



**Recommendations  
of the  
EU-Japan Business Round Table  
to the Leaders of the European Union and Japan**

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**Working Party C  
Innovation, Information & Communication Technologies**

Working Party Leaders:

Dr. Jean-Yves LE GALL  
Chairman & CEO  
Arianespace

Mr. Fredrik ALATALO  
President and  
Representative Director  
Nippon Ericsson K.K

Mr. Chiaki ITO  
Corporate  
Executive Advisor  
FUJITSU Ltd.

## List of Abbreviations

<b>Abbreviation</b>	<b>Meaning</b>
AEO	Authorized Economic Operator
ICAO	International Civil Aviation Organization
ICT	Information, Communication Technology
IEC	International Electrotechnical Commission
ITA	Information Technology Agreement
ECJ	European Court of Justice
ENS	Entry Summary Declaration
MRA	Mutual Recognition Agreement
NAMA	Non Agricultural Market Access
NATO	North Atlantic Treaty Organization
NGBN	Next Generation Broadband Network
NTB	Non-Tariff Barrier
PDCA	Plan, Do, Check, Action
SGAE	Sociedad General de Autores y Editores
SME	Small and Medium Enterprise
WTO	World Trade Organization

## Recommendations from both European and Japanese industries

### ICT

#### **WP-C / # 01 / EJ to EJ    Execution of Growth strategy and ICT strategy**

Both Authorities should implement detailed action plans with specific targets and use PDCA cycles to monitor the status of each item. ICT Strategy Progress Reports for each action should be published on the Authority's websites.

#### *<Background>*

*The BRT welcomes both Authorities' recognition that ICT is an engine for growth and that they have designed ICT strategies that are consistent with their growth strategies. In May 2010, the EU confirmed its Digital Agenda IT strategy is an essential part in the "EU 2020" growth strategy. The Japanese Government published a New Growth Strategy in June 2010, a New Information Communication Technology Strategy in May 2010 and an implementation plan in June 2010.*

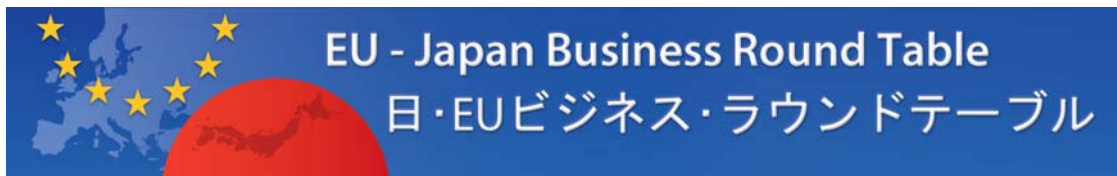
#### **WP-C / # 02 / EJ to EJ    Deployment of Next Generation Broadband Networks**

- (1) Regulations should provide necessary legal certainty for investors. Technologies should be able to evolve on their own merits – innovation and investment decisions should not be hampered by technology-prescriptive regulations.
- (2) Both Authorities should provide the necessary stimuli to industry to encourage the provision of high-speed fixed or mobile broadband services in the areas where deployment by private sector investment is difficult. (such as less-populated areas).
- (3) To promote the use of ICT, both Authorities should enhance the social benefits of the next generation broadband network by encouraging education, healthcare and other government services.
- (4) To permit a more efficient use of the spectrum, both Authorities should free up as many frequencies as possible for use by mobile broadband. Moreover, both Authorities should strive for a harmonised use of the spectrum to ensure economies of scale and thereby lower service prices incurred by consumers.

#### *<Background>*

*The BRT welcomes the European Digital Agenda plan to deliver fast and ultra fast broadband in Europe. If the Agenda's goals are to be achieved, the right regulatory environment for investment and innovation is critical.*

*High-speed broadband networks provide the basic underlying infrastructure needed to make nearly all other services and applications of the future information society a reality. Academic research and empirical evidence have shown that a*



*widespread and reliable broadband infrastructure will improve productivity, stimulate innovation, accelerate growth, and create jobs.*

*Thus, high-performance fixed and mobile telecommunications infrastructures have become decisive factors in the global competitiveness of modern knowledge-based economies. Social development, future growth and jobs will largely depend on the ability to provide for an innovation and investment-friendly regulatory framework.*

*Due to different subscriber density and demand in different regions and over time, different technologies and topologies are best suited for different scenarios. The principle of technology neutrality in any regulation is therefore crucial.*

*Innovation and investment for next generation mobile broadband are becoming increasingly critical for the above-mentioned policy objectives.*

#### **WP-C / # 03 / EJ to EJ Using ICT to address social challenges**

To promote ICT use by the public sector, both Authorities should prioritise budget allocation for innovative ICT projects in areas such as healthcare, education, central and local government. Where appropriate, laws and rules which could impede advanced ICT usage should be deregulated.

##### **<Background>**

*If the benefits of NGBN are to be maximised, the public sector must promote the use of ICT projects. Public sector services have a greater potential than private sector services for using ICT. Such ICT usage will drive the creation of new services and raise the efficiency of public services and contribute to solving complex societal challenges.*

#### **WP-C / # 04 / EJ to EJ Harmonisation of regulations for cloud computing usage in the EU and Japan**

##### **< Recommendation>**

- (1) Given the importance of data portability and interoperability in cloud computing and to ensure the private sector can develop innovative cross-industry applications and services, both Authorities should review regulations prohibiting applications from using cloud computing. The European Commission should coordinate with relevant authorities in the Member-States to ensure there is a seamless deployment across the whole EU.
- (2) The EU and Japanese Authorities should begin a cloud computing dialogue to harmonise regulations on cloud computing and thereby facilitate cross border transactions and international data transfers within the EU and with Japan while enhancing the balance of privacy, data protection and the free flow of information.

**WP-C / # 05 / EJ to EJ ITA maintenance and expansion**

- (1) Both Authorities should ensure that the current ITA is reviewed at the earliest opportunity and that additional electronic goods should be granted duty-free status in addition to those that already have that status. The broadest possible expansion (including large portions of Chapters 84, 85 and 90) of the scope is needed so that current and future innovative technological developments should not cause product classification uncertainties. Such effort would also be realized through successful negotiation and agreement on the Electronics/Electrical sectoral initiative proposed in the WTO/NAMA. The EU should implement the WTO panel in the ITA dispute by the end of June 2011 to address new convergence technology ITA products being reclassified as dutiable.
- (2) The geographical coverage of the ITA should be expanded by encouraging more countries to join the ITA and the electronics/electrical sectoral initiative. Membership should be promoted as a means of boosting efficiency and productivity, improving the investment climate, helping bridge the digital divide and enabling the move to a more energy-efficient and climate-friendly society.
- (3) Effective mechanisms (such as fora for industry to explain state of the art technology to government) are needed to ensure the ITA is kept up to date and reflects technological developments

*<Background>*

*By extending duty-free status based on the ITA, Japan and Europe will benefit from the development of a major industrial sector that is a driver of productivity, innovation, job creation, improved competitiveness and service quality in virtually all other sectors and in public services. Such a change will require a successful outcome to the electronics/electrical sectoral initiative proposed in the WTO-NAMA negotiation – an ITA review by the WTO ITA Committee would be insufficient.*

*An ITA expansion would boost trade in the whole electronics sector, remove uncertainties relating to product classification and would ensure technological developments in the sector are more likely to be reflected as newly-developed products are more likely to fall in these chapters. Many non-participants still levy high duties on, and impose many NTBs against, imports of IT products. The removal and prevention of NTBs is of the utmost importance to the Japanese and European electronics industries. Positive developments through the extension of product scope and additional participants in the ITA would be compromised if NTBs were not properly addressed. NTBs undermine level playing fields in current and future ITA states. NTBs often increase after the abolition of duties and taxes.*

**WP-C / # 06 / EJ to EJ     Fundamental Review of the Copyright Levy System and the Compensation System for Audio and Video Private Copying**

- (1) The EU and Japan should cooperate / have a dialogue to review fundamentally the compensation system for private copying and thereby promote the lawful use of digital content.
- (2) Any review should consider, in a comprehensive manner, methods – including new content distribution practices – available to secure compensation for rights' holders and creators from private copying. The goal should be to enable the establishment of a system which is transparent, fair and equitable to consumers, rights' holders, service and equipment providers, etc.
- (3) The EU and Member-State Authorities should ensure that compensation for private copying remains a priority issue for the wider copyright debate on the European digital economy agenda. EU-level action is required if transparency and legal certainty is to be achieved.
- (4) The forthcoming Directive on Collective Rights Management should address copyright levies once and for all.

**<Background>**

*Current compensation is based on copyright levies and, in the EU at least, dates back to the analogue era. Copyright levies compensate for revenue loss caused by private copying but do not address piracy. With current, emerging and expanding business models (such as online content distribution (using DRM and/or) based on contracts with individual users), copyright levies may impose double payments for consumers. Moreover, the rules of the current levy system vary enormously across Europe – there is no benchmark for determining which products are subject to levies or what amount to charge. The ECJ ruling in C-467/08 Padawan v SGAE also makes a review of the system justifiable.*

**WP-C / # 07 / EJ to EJ     Balancing of trade facilitation and security**

Both Authorities should cooperate and lead the international harmonisation of rules and operations to achieve efficient public and private sector operations, balance trade facilitation and the assurance of safety and security. Both Authorities should drive aggressively an initiative to remove barriers to realising a balance between trade facilitation and the ensure security. In particular:

- (1) Security regulations that have been tightened despite the existence of the MRA on AEOs should be examined and considered for deregulation.
- (2) The EU and Japan should consider adopting an international standard for security regulations (like the ICAO) as although companies have to comply with international standards such as UL or IEC, the implementation of current regulations varies between countries.

**<Background>**



*Multinational companies with a global supply chain implement activities to achieve both trade facilitation and ensure security. Although in June 2010, the EU and Japan signed an MRA on AEOs, from 2011 EU and Japanese companies will face additional burdens through the implementation of 24-hours advanced notice of ENS rules.*

#### **WP-C / # 08 / EJ to E      Applying reduced VAT rate to e-Books**

To end the unnecessary discrimination between e-Books and paper books, e-Books should also be liable for the reduced VAT rate applied in the EU to “culturally-worthy” items and the rate charged should not exceed the rate applied to printed publications.

##### *<Background>*

*The BRT strongly supports a reduced taxation rate on “culture.” In the EU, the long-standing application of a reduced VAT rate on culturally-worthy products has helped spread fine culture widely and rapidly at lower prices, and has contributed to the development of rich culture and improvement of the quality of life.*

*e-Books are currently liable for the standard rate of VAT in the EU. Thanks to their lower price, availability of contents, possibility of searching and their saving of resources e-Books offer even better access to fine culture than printed books.*

### **INNOVATION IN GENERAL**

#### **WP-C / # 9 / EJ to EJ      Cooperation between the EU and Japan on 21<sup>st</sup> Century societal challenges**

- (1) Both Authorities should support flagship projects and innovative solutions to common societal challenges through deregulation and inviting investment and expertise from EU and Japanese industry.
- (2) An EU-Japan dialogue should be established to evaluate how best to stimulate research and innovation in general and how to ensure they benefit consumers and industry. Best practice from around the world (such as allowing venture capital to be used for investment in innovation or entrepreneurship) should be studied and adopted.
- (3) The EU and Member-States should create European Innovation Partnerships for smart cities, water efficient Europe, sustainable supply of non-energy raw materials for a modern society, smart mobility for European citizens and industry, agricultural productivity and sustainability.

##### *<Background>*

*The EU and Japan share common societal challenges such as aging population, climate changes, resources constraints etc. Innovation is the key engine for maintaining competitiveness and sustainable long term growth.*



*The BRT supports activities on healthcare issues referred to in the European Innovation Partnership mentioned in the October 2010 Innovation Union. The Japanese Government and Industry have a similar approach – green innovation and life innovation are important pillars in the Government’s New Growth Strategy. At the heart of Nippon Keidanren’s December 2010 “Sunrise Report” is the idea of ‘future city model projects’. Examples of such projects are: low carbon, environmentally-friendly communities; advanced medical care and nursing; next generation transportation and distribution systems; advanced R&D; next generation e-government and e-society; international tourism hub; child-rearing support and advanced education.*

*Although the level of research in Japan and Europe is generally high, improvements as to how Japan and the EU can leverage research and innovation commercially are possible.*

**WP-C / # 10 / EJ to EJ Continuous Investment for Innovation (Education, test-bed project, Government procurement)**

Given current budgetary constraints it is vital that both Authorities mobilise all necessary policy tools to ensure smart spending by the public sector and that they use public procurement as an instrument for creating and harnessing innovation.

The EU, Member-States and Japan should allocate strategic budgets for innovation investment particularly on education in science, technology, engineering and mathematics fields, and on developing competent human resources in S&T, R&D and test-bed projects.

**<Background>**

*Innovation policy should not be limited to just science and technology in the R&D sector. Innovation, science & technology and ICT policies are related and when different authorities cooperate on their implementation, the full potential of their possibilities can be assured. Because investment in innovation will encourage growth and job creation, public procurement in early stages of the commercialisation of new products and services is important as it will generate many opportunities for businesses concerned.*

**WP-C / # 11 / EJ to EJ Incentives to drive innovation at Private sectors**

To facilitate private sector’s role as an engine for growth, the Authorities should create better conditions for businesses be they domestic/foreign, large or small. In particular, given on-going technological developments, the Authorities in the EU and Japan should periodically review rules and regulations, to reform outdated rules and regulations or harmonise others within the EU and Japan thereby creating a bigger market and incentivising the commercialisation of new products and services.





The scope of tax credits for R&D should be expanded to encourage private sector investment in R&D.

**WP-C / # 12 / EJ to EJ     Continuous investment for R&D Infrastructure**

We recommend the EU and Japan for continuous investment on R&D Infrastructures in national laboratories and universities.

*<Background>*

*In open innovation era, investment in the R&D infrastructure is important from the view point to retain and attract excellent talents from all over the world. As ICT is enabling technology and it should be positioned as driver and contributors for all other innovations. Evolution of computing power enables the next-generation supercomputer to meet the various complex demands from researchers in physical science and life science and bring breakthrough. Investment in R&D infrastructure such as supercomputers will contribute exponentially to other industry verticals*

**WP-C / # 13 / EJ to EJ     Business cooperation between EU and Japanese clusters**

Strengthen business cooperation between EU and Japanese clusters

*<Background>*

*Clusters create a fertile business environment at local level fostering innovation, increasing productivity, enhancing cooperation between academia and industry, and facilitating internationalisation of SMEs. Japan and EU countries have many clusters, some of them world-class, innovation-driven and competitive in global markets, and open to international cooperation. There is an increasing business interest and scope from both sides to strengthen cooperation between clusters.*

*To facilitate and have a more institutionalised and sustainable approach, a MoU has been signed between the European Cluster Collaboration Platform and the EU-Japan Centre located in Tokyo and Brussels. Thanks to this MoU, Japanese clusters will be able to use this platform to identify partners in EU countries (and vice versa), explore opportunities with them, develop visiting schemes for their companies and start developing joint R&I projects.*

## **INNOVATION IN AERONAUTICS, SPACE AND DEFENCE**

### **Aeronautics**

#### **WP-C / # 14 / EJ to EJ    Government-Led Industrial Cooperation in Aerospace (Civil and Defence)**

The Authorities of Japan and the EU should accelerate work to significantly upgrade the scale of EU-Japan industrial cooperation in both civil and defence aeronautics and space, stimulated by government funding.

##### *<Background>*

*Europe's aerospace industry has long been a major supplier of civil, defence and dual-use (both civil and defence) systems and subsystems to the world market. Japan also has advanced aerospace technologies, although its industry faces the constraints imposed by domestic policy. Both industries are now challenged by new world entrants making fast progress. Successful Europe-Japan industrial cooperation already exists in aeronautics, for example in helicopters and aero-engines, but the real cooperation potential is much greater. We strongly believe that a government-led cooperation between Japanese and European aerospace industries would result in many gains on both sides. Joint technology and project development with various world partners are necessary for aerospace companies to establish and maintain a high technological level and adequate competitiveness. It is also a necessity for governments faced with severe budgetary constraints. Two workshops on EU-Japan Cooperation in Aerospace R&T took place in Tokyo in 2009 and 2010. They were very promising, although mainly concerned preliminary R&T in civil Aeronautics.*

#### **WP-C / # 15 / EJ to EJ    Environmental Issues in Aeronautics Technology**

The Authorities of Japan and Europe should establish broad bilateral cooperation on environmental issues.

##### *<Background>*

*Europe and Japan support mostly separate research programmes on environmental issues, from noise to emissions. One joint effort is part of a small French-Japanese programme on high speed aeronautics technologies. We believe that the eco-technology at all aircraft speeds is one of the fields where further cooperation between Europe and Japan could yield significant cooperation and business opportunities.*

#### **WP-C / # 16 / EJ to EJ    Cooperation in aircraft certification**

Establish cooperation between Japanese and European aircraft certification authorities.



<Background>

*There is very little cooperation between Japanese and European aircraft certification authorities although both have close cooperation with U.S. certification authorities.*

**Space**

**WP-C / # 17 / EJ to EJ     Civil Purpose Satellite Technology**

In the civil satellite technology field, Japanese space Authorities (at Cabinet level) and European space Authorities (EU Commission, European Space Agency, and Europe's national space agencies) should establish a common mechanism for a formal and permanent dialogue with the purpose of identifying further mutually beneficial subjects of cooperation.

<Background>

*Europe and Japan have many complementarities in satellite technology and similar needs in terms of space telecommunications, broadcasting and observation.*

**WP-C / # 18 / EJ to EJ     Defence Purpose Satellite Technology**

The Authorities of Japan and EU Member States should establish a regular dialogue aimed at sharing experience on defence purpose satellites.

<Background>

*In the defence field as well, European satellite manufacturers have developed considerable and universally recognised know-how and experience. This know-how and experience could be shared with Japanese manufacturers through in-depth industrial cooperation backed by a regular dialogue between the Authorities of Japan and EU Member States.*

**WP-C / # 19 / EJ to EJ     Mutual Backup of Government Satellite Launches**

Japanese and EU space authorities should bring about a mutual backup cooperation scheme of all government launches using their respective satellite launcher fleets.

<Background>

*Europe's satellite launcher Ariane 5 and Japan's H-IIA are used in an arrangement to back up each other's satellite launches on a commercial basis. This reduces the risk of long launch delays due to launcher technical problems. Years of discussions between Japan's MEXT and the European Space Agency towards a similar back-up arrangement for government launch missions have not produced results.*

## Defence

### **WP-C / # 20 / EJ to EJ Exchange and Protection of Classified Information**

Japan and European countries should make official agreements for government and industry to exchange and protect classified information pertaining to joint development.

#### *<Background>*

*European and Japanese defence industries have many complementarities and could, if they were allowed to fully cooperate, jointly develop high performance and cost-efficient products and technologies that are necessary to the forces of both sides. This is made almost impossible as European and Japanese companies cannot directly exchange classified information on the products or technologies that are to be developed.*

### **WP-C / # 21 / EJ to J Relaxation of the Three Principles on Arms Exports**

Japan should relax the three principles on arms exports ('3Ps') to allow it to participate, in certain defined circumstances, in joint R&D and production of defence equipment with NATO and other like-minded countries. Changes should be made in the form of clear guidelines, rather than one-off exceptions for specific purposes.

#### *<Background>*

*Japan's 3Ps prevent it from participating in international collaborative projects and supplying equipment to allies. Relaxing the principles would offer greater capability potential and partnership opportunities by enabling them to participate in development programmes. It would bring technology benefits to Japanese industries and result in large budgetary savings. Relaxing the 3Ps would assist Japan in meeting the objectives in its new National Defence Program Guidelines.*

### **WP-C / # 22 / EJ to J Facilitation of Re-export of Defence Equipment Imported for Demonstration Purposes**

Japanese Authorities should implement arrangements to facilitate re-exports of defence equipment imported for the purposes of demonstrations at forums such as trade fairs and exhibitions.

#### *<Background>*

*The 3Ps make it difficult for foreign firms to re-export defence equipment they import for the purposes of demonstrations at trade fairs, exhibitions and other forums. This severely constrains their ability to market their products. Special re-export arrangements for defence equipment imported into Japan for these purposes would give Japanese procurement agencies a better understanding of the full range of options available.*

## Recommendations from European industry

### INNOVATION IN AERONAUTICS, SPACE AND DEFENCE

#### General

#### **WP-C / # 23 / E to J      Removal of unlimited liability for public tenders**

Unlimited liability should be removed from the terms and conditions of public tenders, as this puts foreign bidders at a considerable disadvantage in relation to local contenders.

#### *<Background>*

*The Japanese government currently requires companies bidding for public tenders to offer unlimited liability as part of their bid. This requirement is not found in other markets. Moreover, there are other options open to the Japanese government to address its liability concerns.*

#### **Space Equipment**

#### **WP-C / # 24 / E to EJ      Approval of Satellite Launch Service Providers**

The approval by Japanese Authorities of foreign launch service providers through the envisioned approval system of Japanese commercial satellite launch projects should be fair and consistent with commercial world practice as recognised and formalised by the French Space Operations Act of June 2008 and associated by-laws.

#### *<Background>*

*Japanese Authorities contemplate Space Operations legislation that would require Japanese users of satellite launch services to obtain an official approval before they contract for launch, and that would also require them to only use reliable launch service providers approved by Japanese Authorities. We have no issue with such legislation if it cannot be used to make competition in Japan difficult for EU launch service providers. Japanese Authorities will soon decide whether to promulgate such a legislation.*

#### **WP-C / # 25 / E to EJ      Legitimate use of Private Finance Initiative projects**

Authorities should explicitly ban their own use of Private Finance Initiative (PFI) projects to protect local satellite makers and launch service providers.

#### *<Background>*

*Using PFI is a legitimate way for a government agency to procure space-based services in a budget-efficient manner. Authorising domestic candidate companies*

*to include their own commercial payloads (so-called hosted commercial payloads) in the satellites that they will procure to provide the services is also legitimate. But barring foreign suppliers from bidding for the satellite and the launch service on the grounds that the government procures a government-only space-based service is not legitimate because the presence of the hosted commercial payload makes it a commercial satellite. If this practice is not explicitly banned, much of the commercial satellite and launch services markets may vanish piecemeal into supposedly government programmes. (Note: We do not dispute the practice of launching purely government satellites by a local government launcher.)*

**WP-C / # 26 / E to J     Opening the market for space ground equipment**

Procurement of integrated systems should be encouraged.

*<Background>*

*Japan's international procurement of space ground equipment is often broken up in small lots. This tends to benefit Japanese over foreign suppliers. Integrated systems have better cost performance and are more reliable.*

**Defence**

**WP-C / # 27 / E to EJ     Internationally recognized procurement processes for defence equipment and services**

The following should be applied to all defence procurement processes. (1) Clear statements of requirements, communication of any changes (2) Advising of timelines and adherence to them (3) Notice of evaluation criteria and the weightings given each criterion (4) Acceptance of English-language documentation (5) Application of NATO standards (6) Full public disclosure of the basis of awards (7) Opportunities to appeal award decisions, without the requirement to withdraw from the competition.

*<Background>*

*Certain reforms have already taken place in defence procurement processes. Further reforms would strengthen transparency and competition.*

**WP-C / # 28 / E to EJ     Greater emphasis on life cycle life costs in awarding contracts**

Life Cycle Costs should form the basis of all relevant defence contract awards.

*<Background>*

*We welcome the greater emphasis placed to date on Life Cycle Costs by Japan in its defence procurement. Budgeting based on life cycle costs allows governments to better plan their defence expenditure. It also creates fairer competition between*

*bidders for contracts as it demands fuller disclosure of cost information. EU companies have great experience in modelling and predicting Life Cycle Costs and are confident about their predictions. This is the normal way of doing things in the civil aviation world.*

**WP-C / # 29 / E to J Examination of innovative procurement approaches for defence equipment**

We recommend Japan study implementing innovative procurement schemes, including receiving information on the experience of Europe in these areas.

*<Background>*

*Japan could achieve cost reductions through implementation of innovative procurement practices, such as Performance Based Logistics, Private Finance Initiatives, Commercial off-the-shelf ("COTS") solutions and leasing schemes.*

## Recommendations from Japanese industry

### ICT

#### **WP-C / # 30 / J to E     International Transfer of Personal Data in the Cloud Computing Era**

The international data transfer regime between EU and Japan should be streamlined so as to develop a better environment for businesses. The two governments should then launch the adequacy finding procedure under the EU directive as soon as feasible.

#### *<Background>*

*We support the EU Commission's initiative to explore the feasibility of establishing EU certification schemes in the field of privacy and data protection. In exploring such feasibility, it will be important to look at the global dimension of certification schemes because such schemes will have an impact on global businesses operating both inside and outside the EU/EEA.*