite Member States to ensure consistency as between the new treaties they may agree with the government of Japan.

2.1.2. Action taken and state of play

See pages 7-9 the reply given by the Commission Services to recommendation 1-EJ-2 (the optimisation of returns on investment).

2.2. International Accounting Standards – IAS (2-E-1, 2-EJ-1)

2.2.1. Summary of recommendations

- (a) Accepting that Japanese GAAP (Generally Accepted Accounting Principles) is a high quality, internationally recognised accounting standard, the BDRT asks that the European Commission consider whether to take steps to encourage Member States to allow Japanese companies to use it after 2007.
- (b) The BDRT asks that the public authorities in Japan and the European Union make steady progress towards adoption and implementation of International Accounting Standards (IAS).

2.2.2. Action taken and state of play

- (a) Under the Prospectus Directive and the Transparency Directive, companies from non-EU countries which have made or will make public offerings or have listed or will list their securities within the EU are required to prepare their financial statements in accordance with International Accounting Standards (IAS/IFRS) or accounting standards which are equivalent to IAS, beginning from around 2007.

In June 2004, the European Commission granted to CESR (the Committee of European Securities Regulators) a single and specific mandate to give technical advice on the matter of equivalence between certain third country GAAP and IAS/IFRS.

The Commission recognises the importance of Japanese issuers within the EU. For this reason the Commission mandate to CESR specifically requested advice on the equivalence of Japanese GAAP.

The Commission also recognises the importance of an early decision on the matter of third country GAAP equivalence. For this reason the Commission mandate requested CESR to deliver its technical advice by 30 June 2005.

At the last Japan-EU Summit (2004) “the leaders of Japan and the EU noted that the European Commission has started a process of establishing equivalence between international accounting standards and existing Japanese standards and urged that work to establish equivalence be concluded as soon as possible and at any rate before 2007.”

Upon the receipt of CESR’s technical advice, the Commission will make every effort to adopt a prompt decision on the equivalence of Japanese GAAP in accordance with the comitology procedure and well before the 2007 deadline.

- (b) The Commission thanks the EU-Japan Business Dialogue Round Table for its support towards the adoption and implementation of international accounting standards.

2.3. Corporate governance concerning the International Accounting Standards Board – IASB (2-EJ-2)

2.3.1. Summary of recommendation

The BDRT asks the public authorities to observe closely the process of rule setting and revision by the International Accounting Standards Board (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.

2.3.2. Action taken and state of play

The Commission takes a very close interest in the corporate governance arrangements concerning the IASB and has recently published its views on the proposed review of the IASCF² Constitution. These may be consulted on the Commission web-site³.

2.4. Convergence of international standards of accounting, auditing and disclosure (2-EJ-3)

2.4.1. Summary of recommendation

Recognising that convergence of international standards of accounting, auditing, and disclosure is a long-term objective, the BDRT asks that the public authorities adopt mutual recognition as a short-term target on a course toward convergence in the future.

2.4.2. Action taken and state of play

The Commission recognises the importance of, and supports, the convergence of international standards of accounting, auditing, and disclosure.

² IASCF: International Accounting Standards Committee Foundation

³ http://europa.eu.int/comm/internal_market/accounting/docs/ias/ias-cf-consultation_en.pdf

3. WTO

3.1. Policy statement concerning the World Trade Organization (WTO)

3.1.1. Summary of recommendation

The BDRT welcomes the renewed political will of WTO Members to take advantage of the window of opportunity that has opened in the last months to reach a basic agreement on the framework modalities for further negotiations. Negotiation needs to build on the lessons learned in Cancun and on the work performed and the progress made since then.

The EU and Japan should demonstrate their strong political will to achieve successful and meaningful negotiations by showing the need for flexibility in the core areas of negotiation. The BDRT hopes that all other WTO Members will also equally adopt a positive and open attitude to ensure the success of the negotiation.

3.1.2. Action taken and state of play

The EC fully shares the BDRT's strong support for the multilateral trading system and the Doha Development Agenda (DDA), which is crucial to bolstering international economic growth and helping developing countries integrate into the global economy. The EC is pleased to note, in line with the BDRT position, that the WTO General Council in Geneva in July 2004 successfully put the DDA back on track. The agreement reached (the "July Package") set the parameters of a future DDA package in five key areas: agriculture, industrial products, development issues, trade facilitation and services. The EC played an instrumental role in this, including by putting the elimination of its agricultural export subsidies on the table and showing flexibility on the so-called Singapore Issues. Negotiations have now resumed in Geneva and the next critical staging post is the Hong Kong Ministerial Meeting in December 2005. The EC is working very closely with all its trading partners to help take the DDA forward.

3.1.3. Prospects for implementation

To ensure further progress in the DDA, there is a need for all non-agricultural negotiations, such as services, industrial products and trade facilitation, to catch-up agriculture. This would yield increased opportunities for industry and service providers and is a necessary condition for the conclusion of the Round. To help achieve this rebalancing and ensure meaningful results at the Hong Kong Ministerial, the EC expects other WTO members to match its level of flexibility and put meaningful proposals on the table. Issues that were not addressed in the July Package, such as anti-dumping and geographical indications, also need to be addressed. Furthermore, there is a need for all WTO Members to ensure that stated political support for the DDA is translated into progress. The EU and Japan remain closely aligned in the DDA and have co-operated closely and constructively, and will continue to do so, at all levels and across all issues.

4. INFORMATION SOCIETY

4.1. Revision of target number of broadband subscription (3-EJ-1)

4.1.1. Summary of recommendation

To achieve goals on broadband penetration based on the development of eEurope Action Plan.

4.1.2. Action taken and state of play

The importance of broadband is reflected in the eEurope 2005 Action Plan which aims to develop modern public services and a dynamic environment for e-business through widespread availability of broadband access. Since the launch of the Action Plan at the Seville European Council in June 2002 and its endorsement by the Council of Ministers in the eEurope Resolution of January 2003, significant progress has been made in this area. Still, much is to be done in the coming years. Therefore Information and Communication Technologies (ICT) are given important status in the Commission's renewed Lisbon agenda with a new 'i2010' programme which is set to replace the 'e-Europe 2005' Action Plan.

Broadband subscriptions grew fast in the EU in 2004. Though, Europe still lags behind Japan in terms of penetration levels (while broadband penetration in 2004 was 6.5% in EU 25, the rate in Japan was twice as high - 13%), prospects for broadband in EU are promising, as it stands out from the recent data highlighted in the 10th Implementation Report.⁴

The Implementation Report reviews progress in the implementation, in the EU Member States, of the new regulatory framework for e-communications services. It also provides an assessment of the major developments in the market during the year. It covers 25 Member States for the first time and is the first full year review of the new regulatory framework, which came into force on 24 July 2003 for the EU 15 Member States and on 1st May 2004 for the new Member States.

It stems from the report that the total number of broadband access lines rose by more than 72%. In 2004 deployment in the EU 25 was at 29.6 million lines, which represented 6.5% of the population; the figure for the EU 15 was 7.6%, compared with 4.5% in 2003. The growth in broadband deployment is being driven largely by intensifying competitive pressure and by the strategy of fixed operators to offset eroding voice telephony revenues.

The dynamism is also evident in the increasing variety of innovative service offerings, and in the increasing capacity and speeds of transmission, that are now available. There is diversity among Member States in the development of broadband technologies. Some Member States are characterised by significant

⁴ European Commission Communication, Brussels, 2.12.2004 COM(2004) 759 final: European Electronic Communications Regulation and Markets 2004.

deployment of alternative infrastructures such as cable and fibre, while in others DSL is by far the primary technology. In 2004 DSL technologies stood at 77.7% of total broadband lines (EU 25), up from 73% in 2003 (EU15).

4.1.3. Prospects for implementation

Competition in broadband access is still weak in certain countries, and the European Commission is going to actively monitor its development and intervene where appropriate. Furthermore, a new initiative, the 'i2010' (European Information society in 2010) Programme, is in preparation. The i2010 objectives will be: creating a borderless European information space, increasing innovation and investment in ICT by both the private and the public sector and promoting wider access to the information society, for example to the disabled and the elderly. Consequently, the level of broadband subscription should increase.

4.2. Promotion of broadband utilization (3-EJ-2)

4.2.1. Summary of recommendation

To promote further development of ICT environment aiming effective utilisation of broadband network and generalise the use of applications such as e-Government, e-Health, e-Education relying on broadband

4.2.2. Action taken and state of play

Promotion of broadband utilization is closely related to the emergence of new applications and services. Improved delivery of public services forms a key element of the wider economic strategy to modernise the EU economy. Using new technologies to provide public services can become a powerful way to cut red tape. The new Lisbon strategy aims to encourage a clear, stable and competitive environment for electronic communications and digital services; increase research and innovation in information and communication technology, and promote an Information Society dedicated to inclusion and quality of life.

One of the priorities of the eEurope 2005 action plan was that basic public services should be available on-line by 2005. This is largely being achieved. Not only online availability of services has increased, but use of the services has grown as well. The household survey done by Eurostat and the national statistical institutes (NSI) shows continued growth in use of public sites. The proportion of the population obtaining information from public web sites grew from 16.8% in 2002 to 25.2% in 2004, a growth of 50% in 2 years. On the other hand, over 90% of public service providers now have an on-line presence, and 40% of basic public service are fully interactive.⁵

The enlargement from EU 15 to EU 25 did not greatly reduce the average level of online availability of public services. The EU average fell but only marginally. The index of sophistication, the measurement of online availability taking into account degree of interactivity fell from 72% for EU 15 to 65% for EU 25.

4.2.2.1. e-Government

Strategic planning has been progressing rapidly at all levels: all countries have eGovernment strategies in place and have often now an office specifically responsible for eGovernment. In some cases these offices are immediately attached to the Prime Minister (e.g. France, UK, Portugal). eGovernment action plans have been developed at regional and local level. Member State authorities make efforts to increase take-up of internet services. They use a variety of means, from financial or time incentives (e.g. permission to submit a tax filing later online than by paper) to actively promote the use of online public services.

⁵ Online Availability of Public Services: How is Europe progressing? Web Based Survey on Electronic Public Services. Report of the Fifth Measurement, October 2004. Prepared by: Capgemini for European Commission Directorate General for Information Society and Media (3 March 2005). See also: Top of the Web. User Satisfaction and Usage Survey of eGovernment services. Prepared by Ramboll Management for the European Commission DG INFSO, December 2004

A latest European Commission initiative shows that eGovernment initiatives can also be implemented at the EU level and have wider spectrum. In order to increase mobility of enterprises, the Commission in a close co-operation with national administrations, launched in March 2005 a new portal 'Your Europe' in order to answer similar questions from businesses all over Europe.

4.2.2.2. e-Health

On April 30 of 2004, the European Commission adopted an action plan aiming at making healthcare better for European citizens.⁶ The European eHealth action plan takes a twin track approach: making the most of new information and communication technologies in the health sector and better integrating a range of e-Health policies and activities. It will provide a framework for exchanging best practices and experience and enable common approaches to shared problems to be developed over time. This plan focuses on specific actions, so to create by the end of the decade a borderless European Health information space.

The European Commission and Member States set targets in areas such as: 1) building on the European health insurance card to promote a European electronic health card, that could feature such added functionalities as medical emergency data and secure access to personal health information; 2) developing Health Information Networks to speed the flow of health information through the healthcare system; 3) putting health services online such as information on healthy living and illness prevention, electronic health records, teleconsultation and e-reimbursement.

4.2.2.3. e-Learning

The eLearning initiative of the European Commission seeks to mobilise the educational and cultural communities, as well as the economic and social players in Europe, in order to speed up changes in the education and training systems for Europe's move to a knowledge-based society. The four action lines of the eLearning programme are: - Promoting digital literacy, - European virtual campuses, - e-Twinning of schools in Europe, and - promotion of teacher training, and Transversal actions for the promotion of e-learning in Europe.

4.2.2.4. Joint efforts between EU and Japan for promotion of broadband utilisation

The European Commission and the Government of Japan set up a regular dialog on Information Society. It allows exchanging proposals for deregulation and discussing issues of common interest. In this context close contacts are held on the promotion of broadband, telecommunications, and information society in general. Both sides share data and information on support they give for the emergence of new applications and services. The recent "Japan-EU Regulatory Reform Dialog" of 4 March 2005 proved that the issue of broadband expansion is of vital interest to both sides and the discussions will continue.

⁶ Commission Communication: e-Health – making healthcare better for European citizens; An action plan for a European e-Health Area, Brussels, 30.4.2004, COM (2004) 356 final

4.2.3. Prospects for implementation

The challenge now is to ensure that online government services are used as widely and extensively as possible, so as to deliver the maximum possible efficiency gains for business and citizen. Public authorities should provide online public services interactively wherever possible and relevant, and in a manner which is as user-friendly as possible. The European Commission is dedicated to ensure that citizens and businesses across the EU get the maximum benefit from quality, efficiency and productivity gains achieved by supplying public services on line.

The next concrete steps for the EU to enhance the use of eGovernment in Europe include: 1) Promoting the exchange of good practices, through the eGovernment good practice framework, eGovernment Awards and Ministerial Conference, 2) Good practice related projects that demonstrate impact and provide examples of replicable solutions; 3) Inclusion of eGovernment as part of i2010 – Information Society 2010, the new and comprehensive ICT strategy as announced by Commissioner Reding;

4.3. Establishment of secure network environment (3-EJ-3)

4.3.1. Summary of recommendation

To overcome the issues of increasing traffic, cyber terrorism and others accompanying the spread of applications, and take measures to establish secure network environment serving as a social infrastructure. To intensify technical and institutional co-operation against cyber terrorism to better trace the sources of attacks, while respecting the principle of freedom of communication.

4.3.2. Action taken and state of play

Security in a broadband communications is among top priorities of the Commission. The Commission undertook concrete activities in relation to trust and confidence building, such as the launch of a specialized security agency, a directive on the protection of privacy, financing research projects under the security objective in the Information Society Technologies (IST) Programme, and a 'Safer Internet *plus*' Programme.

The European Network and Information Security Agency (ENISA) has been established to assist the Community in ensuring particularly high levels of network and information security. ENISA started basic operations on the 14th March 2004, which is the day after the publication of the Regulation in the Official Journal; it will be fully operational at the end of 2005, when recruitment is expected to be completed. It now has its Executive Director, internal rules of procedure are in place, and a drive to recruit technical experts has just begun.

The European Union has already taken firm steps to fight harmful and illegal content on the Internet, protect intellectual property and personal data, promote electronic commerce, electronic signatures to enhance security transactions, improve the security of information infrastructures, and pave the way for a European culture of network and information security. A directive on the protection of privacy in electronic communications was adopted in 2003. It provides for basic obligations to ensure security and confidentiality of communications in EU.

The European Union IST Programme includes security as a strategic objective. A total of 15 research projects have been launched for a cumulative funding of 73.6m euro. The security objective was included also in the latest IST call for proposals with a pre-allocated budget of 63 m euro.

In 1999-2004, a 'Safer Internet' Programme had been run with the objective of promoting safer use of the Internet with a budget of 38.3m euro for the 6-year period. In December 2004, the Telecommunications Council adopted a follow-up 2005-2008 programme, 'Safer Internet Plus' which will have a budget of 45m euro to combat illegal and harmful internet content. It will focus more closely on end users: parents, educators and children.

Furthermore, regular contacts are maintained between EU and Japan to exchange information on the most recent policy developments and best practices.

4.3.3. Prospects for implementation

Member States have been invited to take, through two Council Resolutions⁷ a series of steps in the area of network and information security that, in general terms, should contribute to:

- Promote security as an essential component in public governance, in particular by encouraging assignment of responsibilities;
- Raise awareness, by strengthening and promoting security concepts as part of computer education and training and launching information and education campaigns on security related issues specially target at young people.
- Encourage co-operation and partnerships between academia and enterprises to provide secure technology services and to encourage the development of recognised standards
- Prevent and respond to security incidents notably through:
 - The continuous improvement of the identification and assessment of security problems and the application of appropriate controls;
 - The establishment of effective ways of communicating the need for action to all stakeholders by reinforcing the dialogue at European and national levels and, when appropriate, international levels;
- Addressing appropriate information exchange corresponding to the needs of society to remain informed on good practices related to security.

The success in combating the cybercrime will depend on judicial cooperation among EU Member States, but also on a global cooperation. There is a need to pursue a truly open, global and multidisciplinary approach to security to effectively tackle the complexity of global nature of the security challenges.

⁷ OJ C 43/2, 16.2.2002 and OJ C 48/1, 28.2.2003

4.4. Establishment of PDCA cycle for evaluation of IT policy development (3-EJ-4)

4.4.1. Summary of recommendation

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.

4.4.2. Action taken and state of play

The PDCA Cycle (Plan, Do, Check, Act) is a normal way of procedure for any legislative action in the EU. The legislative process starts with a consultation, and is followed by the adoption of a legal act, an implementation report, impact assessment and a review. An example of such approach is the latest Implementation Report on the European Electronic Communications Regulation and Markets which paves way for the regulatory review.

On more general terms, the evaluation of ICT policy development resulted in a Commission Communication of 19 November 2004 on "Challenges for the European Information Society Beyond 2005"⁸. This document makes clear the contributions which ICT make to the Lisbon goals. It underlines the continued need for specific ICT policies and initiatives and gives a preliminary indication of the key challenges we face in this area.

The communication highlights the need to step up research and investment in ICT, and to promote their take-up throughout the economy. ICT should be more closely tailored to citizens' needs and expectations, to enable them to participate more readily in socially fulfilling and culturally creative virtual communities. The communication identifies a number of challenges that will remain relevant for Europe's future Information Society policy, such as electronic inclusion and citizenship, content and services, public services, skills and work, ICT as a key industry sector, interoperability, trust and dependability and ICT for business processes.

This communication is the starting point of a reflection process that will lead to the adoption during 2005 of a new strategy, that will be put into place at the start of 2006. As part of this process a broad policy debate was launched by the European Commission in May 2004 in the eEurope Advisory Group (experts representing EU Member States and other stakeholders) and continued this year by a public consultation, which run until the 17 January 2005.

⁸ Commission Communication "Challenges for the European Information Society beyond 2005", Brussels, 19.11.2004, COM(2004) 757 final

4.4.3. Prospects for implementation

The Commission will present its proposal for a new Information Society initiative, i2010, at the end of May 2005. The “i2010” (European Information society in 2010) is a self-standing initiative with a close link to the revised Lisbon strategy. It will look for fast and visible results, based on the optimistic outlook for ICT industries and markets, and for fast growth built around the convergence of digital media and widely available high bandwidth infrastructures. It shall provide an integrated approach for information society and audio-visual policies in the EU, covering regulation, research and deployment under a single umbrella, and it shall ensure the visibility of these activities within the renewed Lisbon framework.

The aim is to make sure that Europe gets the full benefits in terms of prosperity, jobs and growth. The Commission will do this by: 1) Promoting a borderless European information space with the aim of establishing an internal market for electronic communications and digital services, 2) Stimulating innovation through investment in research, the development and deployment in ICT and by encouraging the industrial application of ICT, 3) Making the European Information Society as inclusive and accessible as possible.

4.5. Implementation of ICT actions into all countries (3-EJ-5)

4.5.1. Summary of recommendation

EU's 25 countries should continue to draft and carry out national broadband strategy based on eEurope action plan.

4.5.2. Action taken and state of play

The benefits of broadband are widely recognised. All Member States of the Union are already exploiting these benefits as they experience significant increases in deployment and take-up. All EU Member States have now drawn up National Broadband Strategies which propose a series of initiatives to accelerate the deployment and take-up of broadband.⁹

These strategies contain a wide array of initiatives both on the supply-side (infrastructure deployment) and on the demand-side (increased usage) of the market. Two key areas of focus include increasing deployment in under-served areas, with public support foreseen in areas where market forces do not deliver the necessary investment, and aggregating demand from public administrations. This is in line with the invitation to Member States from the Telecom Council of March 2004 "*to prepare and implement national broadband strategies, with a view to, inter alia, connecting all public administrations to broadband by 2005 and proposing, where appropriate, digital-divide quick-start projects, using, where appropriate, existing financial instruments such as structural funds, so as to increase broadband coverage of under-served areas*".

Member States' strategies recognise the primary role of the market for broadband deployment. They also recognise the role of public policy in complementing the effective functioning of the market, addressing both the supply and the demand side to stimulate a virtuous circle whereby development of better content and services depends on infrastructure deployment and vice-versa. Within this framework, the main initiatives considered by the strategies concern the need to increase broadband deployment in under-served areas and to stimulate demand through financial incentives, aggregation of public demand, and increased usage by administrations, schools, health centres and SMEs.

4.5.3. Prospects for implementation

Availability of infrastructure varies across countries, as it is driven by geographical features, population density, technological developments, coverage of cable TV networks, level of competition, and other factors. As a result, national strategies describe initiatives with varying emphasis according to the state of coverage, but all adopt a common approach.

⁹ Commission Communication Connecting Europe at High Speed: National Broadband Strategies, Brussels, 12.5.2004, COM(2004) 369 final

Several Member States have signalled the need for national strategies to be adjusted and updated, taking into account new technological and market developments. Particular attention should be paid to the following issues:

- (a) On the supply side:
 - (i) Mapping of broadband availability is a useful starting point for the identification of under-served areas and needs to be continuously monitored and updated given the rapid development of broadband throughout the Union.
 - (ii) Public funding should take account of the Guidelines on the use of Structural Funds in electronic communications not to distort competition nor private commercial incentives.
- (b) On the demand side:
 - (i) Promoting the development of open and interoperable public services.
 - (ii) Proposing all necessary operational measures to enhance connectivity of public administrations, schools, hospitals and public health centres.
 - (iii) Implementing demand aggregation policies taking into account competition concerns.
 - (iv) Improving the efficiency of financial incentives for broadband take-up.

4.6. Voice over IP - VoIP (3-EJ-6)

4.6.1. Summary of recommendation

The governments of Europe and Japan need to provide clarity for regulatory policy (such as usage of numbering for VoIP services, as already the case in Japan) for VoIP in comparison with traditional PSTN voice regulation. The implementation of regulatory obligations on VoIP services should always be specified in close co-operation with industry and manufacturers in view of economic and technical feasibility. The EU should learn from Japanese leading experience in the field based on the successful VoIP adoption by Japanese subscribers.

4.6.2. Action taken and state of play

It is a longstanding objective of the European Union to promote open and competitive electronic communications markets in Europe. In the context of the revised Lisbon agenda and the Commission's action plan for growth and jobs, the potential of the information and communications technologies plays a key role. In particular broadband penetration – currently at 6.5 per cent on average in the EU 25 – will only be increased substantially if interesting new services – such as VoIP – are made available to the consumer at attractive prices.

At the moment, estimates say that there are around 4.9 million Voice over IP customers in Japan, compared to only 110 000 in Germany, 220 000 in France and 50 000 in the UK.

The EU regulatory framework for electronic communications of 2002 was deliberately designed with inbuilt flexibility and openness to new services and market participants. As new technologies develop, the Commission has identified a need to clarify the application of the EU-wide rules and to cooperate closely with national regulators to achieve legal certainty and avoid fragmentation of the internal market for electronic communication services. With regard to VoIP, the biggest regulatory challenge is to ensure that throughout the EU, these services are not stifled at their birth by heavy-handed regulation.

For this, the Commission called for a common pro-competitive approach to VoIP, shared by all regulatory authorities in the 25 Member States. In their common statement adopted on 11 February 2005, the national regulators, gathered in Brussels in the European Regulators' Group, have jointly recognised the importance of ensuring that there are no regulatory hurdles to the roll out of these kinds of innovative services. This is a positive first step to an EU-wide "light touch" approach to VoIP on which the Commission intends to build in its further work on this issue.

The Commission favours an EU-wide "light touch" approach to Internet telephony as the best way to encourage competition between internet carriers of telephone traffic and traditional telephone networks. As the market develops, the European Commission intends to ensure, jointly with the national regulators, that throughout the EU, the roll-out of new IP-based services will not be hindered by regulatory hurdles. It is in the interest of Europe's businesses

and citizens that new technologies should be able to flourish and deliver better services at lower cost.

4.6.3. Prospects for implementation

The Commission intends to build on the recent statement of the European Regulators' Group (ERG) and the results of the Commission's VoIP consultation conducted in 2004 with the intention of ensuring that Internet telephony is able to deliver its considerable potential for enhancing innovation and competitive market entry in the electronic communications sector.

Next steps may include Guidelines on the regulatory treatment of VoIP, which could be issued before the end of 2005. VoIP could also become an issue in the context of the review of the EU regulatory framework for electronic communications in 2006.

In addition, the Commission's "light touch" approach to VoIP will inspire Commission practice regarding the application of the EU regulatory framework for electronic communications in the 25 Member States.

4.7. Encourage “consumer confidence” and create a regulatory environment favouring investment (3-EJ-7)

4.7.1. Summary of recommendation

To ensure that the “new wave” proposed by operators and service providers (VoIP, Internet access and Internet broadcasting) is not hindered by regulatory uncertainty. 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.

4.7.2. Action taken and state of play

The European Commission intends to review the regulatory framework for electronic communications, e.g. as far as public service is concerned. It has to be stressed, however, that the present framework of 2002 already accommodates needs related to the emergence of new technologies and the convergence between telecommunications, information technology and media, and the emergence of Internet.

On the promotion of consumer confidence including notably Digital Rights Management (DRM), the EU has worked heavily on how legal and technical methods should protect copyrighted works. The legal framework for digital content IPRs in the EU is the Directive on the Harmonisation of Copyright and Related Rights in the Information Society (2001/29/EC) passed in May 2001.

Within this framework, the European Commission has agreed on the need to protect the rights of providers of broadcast content, although the adoption of specific EU legislation on digital broadcast copy protection has not yet been envisaged.

The European Commission has also established a High-Level Group (HLG) on DRM in March 2004. The Group comprised participants representing the e-content value chain, including content providers, authors and rights holders organisations, publishers and broadcasters, operators (mobile, fixed), equipment manufacturers, DRM solutions providers, research and consumers. Some of the results of the High Level Group outline the need for interoperability and the fostering of open standards and priority issues including private copying levies and migration to legitimate services.

As has been already mentioned before, the European Union has also launched the “Safer Internet Programme” to increase the confidence in the use of Internet in Europe. The program provides funding for activities to deal with illegal and harmful content, as part of a coherent approach by the European Union.

4.7.3. Prospects for implementation

The Commission will have to reflect on the report on High-Level Group on DRM and assess the need for action at the EU level and launch policy initiatives if appropriate. This will be done in close cooperation with the competent services of the Commission and with Member States.

5. SUSTAINABLE DEVELOPMENT

5.1. Summary of recommendations

The EU-Japan Business Round Table recalls that Sustainable Development is based on a good balance of economic, social and environmental ambitions, in an open dialogue with every stakeholder with a view to meet present and future needs, not only with regard to the environment but also health and safety, economic welfare and others. Profitability of companies remains a key factor to achieve this.

Voluntary actions undertaken by industry in the field of Corporate Social Responsibility and Sustainable Development should be better recognised by Authorities. There should be no additional regulatory burden by Governments.

When preparing legislation enhanced dialogue with industry is necessary to avoid jeopardizing the competitiveness of companies. The BDRT calls for more consultation, in particular, in the implementation of the Kyoto Protocol and the Emission Trading Directive, and the REACH initiative.

The Authorities should participate in funding and support efforts to promote ambitious joint research projects in areas key to sustainable development. In particular, the European Commission and the Japanese Government should financially support the Promotion of Technological Development of Alternative Energy and support active cooperation between the European and Japanese Industries: Nuclear energy and the conversion from fossil fuel to carbon-neutral energy such as biomass or hydrogen should be encouraged.

Post Kyoto Protocol Framework beyond 2013 should include the US, Russia and developing countries that are expected to substantially increase their emissions of greenhouse gases for it to be efficient and not endanger the competitive position of Japanese and European companies.

Importance of education: Industry has been given a lot of responsibility to achieve Sustainable Development Strategy. Consumers also have a role to play. The Authorities should tackle the education issue, from primary school to university, to ensure that individuals make a contribution.

Aid for developing countries: 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).

Overall, The EU-Japan Business Round Table calls for more dialogue with industry, more joint innovation, more education and less legislation.

5.2. Action taken and prospects for implementation

5.2.1. Dialogue with Industry and voluntary actions

The Commission welcomes the commitment of the EU-Japan Business Round Table to Sustainable Development. It also welcomes actions taken by industry to integrate environment concerns in their activities and encourages voluntary actions from the private sectors as one of the instruments to support sustainable development.

The Commission has a pro-active policy regarding transparency and consultation, in particular as regards major policy initiatives. When legislative action is regarded as an appropriate instrument, the proposals made by the Commission are designed to provide a high level of protection for human health and the environment, while minimising administrative burden on industry and maintaining competitiveness. Impact assessments are carried out. Internet consultations are organised. The Commission aims at making proposals which cover all aspects of sustainability in a balanced manner.

As an example, in the formulation of the European Climate Change Programme over 200 stakeholders, including representatives from industry, have been consulted. As reinforced by the recent re-launching of the Lisbon Strategy, any possible future legislation would be subject to a thorough impact assessment.

The Commission has also been consulting widely and actively engaging with Government officials, and stakeholders, and in particular industry representatives from the EU and Japan, on issues related to REACH, or on the Directive on Waste Electrical and Electronic Equipment (WEEE) and the Directive on the Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment (RoHS) or on car emissions. Meetings are frequently organised including in the framework of the EU-Japan regulatory dialogue.

The Commission is willing to continue and strengthen this relation both at Government and industry levels. Cooperation in the field of environment is explicitly foreseen in the EU-Japan action plan adopted by the EU-Japan summit. The EU-Japan Action Plan identifies environment as a priority domain to cope with global and societal challenges (Objective 3). Co-operation on the follow-up to the World Summit on Sustainable Development, on climate change, chemicals and sustainable consumption and production patterns are explicitly foreseen.

The Commission already implements with success two voluntary programmes, the Community Eco-Label Award Scheme and the Community Eco-Management and Audit Scheme (EMAS). In 2002, the Commission adopted a Communication on "Environmental Agreements at Community level within the Framework of the Action Plan on the Simplification and Improvement of the Regulatory Environment". Such agreements have to comply with certain criteria and procedural requirements in order to be formally acknowledged by the Commission. The Commission also encourages stakeholders to be pro-active in developing so-called "spontaneous" agreements in areas where the Commission has neither proposed legislation nor expressed its intention to do so. The

Communication also states that “while such agreements are not an environmental panacea, nor will they be the optimal instrument in all circumstances, they have a potentially valuable role to play in complementing – but not replacing – other policy instruments, notably legislation”.

For instance, as regards CO₂ emissions from cars, the EU has adopted a strategy to improve the fuel efficiency of new passenger cars placed on the European market. This strategy¹⁰ is based on three pillars, one of which is the Voluntary Commitments of the European, Japanese and Korean Automobile Manufacturers Associations to achieve a new passenger car fleet average CO₂ emissions of 140 g CO₂/km by 2008/2009 (a 25% improvement compared to 1995). The targets of the Commitments must mainly be achieved by technological developments affecting different car characteristics and market changes linked to these developments.

As an example from REACH, voluntary actions such as testing by companies of high production volume chemicals will be taken into account.

5.2.2. Climate change and environment technologies

Japan and the EU have also been collaborating and sharing experience in the field of climate change. The entry into force of the Kyoto Protocol is a major step forward in addressing global environmental challenges.

The Commission welcomes the recognition by the BDRT of the need for longer term action after 2012. Predicted costs of inaction in the field of climate change have been demonstrated to be considerably higher than the costs of action. The Commission issued a Communication, on 9th February 2005, outlining its vision for future action to tackle climate change.¹¹

As indicated in the conclusions of the March 2005 European Council, the European Union is committed to seeking further action and agreement over the medium and long term. The EU considers that any such action should aim to ensure the widest possible cooperation by all countries and should be undertaken through the UN framework.

The EU looks forward to cooperate with Japan to achieve a future multilateral climate change regime that takes a significant further step. Such a regime should ensure the widest possible participation of countries in an effective, cost-efficient and appropriate international response, in accordance with their common, but differentiated responsibilities and respective capabilities. Opportunities for cooperation in technological innovations in addressing climate change and in the deployment and development of existing and new climate-friendly technologies will have to be looked into.

¹⁰ See http://europa.eu.int/comm/environment/co2/co2_home.htm

¹¹ See http://europa.eu.int/comm/environment/climat/future_action.htm#2012

Climate change issues are integrated in the political dialogue with third countries. Some co-operation activities are also undertaken with a number of developing countries in this area including scientific research and development cooperation on low greenhouse gas technologies in the field of energy. The United Nations Framework Convention on Climate Change contains a variety of development oriented provisions including technology transfer and the EU follows the work of the Expert Group on Technology Transfer. The Clean Development Mechanism of the Kyoto Protocol offers possibilities of technology transfers.

The Commission aims at achieving emission reductions in the most cost effective manner and with the minimum impact on companies' competitiveness. Broad participation in future agreements and market based instruments to promote cost efficiency are necessary. The EU is also investing in technological development in this area.

The Commission supports actively the development of efficient energy use as well as clean and renewable energy. Several programmes are in place. The EC has also launched initiatives to support the development of renewable energy internationally in particular with the Johannesburg Renewable Energy Coalition and has invited Japan to join this coalition of countries (now 88 across the world) which aims at sharing experience in renewables including financing¹². Furthermore, the EU Energy Initiative aim is to help Developing Countries ensure a better access to sustainable energy sources. Funds are provided for projects and programs in the energy sector, including i.a. skills, knowledge and technology transfer¹³.

The European Union is investing in research into ways of managing the safety and waste issues related to nuclear energy and, if these can be overcome, nuclear power could continue to play a part in a climate friendly energy portfolio, although it is important to bear in mind that it may not necessarily prove to be competitive in a fully flexible and transparent market.

The EU, at present, regards that energy efficiency, renewables and hydrogen are the highest priorities for a sustainable energy future and is therefore also supporting the other forms of alternative energy.

The Biofuels Directive aims at promoting the use of biofuels or other renewable fuels to replace diesel or petrol for transport purposes in each Member State and includes the possibility for providing incentives for their use through tax reductions.

The EU is implementing an Environmental Technologies Action Plan (ETAP), aiming at tapping the full potential of these technologies in contributing to economic growth and, at the same time, protecting the environment. ETAP comprises a series of actions including the establishment of technology platforms, the development of networks of testing centres for the validation of

¹² See: <http://europa.eu.int/comm/environment/jrec/>

¹³ See: http://europa.eu.int/comm/development/body/theme/energy/initiative/why_en.htm

new technologies, the setting-up of performance targets for key products, services and policies, the promotion of environmental technologies in international trade and development. In particular, the European Commission has facilitated the establishment of a European Hydrogen and Fuel Cell Technology Platform aimed at accelerating the development and deployment of these key technologies in Europe, developing awareness of fuel cell and hydrogen market opportunities and energy scenarios and fostering future co-operation, both within the EU and on a global scale. While the Commission recognises that hydrogen technologies are a valuable area for research, it is important to take into account that it is not necessarily carbon-neutral.

The Commission has just launched a study on eco-industries, looking into barriers for growth and market opportunities of this particular sector. Information sharing with Japan would be useful.

5.2.3. Sustainable Consumption and Production

The overall promotion of Sustainable Consumption and Production is also an objective which the European Union is actively pursuing. In November 2004, the Commission prepared an inventory of policies, activities and instruments at EU level with best practice examples from EU Member States. It shared the results of a seminar organised on this subject with Japan¹⁴.

The Commission also participates to the G8 3 R initiative (Reduce, Re-use, Recycle) launched by Japan (G8 3 R Ministerial Conference held in Tokyo on 28-30 April 2005).

5.2.4. Education/ Awareness raising

The Commission undertakes a wide range of information and communication activities to raise awareness of environmental issues, and the EU policy to tackle these, among the general public. Continuous activities focus on providing information to the media, publishing information brochures on various aspects of EU environment policy for a broad readership, and answering questions from the public about EU policy and other activities. A limited number of brochures are written for educational purposes and targeted at younger readers. DG Environment also organises two major public events each year aimed at raising public awareness and encouraging debate on solutions. A Green Week, held in Brussels in the first week of June, comprises a four-day programme of conferences combined with an exhibition by stakeholders. It attracts around 4,000 participants. A European Mobility Week, held in mid-September, focuses attention on sustainable transport solutions and provides a framework for relevant campaigns and actions by towns and cities across Europe, including car-free days.

¹⁴ See: http://europa.eu.int/comm/environment/wssd/scp_en.htm

5.2.5. Corporate Social Responsibility (CSR)

The Commission's recently launched Growth and Jobs Strategy¹⁵ acknowledges the value of voluntary CSR initiatives, which it says can "play a key role in contributing to sustainable development while enhancing Europe's innovative potential and competitiveness."

The Commission is planning to issue a Communication on Corporate Social Responsibility in 2005, in which it will propose initiatives, involving Member States and stakeholders, to further enhance CSR development and transparency, while still respecting the voluntary nature of CSR.

¹⁵ Communication to the Spring European Council, 2 February 2005 - COM(2005) 24
See: http://europa.eu.int/growthandjobs/pdf/COM2005_024_en.pdf