

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

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**Working Party A
Trade Relations, Investment and Regulatory Cooperation**

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List of Abbreviations

Abbreviation	Meaning
AEOs	Authorised Economic Operators
APEC	Asia-Pacific Economic Cooperation
ATP	Adaptation to Technical Progress
BPR	Biocidal Products Regulation
CAA	Consumer Affairs Agency
CBCR	Country by Country reporting
CCCTB	Common Consolidated Corporate Tax Base
CE	Conformité Européenne (European Conformity)
CLP	Classification, labelling and packaging
CMR	Carcinogenic mutagenic or reprotoxic
CoRAP	Community Rolling Action Plan
DDA	Doha Development Agenda
DC	Direct Current
ECHA	European Chemical Agency
ELV	End of Life Vehicle
EN	Européen de Normalisation de Normalisation (European Standards)
EP	European Parliament
EPA	Economic Partnership Agreement
EU	European Union
FDI	Foreign Direct Investment
FTA	Free Trade Agreement
FSA	Financial Services Agency
G8	Group of Eight
G20	Group of Twenty
GATS	General Agreement of Trade in Services
GCP	Good Clinical Practise
GDP	Gross Domestic Product
GHS	The Globally Harmonized System of Classification and Labelling of Chemicals
GoJ	Government of Japan
GPA	The Agreement on Government Procurement
GPS	Gross Product Strategy
HSE	Health Safety and Environment
ICTs	intra-corporate transferees
IEC	International Electrotechnical Commission
IPM	Interface Public Members
ISO	International Organisation for Standardisation
JAS	Japan Agricultural Standard
JELMA	Japan Electric Lamp Manufacturers Association
JET	Japan Electrical Safety & Environment Technology Laboratories
JETRO	Japan External Trade Organisation

JIS	Japan Industrial Standard
JR	Japan Railways
KPIs	Key Performance Indicators
LED	Light-Emitting Diode
LoA	Letter or Access
MAFF	Ministry of Agriculture, Forestry and Fisheries
METI	Ministry of Economy, Trade and Industry
NOL	Net Operation Loss
OECD	Organisation for Economic Co-operation and Development
OR	Only Representative
PMDA	Pharmaceuticals and Medical Devices Agency
PPPR	Plant Protection Products regulation
PSE	Electrical Appliance and Material Safety Law
QMS	Quality Management System
R&D	Research & Development
REACH	Registration, Evaluation, Authorization and Restriction of Chemicals
RoHS	Restriction of Hazardous Substances
RTD	Research and Technology Development
SDR	Special Drawing Rights
SDS	Safety Data Sheet
SIEF	Substance Information Exchange Forum
SMEs	Small and Medium size Enterprises
SVHC	Substance of Very High Concern
TPP	Trans-Pacific Strategic Economic Partnership Agreement
TTIP	Transatlantic Trade and Investment Partnership
UNECE	United Nations European Commission for Europe
VAT	Value Added Tax
VICH	International Cooperation on Harmonisation of Technical Requirements for Registration of Veterinary Medicinal Products
WCO	World Customs Organisation
WHO	World Health Organization
WTO	World Trade Organization
WP	Working Party

Introduction

Japan is the EU's seventh largest trading partner and the EU ranks as Japan's third largest trading partner. While already significant, this trade relationship has considerable upwards potential and the benefits of the EU-Japan FTA/EPA, currently under negotiation, will stretch beyond the many European and Japanese companies already operating in each other's home markets to all those, attracted to the new opportunities it creates. Working Party A stresses that any agreement must address the specific concerns of European and Japanese businesses reflected in this and previous reports. With so much at stake, we are urging the authorities on both sides to ensure that the necessary progress is made. Many reforms are required to secure a fair and competitive environment for business and have been identified from the extensive first-hand operational experience of Working Party A members in the Japanese and European markets. This report sets out concrete recommendations that address the following key issues:

- Creating a common regulatory environment, mutual recognition of regulations, standards and market authorisations to the extent possible and adoption of international standards
- Elimination of both tariff and non-tariff measures as well as unnecessary bureaucracy
- Ensuring fair competition and equal treatment of all companies, domestic & foreign
- Ensuring fairer and more open competition in services, and procurement markets
- Improving conditions for foreign direct investment. And finally,
- Further enhancing incentives for growth of SMEs and for investment in R&D

Working Party A members reiterate that the EU-Japan FTA/EPA bilateral agreement must be balanced, comprehensive and ambitious in order to dismantle these barriers holding back EU-Japan trade and investment and significantly promote growth both economies.

To highlight priority issues in the text that follows, one asterisk (*) indicates "priority" recommendations and, two asterisks (**) indicate "top priority" Recommendations. (e.g. WP A / # 01** / EJ to EJ)

Recommendations from both European and Japanese industries

WP-A / # 01 / EJ to EJ Strengthening the EU-Japan Economic Relationship**

The BRT appreciates the effort made by the EU and Japanese authorities in the FTA/EPA negotiations. With a strong conviction that the EU-Japan FTA/EPA will boost trade and investment, promote job creation, and spur growth in both economies, the BRT renews its call for the EU and Japanese authorities to step up their efforts to tackle and resolve the substance of the outstanding issues so that a comprehensive, ambitious, high-level and mutually beneficial FTA/EPA can be concluded as soon as possible. The BRT reaffirms its commitment to make every effort to support the early realisation of an EU-Japan FTA/EPA. BRT Members are ready to make their industry expertise available to achieve this objective.

As two of the world's largest and most advanced economies, the EU and Japan should work together and play a leadership role in promoting global regulatory cooperation and standards harmonisation which other so-called 'mega' agreements, such as TPP and TTIP, also try to achieve. The aim should be to develop an open, seamless business environment that will help create new growth opportunities not just for the EU and Japanese economies but also for the rest of the world.

< Background >

As major advanced economies and major global traders and investors, the EU and Japan can do more to unlock the enormous growth potential which their bilateral economic relations can offer. They are now working on enhancing bilateral trade, investment and cooperation and building a closer relationship. As both strive to overcome global financial instability and economic uncertainties, it is crucial that they join forces in tackling common challenges in order to attain a long-term, sound and stronger growth. The EU-Japan relationship should not be left behind

WP-A / # 02 / EJ to EJ Call for effective and quick implementation of WTO 'Bali Package' and work on a future WTO work program**

Following extensive negotiations, the 9th annual WTO Ministerial Conference (MC9) held in Bali Indonesia in December 2013 was able to agree on a compromise called the "Bali Package", for some of the sectors covered by the Doha Development Agenda (DDA) negotiations.

Such an outcome was made possible through continuous negotiations under a new bottom-up approach, which was applied since 2011, where partially agreeable outcomes were aggregated and integrated rather than seeking a blanket agreement on DDA negotiations. BRT welcomes the advancement in the DDA negotiation.

The agreement on trade facilitation can serve as a boost to global trade by reducing costs of trade by 10-15%. Its objectives are to speed up customs procedures, make

trade easier, faster and cheaper, provide clarity, efficiency and transparency, reduce bureaucracy and corruption, and use technological advances. The BRT calls upon WTO members to quickly implement the trade facilitations agreement.

Moreover, at an informal meeting held in Davos, Switzerland, on January 25, 2014, a number of WTO members expressed their views that:

- it is important to steadily and gradually operationalize the agreed items, based on the MC9 outcome;
- for the remaining DDA items, the discussion of a work program to address such items should commence as soon as possible;
- and the WTO must not refrain from discussing potentially contentious issues such as agriculture and market access for non-agricultural goods and services.

The BRT strongly supports the progress in these issues, and requests the authorities of the EU and Japan to further make efforts to vitalize and earn momentum in order to move the DDA negotiations forward.

Additionally, the BRT suggests that the authorities of the EU and Japan should, together with other WTO members, explore further topics that are essential for the smooth functioning of global value chains.

< Recent Progress >

The “Bali Package” agreed upon the 9th WTO Ministerial Conference is composed of three sectors: (1) trade facilitation; (2) a part of agriculture sector; and (3) development. Especially for trade facilitation, transparency improvement and expediting customs processes will assuredly benefit both developed and developing countries, and provide favourable and significant impacts upon trade promotion. In addition, the agreement on trade facilitation is a set of multilateral rules that will cover all member countries for the first time since the establishment of WTO. It should help to energize and revitalize the inert Doha Round negotiations.

Moreover, the informal meeting held in Davos on January 25, 2014, assessed the “Bali Package” and addressed the future work program on the remaining issues of Doha Round negotiations (DDA).

< Background >

The BRT is a strong supporter of the multilateral trading system, whose core functions are trade liberalisation, rule-making and dispute settlement. However, to liberalize multilateral trade, the initial high-level ambition of the Doha Round, launched in 2001, has not been maintained, resulting in the current deadlock of negotiations which continue due to the lack of political will and the inability to bridge the gap in the market access commitments between OECD and emerging country members.

With the prospects of great uncertainty, the WTO must demonstrate its ability to deliver results for the business community. As the only international organisation creating rules and setting standards on trade at the multilateral level, the WTO must remain a leader in this area and take more and stronger action. The existing legal

framework provides an excellent basis for such action but needs to be updated in order to respond to a changing global economic landscape.

WP-A / # 03 / EJ to EJ Applying international standards and enhanced cooperation in the promotion of new global standards**

1. Towards a common regulatory environment

The BRT recommends that Japanese and European policy-makers should increase their understanding of the existing and upcoming regulations of the other side. They should study the possible impact of new regulatory developments on domestic and foreign business to avoid taking initiatives that unwillingly create barriers to trade and investment. They should exchange annual legislative work programmes at the earliest stage to prevent regulatory divergence and the creation of new trade barriers. In addition, they should agree to an early warning system for draft legislation to facilitate an effective bilateral dialogue. To expand a common regulatory environment into the areas that are already regulated, furthermore, the Japanese and European policy makers should also develop a joint strategy to promote better regulation by learning from each other's experience and adopting a common system of good governance. Throughout the process, the two authorities should have close dialogue with businesses.

Where the FTA/EPA does not already create a harmonized regulatory framework between the EU and Japan, the regulatory authorities in Japan and the EU should review their domestic technical regulations and conformity assessment procedures at regular intervals to determine the scope for further regulatory harmonization. The outcome of these reviews, including scientific and technical evidence used, shall be exchanged between the regulatory authorities and provided to industry upon request.

<Background>

The BRT believes that a common regulatory environment will be a key to the economic prosperity of the two economies. Once an FTA/EPA is concluded, it will be important not only to ensure that new regulations do not nullify or impair the market access benefits accruing to either party under the agreement or create new barriers to bilateral trade, but also to expand and strengthen the relations between the two economies so that the benefits of their cooperation will further increase and so that they will eventually be able to expand such a common regulatory environment to other bilateral and multilateral relations.

2. International standards and harmonization of standards and certification procedures

The BRT urges both authorities to adopt international product standards and certification procedures where applicable, and, to promote harmonisation of technical requirements and certification procedures, mutual recognition of

product approvals and, when possible, and appropriate, in areas where harmonised standards do not exist, mutual approval of the import, sale or use of products that have been approved on the basis of functionally equivalent requirements in sectors such as Construction Materials, Organic Products, Cosmetics, Medical Devices, Veterinary Products, Automobiles and Processed Food.

3. A common chemicals regulation

Policies on the control of chemicals such as the EU's REACH and RoHS and Japan's Chemical Control Law have a significant impact on global supply chains. The two Authorities should not only implement effective regulations, but also establish a common list of restricted substances and a common approach to the evaluation of risks and sharing of data. Such a common regulatory environment will not only benefit industries through cost mitigation but also benefit users and consumers through lower prices and consistent protection. Furthermore, the two Authorities should develop a policy to support supply chain management in developing countries in cooperation with businesses.

4. Common energy conservation regulation

Given the nature of the issue and the importance for business as well as for society in general, Japan and the EU should work together at the multilateral level to promote international harmonisation of energy conservation regulations, relevant labelling rules, and environmental and carbon footprint schemes.

5. Expand the benefits of AEOs

Following the agreement on the mutual recognition of the AEOs in June 2010 between the EU and Japan, the Authorities of the EU and Japan should aim at introducing further regulatory cooperation in order to give more concrete benefits to AEOs. The BRT would in this regard like to put emphasis on simplifications of import procedures where companies are given greater freedom while also taking greater responsibility for their imports without an excessive administrative burden. Authorities should also establish closer contacts to learn from each other in order to improve and further facilitate trade between the EU and Japan. The BRT is aware that the two authorities are engaged in regular discussion, but no concrete benefits have emerged for operators.

6. Fight against counterfeited, pirated and contraband goods

The BRT would like to see the EU and Japan to step up efforts to fight against counterfeited, pirated and contraband goods, both inside and outside the EU and Japan. For example, they should better cooperate with each other and with the third country authorities to secure the closure of sites trading in fake goods.

The BRT requests that the authorities of Japan should make all trade with fake goods illegal by closing the loophole by which individuals are allowed to bring in or import counterfeits for person consumption.

The BRT reiterates its support of Regulation (EU) 608/2013 of the EP and Council of 12 June 2013 on Customs enforcement of Intellectual Property rights which reflects to some extent the BRT's key recommendations such as simplifying the procedure. However, the BRT requests the authorities of the EU that they should seek ways to mitigate the financial burden of the importers of the authentic goods.

The BRT would like to see an enhanced role of the Observatory on Counterfeiting and Piracy in line with the Regulation adopted by the European Parliament and Council on 19 April 2012.

The BRT suggests that with an increased cooperation by the manufacturers and importers of the authentic goods, including the provision of more information on their products, the on-site training of officials and the training of officials on the more effective use of the WCO's IPM (Interface Public Members), the customs authorities should make inspection more efficient and raise the rate of its coverage.

7. Adoption of UN-ECE regulations

In the automobile sector, the Japanese and EU Authorities should accelerate their adoption of UN-ECE Regulations to lower the cost of regulatory compliance for both European and Japanese automobile exporters by extending the benefits of mutual recognition. Also the Japanese and EU Authorities should work together to establish internationally harmonised technical requirements and testing procedures that will encourage the smooth market adoption of new environmentally friendly power-train technologies – clean diesel, electric vehicles, hybrid vehicles and fuel-cell vehicles.

< Background for 7 >

In 1998, Japan became the first country in Asia to accede to the UN-ECE 1958 Agreement on the Mutual Recognition of Type Approval for Vehicles etc, which provides that vehicle components which have received type approval according to UN-ECE Regulations in one contracting country are exempt from testing in any other signatory country where those regulations have been adopted. Japan has now adopted UN-ECE Regulations in 35 of the 47 areas included in Japanese type approval.

< General Background for 1-7 >

Implementation of these recommendations will lead to a significant improvement in the business environments of both the EU and Japan.

WP-A / # 04* / EJ to EJ Supporting timely development of business

1. Social security contributions (avoiding double contributions):

The BRT welcomes the conclusion of social security agreements between Japan and 10 EU Member States. The BRT requests that, Japan and the Member States of the EU should make further efforts to expand the network of Social Security Agreements. In addition, they should introduce an interim measure, by which a host country should either exempt contributions to pension funds unilaterally or refund the contributions in full, not only partially, when expatriates return to their home country.

< *Recent progress* >

There has been a limited progress in the past year

< *Background* >

As individual EU Member States and Japan conclude a bilateral social security agreement, it will lessen the burden both on companies as well as their employees. So far, social security agreements between Japan, and Germany, the United Kingdom, Belgium, France, the Netherlands, Czech Republic, Spain, Ireland and Hungary have entered into force. The agreement between Japan and Italy has been signed. Furthermore, negotiations are underway between Japan, and Luxembourg and Sweden, and are at the preparatory stage between Japan, and the Slovak Republic, Austria and Finland.

2. Liberalisation of the movement of intra-corporate transferees in the framework of an FTA/EPA

The EU and Japan should realise far-reaching liberalisation of the movement of intra-corporate transferees within the framework of an FTA/EPA. Such liberalisation should aim at the following system:

- A framework agreement between the mother company, which sends expatriates, and the host country, stipulates the maximum number of expatriates. Within the agreed limit, the mother company is free to send intra-corporate transferees to that country without further obtaining individual work permits.
- When the mother company concludes such an agreement with several Member States in which its subsidiaries or branches have operations, movement of intra-corporate transferees between those countries does not require a new work permit as long as the total number in each agreement is respected.

< *Background* >

For the smooth and efficient running of international businesses, it is essential that companies are able to dispatch key personnel, including directors without going through red tape. Such transfers do not have any negative impact on the labour market of the host country. On the contrary, they will expand employment in the host country through the development of the business concerned. In addition, expatriates themselves tend to pay high income taxes to the host country. The requirement to obtain work and residence permits for intra-corporate transferees between the EU Member States and Japan is usually a formality and it is rare that the application of an intra-corporate transferee is questioned and required to submit substantial reasons. However, the recent economic situation in some Member States has caused the authorities to be more reluctant to issue work permits in general, which sometimes affects intra-corporate transferees by delaying the issuance of work permits to them. As the burden on companies as

well as employees and their family members is substantial, it does constitute an obstacle to the swift development of business.

The European Parliament and the Council have reached an agreement on the final text of a Directive on conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer. This agreement will prove very useful for Japanese companies sending their employees to the EU because, for example, it will facilitate an assignment that involves several Member States and allow accompanying family members to have access to the labour market. However, unfortunately,, the new Directive will not be applied in the UK, Ireland and Denmark due to the opt-out of those Member States. Japanese nationals in the UK, where their number is the highest among the EU Member States, will not benefit from this Directive. It is therefore imperative that such liberalisation is realised within the framework of an EPA/FTA so that it will be applicable to all intra-corporate transferees between the Member States of the EU and Japan.

WP-A / # 05* / EJ to EJ Support for SMEs

The BRT calls on the EU and Japanese Authorities to develop measures to promote and assist each other's SMEs within their own jurisdictions. Specific consideration should be made to include such cross-support in FTA/EPA negotiations.

This would include:

1. Providing each other's SMEs the same general support and privileges as provided to one's own SMEs.
2. Establishing permanent local assistance in language, paperwork, hiring local personnel, legal and regulatory matters, as well as advice on financing and banking, etc.
3. Providing tax breaks and incentives, tax deduction for total research expenses, income tax breaks for foreign experts, tax exemption for doctoral students, tax relief for R&D, tax deduction for joint and entrusted researches based on industry-academic-government cooperation, as well as tax and other facilities and incentives for investors.
4. Helping graduates with international backgrounds find local jobs with the other side's SMEs.
5. Creating a joint investment fund for both Japanese and European SMEs.
6. Exchanging best practices and tested solutions in industrial policy for SMEs.
7. Expanding the SME-related programmes already run by the EU-Japan Centre for Industrial Cooperation.

< Recent progress >

The BRT welcomes the willingness of both Authorities to increase cooperation on cross-support for SMEs.

< Background >

SMEs are new sources of growth and jobs in both Europe and Japan. Their success in bilateral trade is a major factor in their development and also helps to revitalise both Japanese and EU industries by disseminating new products and technologies. However, market access problems and various impediments noted in

other BRT recommendations are even harder to tackle or manage for SMEs. While the Japanese government, the European Commission and most EU Member States have internationalisation programmes for their own SMEs, existing help programmes for foreign companies are mostly geared towards large foreign direct investments in established industries and are inadequate for SMEs. Aiming to provide local help to all potentially interested foreign SMEs is not realistic, but increasing and sustaining help to SMEs that have established a local base is realistic in the context of a bilateral agreement. The BRT is aware of the major work being done for both Japanese and European SMEs by the European Commission and the Government of Japan through the programmes run by EU-Japan Centre for Industrial Cooperation.

Recommendations from European industry to Japan

WP-A / # 06 / E to J Harmonisation & mutual recognition of standards and product certifications; acceptance of international standards where applicable**

Reluctance of the Government of Japan to accept imported products approved in accordance with EN and ISO standards or CE marking delays the introduction of innovative new products to the market and increases import costs. While accepting the need to safeguard consumer health and safety, the BRT urges Japan to promote the harmonisation of standards and certification procedures, the mutual recognition of product certification and, in areas where harmonised standards do not exist, the mutual approval of the import, sale or use of products that have been approved on the basis of functionally equivalent requirements, so that products certified for one market are automatically accepted in the other market. The BRT recommends the Japanese Government to place particular emphasis on:

Automobiles

The Government of Japan should adopt the relevant UN Regulations in all areas where Japan requires certification for passenger cars but does not currently accept a UN approval as demonstrating compliance with Japan's national requirements, so that a vehicle certificated in the EU can be sold in Japan without modification or further testing.

< Recent progress >

This is a new recommendation

Construction Products

The Government of Japan should work together with the EU Authorities towards mutual recognition of all JAS/JIS and EN standards for all building materials. This is unfortunately still rather common in the flooring sector as well as for roofing sheets. Mere reference to ISO standards within JAS/JIS, has not proved to be adequately helpful in facilitating the process.

The Government of Japan should, furthermore, better support local and regional authorities to ensure that transparent and consequent interpretations are made in regards to technical regulations and guidelines.

< Recent progress >

There has been some progress, however much work still remains. We furthermore note that the Japanese government did not respond to the issue of discrepancy between ISO and JIS/JAS in its progress report of April 2013.

< Background >

The Japanese construction sector has long been a very “domestic” market. Even in the aftermath of the 2011 Tohoku earthquake and tsunami, there is little evidence that this situation is changing.

Cosmetics

The BRT calls for common regulations on the certification of medicated cosmetics, so-called quasi drugs (disclosure of approved ingredients, standard application times); common regulations on efficacy claims and advertisements; a common positive list of allowable ingredients in cosmetics; and establishment of joint standards for alternatives to animal testing.

< Recent progress >

There has been limited progress.

< Background >

European cosmetics firms find it continuously difficult to expand their business in Japan due to the difference in standards for ingredients and permitted efficacy claims between Japan and the EU and the Japan-specific product certification procedures for so-called quasi drugs.

Railways

Though standards are not so different and data generated at European research facilities are relevant for Japan, duplicate testing in Japan is required for the Japanese market. This has repeatedly been communicated by one JR company. Duplicate testing raises the costs of imports, making them less competitive than domestic products. The Government of Japan and the EU authorities should work toward establishing a mechanism through which test data and certification of railway equipment provided by European organisations is accepted in Japan, and vice versa.

The BRT furthermore recommends Japan to establish a system whereby standards and requirements are available openly so that European companies will have a better understanding of what is needed in order to offer goods and services that meet or exceed the safety measures in the Japanese market. These requirements and standards should preferably be used by all operators in Japan, which currently is not the case as each individual operator can choose its own standards and requirements. As a first step, test results and approvals by one operator should be accepted by other operators.

The BRT, however, recognises the latest development and positively views the first call for tender by a Japanese operator. The BRT recommends Japan to make better

use of the tendering system as this leads to more competition and better transparency, while not negatively affecting safety.

< Recent progress >

There has been some progress. The Government of Japan did not address this issue in the progress report from April 2013.

< Background >

Japanese safety standards and regulations are not publically available. There is, therefore, no possibility for foreign manufacturers to know exactly what requirements must be fulfilled. Furthermore each operator can in principle have their own testing requirements as there is no legislation on exactly what safety requirements need to be fulfilled.

Medical Devices/Equipment

The Government of Japan is urged to create a more efficient product approval process, in particular by:

- a) Shortening the medical equipment certification process: accepting clinical trial data generated overseas and harmonising GCP and QMS requirements with international standards. The BRT recommends that in the meantime, both Authorities should officially recognise that either ISO 14155:2003 (and as subsequently amended) or Japan GCP is, in principle, generally acceptable to either party for all medical device clinical investigations. Both Authorities should also officially recognise that, in principle, a QMS audit conducted by responsible authorities in Japan (PMDA or third party testing organisation) or by Notified Bodies in the EU is generally sufficient as evidence of compliance with quality management system requirements when applying for market authorisation on either market.
- b) Eliminating differences between Japanese GCP and the GCP established by the International Conference on Harmonisation.

< Recent progress >

Progress has been made with the passing of the new Pharmaceutical Affairs Law in the area of QMS, and we expect to see further alignment with ISO13485. There is, however, still a need for improvement regarding GCP.

< Background >

The EU's export of medical devices to Japan is limited by the costly and cumbersome approval process. Development costs for EU medical device producers are increased by requests for additional clinical trials from the Japanese authorities. Excessive Japanese standards and regulatory requirements result not only in a significant device lag, but also together with the insufficient reimbursement system, a device gap. The BRT calls on the government of Japan to intensify the work to simplify and harmonise the regulatory processes in the field of medical devices with that of the EU. Japan needs to reduce the time and costs associated with introducing innovative new

treatments in the human healthcare market in Japan and to bring Japanese rules in line with global standards.

Veterinary Products

Animal health products already approved in the EU have to undergo further rigorous controls and unnecessary tests before being approved in Japan, which increases costs and causes delays. Accordingly, the BRT:

- a) Urges the Government of Japan to take all measures available to speed up product approvals and fully harmonise domestic regulations with international practices.
- b) Requests Japan to work towards mutual recognition of European and Japanese marketing authorisations for veterinary products. This should start with mutual recognition of GMP certification for veterinary medicines. Harmonisation of regulations on animal vaccines, and ensuring product conformance under a unified GMP regime, should also be addressed.
- c) Asks Japan to better facilitate the use of English in applications without the need for a summary in Japanese.

< Recent progress >

Limited progress has been made. On December 3, 2012 the MAFF presented to the Japan Veterinary Products Association a list of 10 action items for change. These items are welcomed by the industry however still fall far short of the definitions of harmonisation described above. Changes in four of the above mentioned ten action items have been implemented, however timelines are not yet available for implementation of the remaining six.

< Background >

While Japan participates in the VICH, the implementation of international and harmonised standards is often slow and Japan-unique elements are added. MAFF has to a certain extent facilitated the use of English, but have at the same time added a requirement to add a summary in Japanese, as mentioned above.

Processed Food

For processed food, the combination of differences between EU and Japanese standards and technical requirements as well as cumbersome border procedures results in high costs for EU exporters. High conformity costs are incurred because Japanese authorities do not accept evaluations made by the EU or international bodies, and the FSC is constantly asking for tests to be carried out in Japan. The market potential for European exporters would be greatly enhanced by:

- a) Substantially increasing the list of permitted additives, in addition to speeding up and fundamentally revising the approval process

- b) Introducing mutual recognition of conformity assessment procedures to eliminate the duplicate costs of evaluations.
- c) Introduce deadlines for all parts of the application process. While there are guidelines on timelines these only cover part of the application process. Accordingly, it is difficult for an applicant to know how long the application will take.

< Recent progress >

There has been no concrete progress, although the issue is under discussion in the EU-Japan FTA/EPA negotiations.

< Background >

The limited number of permitted food additives in Japan and unaligned standards between the EU and Japan increases costs and prevent EU exporters from utilising scale effects.

LED lamps and luminaries

Lack of harmonisation of international electrical safety standards, such as IEC, and Japanese standards and technical requirements, such as PSE/JIS/JET results in high costs and effectively prohibits entry to the Japanese market for EU companies.

- The current standard for LED lamps prepared by the Japanese ministry (i.e. METI) and Japanese lighting industrial association (i.e. JELMA) is not compatible with standards used by manufacturers of other countries
- In terms of fluorescent lamps (tube LED), the Japanese lighting industrial association (JELMA) appoints Japanese test facilities as the only laboratories permitted to test
- The Japanese government continues to support their own standard of remote control for LED lamp and luminaries

The BRT requests Japan to harmonise with international standards and technical requirements in order for Japan to avoid being left behind in the global market. The market for LED lamps and luminaries is rapidly expanding and these products are expected to play an important role in saving energy on a global basis.

< Recent progress >

No concrete progress has been made.

< Background >

Japan has its own standards and technical requirements, such as PSE and JIS, and delays in setting standards such as J-deviation increases costs and prohibits EU companies and exporters from entering the Japanese market. In addition, lack of harmonisation of standards of remote control prohibits EU companies from entering the Japanese market.

Labelling rules

The Government of Japan should issue clarifying orders to provide retailers with flexible alternatives for providing Japanese consumers with globally sourced products while taking full responsibility for the quality and safety of the products. A simple example of an inflexible labelling rule that has substantial labelling cost implications for European companies is that the dimensions of furniture must be expressed in millimetres and not centimetres, although use of the latter is common practice in other countries using the metric system. There are also examples where the information required on the labels are too technical for the consumer to understand.

< Recent progress >

This issue was brought up in the Regulatory Reform Council where both representatives for European companies as well as domestic companies argued for a revision of the Household Labelling Law. The CAA has so far not presented anything concrete. This issue was not touched upon in the GoJ progress report of April 2013.

< Background >

The Household Product Quality Law and accompanying voluntary labelling guidelines, “hyojikitei”, prescribe in extreme detail how household products should be labelled when sold in Japan.

WP-A / # 07 / E to J Automobiles**

The Government of Japan should put kei cars and other motor vehicles on the same fiscal and regulatory footing.

< Recent progress >

The changes in the taxation of kei-cars proposed for FY2014 are a welcome first step but they do not go far enough. In the FTA negotiations, the GOJ should commit to further fiscal and regulatory changes so that European compact cars can compete on equal terms with kei-cars in the Japanese market.

< Background >

“Kei” or mini-cars are those vehicles legally restricted to a maximum length of 3.4m, a width of 1.48m, a height of 2m, and to an engine displacement of 660cc and below. Kei cars benefit from lower automobile related taxes, automobile liability insurance and motorway tolls and are subject to less stringent overnight garaging requirements. The continued existence of the privileges enjoyed by kei cars is an anachronism which distorts the competition with compact and subcompact cars, which do not enjoy the same prerogatives, even though their performance and specifications are similar

WP-A / # 08 / E to J** **Ensuring free and open competition in services**

The BRT urges the Government of Japan to tackle the lack of free and open competition in Japan's services markets.

On the matter on postal reform, the BRT is disappointed with the decisions taken so far by the Japanese Government. Japan has a duty to abide by its WTO obligations, including the national treatment provision of the GATS. This means establishing equivalent conditions of competition between the Japan Post entities and EU and other private delivery companies, banks, and insurance companies. Specifically:

- a. Kampo insurance business should be subject to the same capital, solvency margin, tax and policyholder protection funding requirements as private sector insurers. Limits are needed on expansion of Japan Post's services, including the introduction of new products as well as caps on postal life insurance, until competitive safeguards have been established to prevent cross-subsidies from its existing dominant position. The BRT is particularly concerned by the recent approval of the new or modified products offered by Japan Post Insurance. It is also imperative that Japan Post remains under the jurisdiction of the FSA. The above requests are well within the realm of the GPA. Similarly, the insurance business of cooperative societies (kyosai) should be subject to the same requirements as private sector insurers.

- b. Japan Post and private postal delivery operators should be subject to the same customs procedures and formalities. A level playing field for both Japan Post and private postal operators should be ensured in the requirements for dedicated airway bills, obligatory customs, quarantine and security clearance and the funding of these services, as well as in the issuance of parking tickets for delivery vehicle parking infringements.

< Recent progress >

There has been no progress. However the State Minister for Financial Services orally stated that Japan Post Insurance should not introduce any new or modified products.

< Background >

Since the Big Bang in the late 1990's, Tokyo has seen its role diminish in the global arena. This is partially due to the very few changes undertaken since that time. The preferential treatment extended to Japan Post and its subsidiaries still exists, and has unfortunately been expanded without private companies having access to the same benefits.

WP-A / # 09 / E to J** **Freight and logistics**

1. Further to the WP-A / # 03 / EJ to EJ, the BRT recommends Japan to revise its AEO system to introduce real benefits for operators regardless of whether they are forwarders, customs brokers or importers. Furthermore, the administrative load needs to be lessened for companies to be truly attracted to the AEO status.

The AEO concept should focus more on offering simplifications if the operator meets the agreed criteria for traceability and adheres to the agreed process flow. Examples of this could be:

- Deregulated customs clearance beyond the local customs jurisdiction territories
- Reducing the physical examination of shipments
- Being able to use alternative documentation for showing “direct shipment” under free trade arrangements

< Recent progress >

There has been no progress.

< Background >

The current system of AEO has unfortunately not led to the simplifications that many operators had hoped for. On the contrary, in many cases the administrative burden has increased.

2. The BRT recommends that Japan introduces a comprehensive system of remote filing and at the same time, strengthens alignment of the various customs areas to avoid discrepancies between the regional customs authorities. This would improve the situation not only for European companies, but also for small- and medium-sized Japanese companies,

A long-term solution could be to consolidate the various jurisdictions. A first step would be to consolidate Tokyo and Yokohama, and Osaka and Kobe.

< Recent progress >

This is a new recommendation.

< Background >

Currently Japan has nine separate customs area and no real central customs authority. This leads to discrepancies between the treatments of imported goods depending on the port of entry. This also makes it difficult for European logistics

companies, which lack multiple regional offices in Japan to expand their regional coverage as licensing is per region, ie. the license given by Tokyo Customs is not valid in Yokohama.

WP-A / # 10* / E to J Promoting foreign direct investment

The Government of Japan should create a business environment that will foster investment of foreign firms in the domestic economy. To this end, and in line with the treatment applied to stock swaps involving purely domestic companies, it should consider allowing tax deferrals for capital gains stemming from direct cross-border mergers and re-organisations.

The BRT furthermore would like to point out the disadvantageous rules for Net Operation Loss (NOL). Currently Japan only allows carry forward for nine years while the norm in Europe is unlimited. The situation is also more favourable in this respect in Japan's neighbouring countries, countries that Japan is competing with for FDI. There are unfortunately also talks within the ruling party of shortening the nine-year period.

Moreover, while such improvement of the generic investment environment is a precondition, regulatory reform is the best motivator for foreign companies to enter the Japanese market. In the sectors where the formal barriers to foreign investment were removed some time ago, such as automotives and machinery, foreign investment is relatively high. By contrast, two sectors where investments are low are the financial and medical fields. Japan's regulatory environment in these sectors remains much more difficult than the rest of the world to allow for foreign companies to set up any larger operation than the minimal level needed to serve the existing client base. Mutual recognition of market certifications would be an important first step to improving investments in the medical field. Mutual acceptance of principles governing the financial services industry and the mutual acceptance of the home regulator as the core regulator would go a long way to improving the investment environment in the financial sector.

< Recent progress >

While Japan has established incentive programmes for FDI, they are often limited in scope and application procedures are very inflexible. There are also some indications that Japan is contemplating shorting the period.

< Background >

Despite its position as the world's second largest economy, Japan's level of inward FDI as a proportion of GDP remains one of the lowest among all OECD countries. Even with the reorganisation of JETRO and the efforts starting with former Prime Minister Koizumi to increase FDI to Japan, only very small improvements have been seen. According to WTO FDI in 2011 was only 3.9 % of GDP.

WP-A / # 11 / E to J Procurement**

< General Recommendations >

The Government of Japan should increase its efforts to facilitate better access to the procurement market in Japan. This could be achieved by lowering the threshold for public tenders and better defining the “operational safety clause” within the transport sector. Japan should also include more cities in the GPA as currently only nineteen cities are included.

Japan should, furthermore, make more information available in English. The BRT is aware of the recent initiatives by JETRO, but the complete information is rarely available in English. In addition the BRT requests the use of English when submitting tender proposals to be allowed or at least partially allowed, especially for the technical specifications.

In addition the BRT asks that Japan streamlines the requirements on pre-registration and also recognises overseas experience and qualifications when setting up requirements for the bidders.

< Specific Recommendations >

- In the bidding process in public tenders for helicopters>
 - a. More balanced competition should be ensured by comprehensive evaluation systems that also take aircraft performance into account.
 - b. Single year budget procurement constraints should be relaxed.
- Procurement of integrated systems of space ground equipment should be encouraged.
- The share of open tendering as a means for procurement by the Japanese utilities should be increased substantially.

< Recent progress >

There has been little progress.

< Background >

Studies have shown that over 80% of the total procurement market in Japan is not covered by the GPA.¹ Currently some sectors are exempted from the threshold of 5 million SDR. Some changes have been seen, such as the establishment of a national data base on calls for tenders, and the first ever open call for tender in the railway sector. However, significant improvements are required to bring Japanese procurement closer to the levels of the EU.

¹ Copenhagen Economics, “Assessment of barriers to trade and investment between the EU and Japan”, 2009

Recommendations from Japanese industry to the EU

WP-A / # 12** / J to E Europe 2020 and the Single Market Act

The BRT expresses our continued support for Europe 2020 and in particular, the Single Market Act - the initiative of the European Commission to relaunch the single market. In addition, The BRT looks forward to deeper cooperation between Japanese and European industries and research institutes under Horizon 2020, the EU's RTD program for 2014-2020. The BRT also supports the European Commission's call for immediate action for a European Industrial Renaissance.

- 1) The BRT would like to repeat the importance of the single market for the EU and the Europe 2020 strategy.
- 2) The EU should make utmost efforts to realise all of the commitments that it has made under Single Market Act I and II. The BRT would like to emphasise the importance of the following priorities for the single market.
 - Intellectual property rights
 - Consumer empowerment
 - Services
 - Networks
 - The digital single market
 - Taxation
 - Business environment
- 3) The BRT requests that the EU should add the realisation of the true single market of chemical materials as a priority.

< Recent Progress >

Europe 2020 is evolving and progress has been made on Single Market Acts I and II. The realisation of the true single market of chemical materials is progressing albeit slowly.

< Background >

For global businesses to flourish, the regulatory environment should be, as much as possible, consistent throughout the world. In this context, a level playing field in the single market is of key importance.

The BRT believes that a policy with social objectives such as environmental policy and social policy cannot be formed independently from economic and industrial policies. It is important to achieve synergy between these different policies. For example, in order to realise more energy efficient economy, innovative and competitive products and processes provided by industries will be essential not only in the manufacturing sector but also in the transport and household sectors. It goes without saying that sustainable social infrastructures for the aging society such as social security systems depend on the business activities that create growth and jobs.

Furthermore, the international coordination of regulatory policies and close cooperation amongst governmental and other institutions involved in policy-making process is important to realise a level playing field globally.

The European Commission calls on the Council and the Parliament on 22 January 2014 to adopt proposals on energy, transport, space and digital communications networks, as well as to implement and enforce legislation to complete the internal market. Furthermore, it states that industrial modernisation must be pursued by investing in innovation, resource efficiency, new technologies, skills and access to finance, accelerated by the use of dedicated EU funds. It promotes a more business-friendly Europe through actions to simplify the legislative framework and improve the efficiency of public administration at EU, national and regional levels. Other key issues include easier access to third country markets through harmonisation of international standards, open procurement, patent protection and economic diplomacy.

WP-A / # 13 / J to E Revision of high customs tariffs on audio-visual products and passenger cars**

The authorities of the EU should abolish or drastically reduce high customs tariffs, for example, 14% for audio-visual products and 10% for passenger cars. In the absence of a progress in global trade negotiations, such reduction should be realised through bilateral negotiations, notably, through an EPA/FTA between the EU and Japan.

< Recent Progress >

It can be said that a progress has been seen for this recommendation because the EU-Japan bilateral negotiations on an EPA/FTA have been launched.

< Background >

The EU is protecting some sectors of its industries by maintaining high customs tariffs even though these industries are at the forefront of international competition and need stimuli for competition rather than protection. Such protection will not help enhance international competitiveness of those sectors. Furthermore, it is only their users and consumers in the EU who unfortunately have to pay the resulting higher prices.

WP-A / # 14 / J to E Chemical Regulations**

14.1 REACH

1. Concerning REACH, the BRT recommends as follows:

- ✓ The BRT asks the authorities of the EU to proceed swiftly against the Member States which do not follow the interpretation of Article as stipulated in the Guidance document so that actors in the supply chain can avoid the fragmented compliance requirement in the EU market.
- ✓ The BRT requests the authorities of the EU to introduce one consistent policy in the EU concerning phthalates for indoor use. The BRT would also like to

make remarks that it will even be better if the policy is harmonised between the EU and Japan.

< *Recent Progress* >

Some progress has been seen for the recommendation on the interpretation of the Article. Progress on phthalates is limited and unsatisfactory.

< *Background* >

REACH, though it is a Regulation, has not realised a single market in the EU because its interpretation is diverse. The authorities of the EU should realise a single market through the clarification of interpretation that is accepted throughout the EU.

The interpretation of “Article” applied to 0.1% threshold for SVHC (Substance of Very High Concern) is still disharmonized among EU member states. The Guidance on Requirements for Substances in Articles in REACH regulation states that the 0.1% threshold should apply to an article as a whole produced or imported. Five Member States and Norway, however, insist that the threshold should apply to the parts of complex articles based on the “Once an article – always an article” concept.

In Denmark, despite the objection by the ECHA (European Chemicals Agency), phthalates for indoor use are banned in its national law published in its official journal on 30 November 2012. Its implementation has been postponed for two years. In addition, although Denmark had proposed its EU-wide ban by submitting dossiers in accordance with Annex XV of REACH, the proposal was rejected by committees of the ECHA in June and December 2012. This kind of disaccord could negate the benefits of the Single Market.

2. The Authorities of the EU should prepare a practical guidance to facilitate the implementation of REACH. In particular:

- ✓ The number of SVHC increases steadily. The ECHA publishes its list on its website. However, especially for SMEs in supply chains, such information is difficult to digest. The authorities of the EU should take an initiative to facilitate the setting up of a database into which upstream suppliers could input data and with which downstream manufactures could consult.
- ✓ The BRT requests that the authorities of the EU should issue a clarification on the obligation of ORs under the Article 8 of REACH and its implication under the EU competition law.
- ✓ The disseminated dossier information that is purchased from Lead Registrant in ECHA home page for HSE (health safety and environment) purposes (such as GPS - Global Product Strategy - and SDS - Safety Data Sheet) should be made accessible for free and made available worldwide.
- ✓ In the evaluation of a substance allocated to a Member State in the framework of CoRAP - Community Rolling Action Plan, a private business is often requested to provide information on the substance which it holds. However, it is sometimes requested at a short notice and/or a not-well-organised manner, which is not effective. The authorities of the EU should publish the best practice for the Member States so that private businesses can help them more efficiently and effectively.

< Recent Progress >

No progress has been seen for the recommendation on SVHC.

< Background >

REACH includes requirements that are practically very difficult to implement for businesses.

Concerning the obligation of ORs, the Article 8 of REACH states that the OR 'shall keep available and up-to-date information on quantities imported and customers sold to, as well as information on the supply of the latest update of the safety data sheet'. However, in practice, there is a risk of infringing the EU competition law if OR collects customer-of-customers-information, such as customer names and imported volumes, especially from indirect supply routes, because under the EU competition law such supply chain information (i.e. market information) may be considered critical and sensitive. In addition, it remains unclear whether or not the competent authorities of each Member State will accept the use of a third-party trustee in the collection of such information in order to avoid possible infringement of the EU competition law. The reason is that Article 8 only relates to OR and there is no other indication in REACH that such OR obligation could be outsourced to a third party. The authorities in Germany appear to interpret that the use of a third-party trustee is not allowed. Furthermore, the use of the service of a trustee requires a significant additional cost. As the EU manufactures do not have to collect information on the quantity of imports, this only affects ORs – i.e. non-EU manufactures, which creates unfair market conditions.

3. The BRT recommends that the authorities of the EU should summarise and publish issues and concerns coming out of the latest registration – such as difficulty to identify Lead Registrants and no transparency of the cost for LoA (Letter of Access), and their solutions in time for the following joint submission. The authorities of the EU should, instead of relying upon agreement among the participants of SIEF, actively monitor and, if necessary, initiate corrective measures in order to realise transparency of the cost for LoA and the equity in cost sharing.

< Recent Progress >

Some limited progress has been made due to the introduction of data sharing dispute mechanism but more active involvement of the authorities of the EU is desirable.

< Background >

New challenges are already foreseen in the SIEF operation as the result of 2013 registration deadline, and a further 2018 deadline, namely, less data available, inexperienced Lead Registrants, mostly SMEs in the supply chain, and heavy financial burden. The BRT is concerned that the SIEF activities will stagnate due to such concerns.

The ECHA's testing proposals and evaluation of registered dossiers, and the Member States' evaluation of substances would result in renegotiation of cost sharing in a SIEF. LoA revenue from latter registrants would have to be distributed amount former registrants. To realise transparent and equitable cost sharing, the authorities of the EU would have to monitor and intervene more actively.

14.2 Appropriate approach to Endocrine disruptor

The BRT requests that the authorities of the EU should regulate endocrine disruptors not by using the categorisation like CMR (carcinogenic, mutagenic or reprotoxic), but by using the risk assessment based on sound science because endocrine disruption is not the endpoint of toxicity. The hazard assessment should be conducted by identifying adverse effect based on the endocrine mode of action defined by the WHO, and characterising with taking into account of potency, lead toxicity, severity and irreversibility.

< Recent Progress >

Some progress has been made as the result of ongoing discussion.

< Background >

Currently, the authorities of the EU are reviewing the current legislations such as REACH, PPPR (Plant Protection Products regulation) and BPR (Biocidal Products Regulation), and they are contemplating a policy measure.

14.3 RoHS

The BRT requests that SVHC, authorisation or restriction under REACH and exemption under ELV/RoHS should not lead to duplicated regulation.

The number of restricted hazardous substance is going to increase. The authorities of the EU should continue to involve the industry in the process of identifying additional substance.

< Recent Progress >

Some progress has been made. The European Commission has given priority to the issue.

< Background >

First of all, the BRT appreciates the action of the European Commission which is already involving the industry. REACH and RoHS are independent with each other. However, they regulate chemical substances. Both of them impose restrictions and exemptions thereof. Although currently the BRT is not aware of any discrepancy as to the restricted or exempted chemical substances between the two regulations, the BRT is nonetheless concerned about the risk of duplication due to the complexity of the two regulations.

14.4 CLP Regulation

- ✓ The BRT requests that, to alleviate burden on exporters, the authorities of the EU should accept GHS classification and labelling at the custom clearances.
- ✓ The BRT requests, in addition, that the authorities of the EU should take GHS into consideration from ATP (Adaptation to Technical Progress) stage.

< Recent Progress >

Some progress albeit very limited and unsatisfactory for businesses has been seen for the recommendation.

< Background >

CLP Regulation (Regulation (EC) No 1272/2008 on classification, labelling and packaging of substances and mixtures) affects not only the EU manufactures and importers but also exporters outside the EU. While CLP is comparable to UN GHS, CLP does not take some of GHS classification but introduces the EU's own classification. As a consequence, the exporters to EU are forced to be compliant with both GHS and CLP.

14.5. Nanomaterial

1. Definition

The BRT requests that the authorities of the EU should implement the prospective policy tools on nanomaterials by taking into consideration the degree of exposure of nanomaterials released from a product.

2. Reporting scheme

The BRT requests that the authorities of the EU should take an initiative and establish a harmonized reporting system at the EU level.

3. Standardization of measurement method

The BRT requests that the authorities of the EU should standardise a practical measurement method of nanomaterials. Such a measurement method should be simple and internationally harmonised.

< Recent Progress >

Some progress has been made:

As to the definition, the European Commission has carried out public consultation.

As to the reporting scheme, the European Commission is currently in consultation with the Member States. However, some Member States, such as France and Belgium, are going their own ways. A unified reporting scheme is critical for industry.

As to measurement method, although the Joint Research Centre issued a report in 2012 titled 'Requirements on measurements for the implementation of the European Commission definition of the term „nanomaterial', there remain the issues of practicality and cost. .

< Background >

The European Commission Recommendation on the definition of nanomaterial (2011/696/EU) was published on 18 October, 2011.

Several EU Member States plan to enact their own nanomaterial reporting schemes at a national level. It would oblige their manufacturers and importers make multiple reporting in different formats, which would not only be inefficient but also create confusion in their supply chains.

Different measurement methods are used in the measurement of nanomaterials to meet regulatory requirements such as notification. As a result, there is a risk that the results of measurement by different actors are not comparable.

WP-A / # 15 / J to E Taxation**

15.1 Common Consolidated Corporate Tax Base

The BRT welcomes the proposal for CCCTB (Common Consolidated Corporate Tax Base) proposed on 16 March 2011. The BRT hopes for its swift adoption. CCCTB should realise the following points to improve the competitiveness of the EU economy.

- 1) Non-taxation of unrealised gains on goodwill within a group of companies that form CCCTB
- 2) Non-application of arms-length principle within a group of companies that form CCCTB.
- 3) Off-setting of profits and losses within a group of companies that form CCCTB.

< Recent Progress >

No progress has been seen for this recommendation.

< Background >

Many Japanese companies are implementing integration and rationalisation of their European business organisations in order to remain competitive in the Single Market. Examples are the centralisation of such functions as sales support and accounting.

The relation between intra-group transactions and taxation is an important element in decision making in a business. It is highly desirable that companies with international business should be allowed to compute the income of the entire group according to one set of rules and establish consolidated accounts for tax purposes in the EU.

15.2 Merger Directive

The scope of the Merger Directive (90/434/EEC) should be expanded to include the transfer of real estates and other intangible assets in reorganisation. Furthermore, the shareholding requirements should be abolished.

< Recent Progress >

No progress has been seen for this recommendation.

< Background >

In the communication COM (2001)582, the European Commission referred to its intention to extend the scope of the Merger Directive to tax on the transfer of real estates. The amendments to the Directive (2005/19/EC), however, do not include provisions related to this issue.

By extending the scope of the Directive to the transfer of real estates and other intangible assets in reorganisation, companies could reduce the cost of reorganisation and increase competitiveness.

The Merger Directive (90/434/EEC) provides for the deferral of corporate tax in the qualified cross-border restructuring of business. In certain EU Member States, companies are required to hold shares that they have received in exchange of contributed assets for a number of years even if those holding companies cease to function as an operating company. There appears to be no ground in the Directive to support such measures.

In addition to the cost of maintaining these empty companies, it increases the risk of double taxation. Dividends paid by the subsidiaries do not qualify for Japanese foreign dividend exclusion for the portion distributed through the empty holding company if the shareholding of Japanese parent in it is below 25%.

15.3 The fundamental reforms of VAT regime under consideration

The BRT welcomes the strategy of the European Commission to fundamentally revise the VAT system and to establish a simpler, more efficient and robust VAT system tailored to the single market as described in Com (2011) 851.

The BRT hopes that the new regime will be realised swiftly and in such a way that a business group could easily and cost effectively centralise VAT administration in the EU.

< Recent Progress >

Some progress albeit limited has been seen for this recommendation.

< Background >

Many Japanese companies are implementing integration and rationalisation of their European business organisation in order to remain competitive in the Single Market. Accounting functions including VAT administration are often targeted for centralisation with the aim of reducing overall costs and increasing efficiency.

Although the VAT system in the EU is a common system, in reality, differences among Member States are significant mainly due to derogations. Presently, therefore, the centralisation of VAT administration carries a high financial risk.

For example, if centralised accounting staff with limited country specific knowledge makes a mistake in a repetitive transaction, the accumulated amount that should be rectified could become high over a relatively short period. In addition, a penalty may be imposed. To avoid such a high risk, businesses have to either leave accounting staff in local operations or employ a number of accounting staff with country specific knowledge in a central location. In either case, cost-effective centralisation of accounting functions is unlikely to be realised.

16.1 Conflict minerals

<Recommendations>

The BRT acknowledges that the proposal for a Regulation has taken up certain feedback from businesses such as promoting internationally recognised frameworks, taking a voluntary approach of self-certification and publication of a list of responsible smelters and refiners. The BRT recognises that, although self-certification by responsible importers is voluntary, administrative burden will be substantial for responsible importers that choose to self-certify. The BRT suggests that administrative burden should be reduced as much as possible in order to facilitate the take up of self-certification.

Concerning Incentives laid down in the Joint Communication, the BRT requests a clarification on the definition of equivalence to the OECD Due Diligence Guidance in terms of Procurement and on the benefits and duties of a company that signs the Letter of Intent as to industry commitments. The BRT also requests good internal coordination in implementing Procurement Incentives.

<Recent progress>

This is a new recommendation.

<Background>

The European Commission submitted on 5 March 2014 a Proposal for a Regulation of the European Parliament and of the Council setting up a Union system for supply chain due diligence self-certification of responsible importers of tin, tantalum and tungsten, their ores, and gold originating in conflict affected and high-risk areas (COM(2014)111). The proposed Regulation is accompanied by a joint Communication by the European Commission and the High Representative to the European Parliament and the Council: Responsible sourcing of minerals originating in conflict-affected and high-risk areas - Towards an integrated EU approach (JOIN(2014) 8).

16.2 Country by country reporting (CBCR)

<Recommendations>

The BRT recommends that the authorities of the EU should carefully consider the risks of excessive disclosure requirements that could unduly hamper multinational enterprises' business activities.

<Recent progress>

This is a new recommendation.

<Background>

The final text of a Directive amending Directive 2013/34/EU as regards disclosure of non-financial and diversity information by certain large companies and groups requires the European Commission to report on CBCR by 21 July 2018: the report shall consider, taking into account developments in the OECD and the results of related European initiatives, the possibility of introducing an obligation requiring large undertakings to produce on an annual basis, a country-by-country report for each

Member State and third country in which they operate, containing information on, as a minimum, profits made, taxes paid on profits and public subsidies received.

The European Council made reference on 22 May and 20 December 2013 to extending CBCR to large companies and groups.

The EU law already requires financial institutions to disclose annually, specifying, by Member State and by third country in which they have an establishment, profit or loss before tax, tax on profit or loss, and public subsidies received from 2015. The EU law also requires large undertakings and all public-interest entities active in the extractive industry or the logging of primary forests to prepare and make public a report on payments made to governments from 2016.

Within the context of the G8 and the G20, the OECD has been asked to draw up a standardised reporting template for multi-national undertakings to report to tax authorities where they make their profits and pay taxes around the world.

16.3 Non-financial disclosure

<Recommendations>

The BRT appreciates that the final text agreed by the European Parliament and the Council addresses a number of concerns raised by businesses including the BRT such as making non-financial KPIs non-binding, allowing reporting at a consolidated level and limiting the scope of entities that the new rules become applicable. The BRT looks forward to consultation by the European Commission during their preparation of non-binding guidelines on methodology for reporting non-financial information, including non-financial key performance indicators.

<Recent progress>

There has been a good progress.

<Background>

The European Commission submitted a proposal for a Directive (COM(2013) 207) in April 2013. The European Parliament and the Council reached an agreement in February 2014 on the final text of a Directive amending Directive 2013/34/EU as regards disclosure of non-financial and diversity information by certain large companies and groups. According to the final text:

- *Large undertakings which are public-interest entities exceeding on their balance sheet dates the criterion of average number of employees during the financial year of 500 shall include in the management report a non-financial statement containing information to the extent necessary for an understanding of the undertaking's development, performance, position and impact of its activity, relating to, as a minimum, environmental, social and employee matters, respect for human rights, anti-corruption and bribery matters.*
- *The Commission shall prepare non-binding guidelines on methodology for reporting non-financial information, including non-financial key performance indicators, general and sectorial, with a view to facilitate relevant, useful and comparable disclosure of non-financial information by EU undertakings. In doing so, the Commission shall consult relevant stakeholders. The Commission shall*

publish the guidelines no later than 24 months after the entry into force of this Directive.

WP-A / # 17* / J to E Product Safety/Market Surveillance

17.1 Product safety and market surveillance package proposal

The BRT requests the authorities of the EU to proceed prudently in the deliberation of the Product Safety and Market Surveillance Package, in particular, Article 7 of the proposal for a Regulation on consumer product safety by which the indication of the country of origin would become mandatory. The BRT believes that the mandatory indication of the country of origin would not necessarily improve safety for consumers but that it would place substantial administrative burden on manufacturers and/or importers. The BRT therefore believes the mandatory indication of the country of origin should not be included in the Package.

<Recent progress>

This is a new recommendation.

<Background>

The European Commission proposed on 13 February 2013 the Product Safety and Market Surveillance Package – A proposal for a Regulation on market surveillance of products (COM(2013)75) and a Proposal for a Regulation on consumer product safety (COM(2013)78). The package is now at a final stage of deliberations in the Council. The Article 7 of a Proposal for a Regulation on consumer product safety requires manufacturers and importers to ensure that products bear an indication of the country of origin of the product.

17.2 Market Surveillance under the New Legislative Framework

The BRT supports the general direction the European Commission and the Member States are taking for harmonising market surveillance. This is an important step for fair movement of products. The BRT requests the European Commission and the Member States to disclose all the relevant information regarding the progress of this process and the implementation of the market surveillance in each Member State. The BRT also requests the European Commission and the Member States to give industry an opportunity for contributing to developing the framework of harmonised market surveillance.

The BRT would like to thank the Directorate General of the European Commission concerned for the involvement of the industry and requests that it should continue to consult stakeholders widely – preferably through public consultation when draft guidance for the New Legislative Framework is ready.

< Recent Progress >

Some progress has been seen for this recommendation.

< Background >

In 2008, the Regulation 765/2008/EC, setting out the requirements for accreditation and market surveillance relating to the marketing of the products, and the Decision 768/2008/EC, a common framework for the marketing of products, were adopted. The Regulation has been applied as from 1 January 2010.

The Regulation and Decision address and complement missing elements, namely, accreditation and market surveillance, in the existing sectoral legislations. The existing legislations are being amended based on the Decision when they are reviewed. The objectives of the so-called New Legislative Framework are to introduce harmonised and transparent market surveillance and accreditation for all economic operators. The Decision provides definitions, the obligations of economic operators, traceability provisions and safeguard measures. National authorities were to develop their market surveillance programmes and communicate them to the Commission by 1 January 2010.

The European Commission is in the process of preparing the guidance for the New Legislative Framework and intends to publish it in 2014.

17.3 Consumer protection

The new Directive, 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, still maintains the discretion of the Member States to set a guarantee period longer than 2 years set in the Directive 1999/44/EC, which the BRT believes could constitute an obstacle in the single market. The BRT would like to ask the European Commission to review the advantage and disadvantage of this discretion to set a guarantee period longer than 2 years in the future review.

< Recent Progress >

No progress has been made for this recommendation

< Background >

The BRT believes that, to maximise the benefit of the single market, any legislation that affects cross-border transactions should be harmonised to the extent that businesses and consumers do not have to be concerned about difference in implementation among the Member States.

WP-A / # 18* / J to E Access of third countries goods and services to the EU's Procurement Market

The BRT believes and recommends the following:

1. Non-legislative policy measures should be adopted to achieve the objective of opening procurement markets internationally;
2. Any measures should incorporate an effective mechanism to prevent the EU from arbitrarily excluding third-country goods and services from its procurement market and to ensure legal stability and predictability for businesses; and
3. Any measures should contain clear and transparent criteria for the scope and conditions of their application based on an appropriate and balanced analysis.

4. The authorities of the EU and its Member States should increase their efforts to facilitate better access to the respective public procurement markets.
5. The authorities of the EU and its Member States should make more information available in English. The BRT requests the use of English when submitting tender proposals to be allowed or at least partially allowed, especially for the technical specifications and communication.

< *Recent Progress* >

No progress has been made for this recommendation.

< *Background* >

The reform of the legislative framework of procurement is one of the twelve priority actions set out in the Single Market Act adopted in April 2011. As part of this reform programme, the European Commission announced on 31 March 2012 a proposal for a Regulation on the access of third-country goods and services to the EU public procurement market. (COM (2012) 124).

The BRT has a serious concern about the measures in the proposed Regulation that would enable the EU to close its market unilaterally. The BRT is concerned because, by exercising the proposed unilateral measures, the EU could send a signal to its trading partners that the EU is closing its procurement market discreetly, which could trigger a chain reaction of protectionist measures all over the world. Should it happen, the EU's intention and objective of opening procurement markets internationally would not be achieved.

WP-A / # 19* / J to E The deployment of alternative fuels infrastructure

The BRT supports the plan to expedite the deployment of alternative fuels infrastructure as described in a proposal for a Directive on the deployment of alternative fuels infrastructure, and understands that the detail of the contents has been in discussion in Trialogue session to be finalized in middle of April.

The BRT requests the authorities of the EU, however,

- 1) To delete the disproportionate emphasis on specific technology.
- 2) To confirm that the Directive will not exclude the fast charging technologies other than Type "Combo2" from becoming an authorized recharging system in the EU, and will not remove them from the European market.

< *Recent Progress* >

Under the Trialogue session.

< *Background* >

The European Commission adopted a proposal for a Directive of the European Parliament and of the Council on the deployment of alternative fuels infrastructure (COM(2013)18) on 24 January 2013. When adopted by the European Parliament

and the Council, it would require the implementation of common technical specifications for the interfaces between recharging points and vehicles. In Annex III 1.2 of the proposal, it stipulates that Direct Current (DC) fast recharging points for electric vehicles shall be equipped, for interoperability purposes, with connectors of Type "Combo 2" as described in the relevant EN standard, to be adopted by 2014.

As stated in the preamble (26) of the proposal, technical specifications for interoperability of recharging and refuelling points should be specified in European standard. However, such a standard is yet to be finalized for DC fast recharging points. Therefore, it is premature to refer to any specific technologies as a part of European standards.

Furthermore, the future Directive should make dual chargers with the existing DC fast charging technologies an option because a technical specification to become available in the market in near future may be specified as is the case in the current proposal. The fact is that there are more than 50,000 electric vehicles equipped with a fast charging technology on the road in Europe today. Dual chargers that can serve the existing electric vehicles as well as future ones will be important not only for the convenience of the drivers of the existing vehicles but also for the market to develop.