



## **Commission Services Progress Report**

# **On the EU-Japan Business Round Table 2009 Recommendations**

**Brussels, March 2010**

The **European Union – Japan Business Round Table** (BRT) issued in 2009 its recommendations to the leaders of the EU and Japan: “*Securing Stability in difficult economic times*”.

Adopted during the BRT annual meeting held in Brussels on 6 and 7 July 2009, those recommendations have been duly studied by the European Commission Services.

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

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

- Multilateral and Bilateral Trade & Investment and Regulatory cooperation (Working Party A),
- Life Sciences and Biotechnology (Working Party B),
- Information and Communication Technologies – ICT (Working Party C),
- Financial Services, Accounting and Taxes Issues (Working Party D),
- Innovation, Environment and Sustainable development (Working Party E),

For most of the recommendation a summary is proposed before describing the action taken and the state of play.

## Foreword

A great number of the 2009 recommendations proposed by the EU-Japan Business Round Table have been regularly discussed at governmental level between the EU and Japan. The EU-Japan Regulatory Reform Dialogue (RRD) provides an opportunity to address, at expert and political levels, regulatory concerns with a view to eliminating market restrictive measures. It also contributes to strengthening mutual confidence, through transparency on each side's regulatory approach and policy and cooperative actions. The EU presented in October 2009 its RRD proposals (see RRD proposals on [http://ec.europa.eu/external\\_relations/japan/regulatory\\_reform\\_en.htm](http://ec.europa.eu/external_relations/japan/regulatory_reform_en.htm)). Since the publication of the BRT's recommendations, one RRD session was organised in Tokyo early February 2010 during which EU concerns on the Japanese market were addressed.

The review of the overall and institutional framework for the EU-Japan relationship has been a major issue all along 2009-2010 and will be at the top of the agenda for the 2010 EU-Japan Summit. At this Summit, a political decision is expected to launch the process to replace the 2001 Action Plan "Shaping our common future", due to end in 2011. Since autumn 2009, both sides have organised numerous debates to assess past EU-Japan cooperation, identify potential fields for strengthened EU-Japan cooperation or coordination in the areas of peace and security, global and societal challenges, people to people links, economic and trade partnership. For the economic pillar which is part of this review, the 2010 Summit will also give the opportunity to take stock of the work on a few non tariff issues, as tasked by Leaders in paragraph 34 of the EU-Japan Summit Statement of 4 May 2009. In such a context, the recommendations issued by the BRT have been of great value for the Commission services.

### *Ahead of us*

The new Commission has adopted a new strategy, the "Europe 2020 strategy", which will be endorsed by the Heads of State and Government at the European Council of June. The "Europe 2020 Strategy" aims at moving out of the crisis and to prepare the EU economy for the next decade. The goal of the Europe 2020 strategy is to develop a sustainable social market economy to be competitive. The Commission has identified three key drivers for growth, to be implemented through concrete actions at EU and national levels: smart growth (fostering knowledge, innovation, education and digital society), sustainable growth (making our production more resource efficient while boosting our competitiveness) and inclusive growth (raising participation in the labour market, the acquisition of skills and the fight against poverty). The Commission proposes a Europe 2020 agenda consisting of seven flagship initiatives. Implementing these initiatives will require actions at all levels: EU Level, Members States, local and regional authorities.

The "flagship initiative" *An industrial policy for a globalisation era* recognizes that industry and especially SMEs have been hit hard by the economic crisis, and that all sectors are facing challenges of globalisation and adjusting their production processes and products to a low-carbon economy. The Commission will work closely with stakeholders in different sectors and will draw up a framework for a modern industrial policy, to support entrepreneurship, to guide and help them seize the opportunities of globalisation and the green economy. The framework will address all elements of the increasingly international value chain from access to raw materials to after-sales services.

Beside this, international trade is considered as one of the motors of growth in the EU. The Commission intends to act both under the WTO and via bilateral cooperation to ensure that barriers to international trade are reduced, to promote open and rules-based global trade, to ensure a level-playing field vis-à-vis the external competitors as well as to support access to energy and raw materials. More focus will be given to regulatory dialogues, also in new areas such as climate and green growth.

In this context the BRT has an important role to play. This is why the Commission welcomes and pays a careful attention to the BRT recommendations and is willing to work more closely with the BRT members with a view to strengthen their respective efforts towards an increased and more fruitful economic partnership between the EU and Japan.

Working Party A

**MULTILATERAL AND BILATERAL TRADE & INVESTMENT AND  
REGULATORY COOPERATION**

## **A.1. FORMATION OF A COMMON ECONOMIC INSTITUTIONAL ENVIRONMENT (A-EJ-1)**

### *A.1.1 Summary of recommendation*

The BRT recommends continued discussions between the EU and Japan on an ambitious bilateral trade agenda with a view to taking the relationship to a new level. Discussions should be pursued through respective administrations from the highest political level in order to ensure that they translate into concrete and measurable solutions for business.

### *A.1.2. Action taken and state of play*

The European Commission attaches the greatest importance to the need to address barriers hindering trade and investment and remains committed to the objective of strengthening its bilateral trade relationship with Japan to bring it to a higher level.

At the May 2009 EU-Japan Summit, the EU and Japan subscribed to the goal of better exploiting the full potential of their economic relationship, and decided to focus on a very limited number of Non Tariff Barriers (NTBs) with a view to bringing positive solution for business within a short period of time. The overall objective is to prove in the short term that fruitful cooperation can take place between the EU and Japan on regulatory barriers which are hampering the development of trade and investment flows.

The process brought about the identification of 7 non tariff measure issues, 3 on the EU side and 4 on the Japanese side. These issues have been regularly discussed since July 2009 at the governmental level notably through existing bilateral dialogues (EU-Japan Regulatory Reform Dialogue (RRD) and High Level Trade Dialogue Consultations) and in ad hoc expert meetings. Progress was quickly achieved on the three Japanese requests but has proved much slower on the non tariff measures identified by the EU.

Concrete results on these issues would help build mutual confidence between the parties and could pave the way for enhanced cooperation between the EU and Japan and for a more ambitious program of removal of barriers to trade and investment. The April 2010 Summit will assess progress achieved on these issues.

## **A.2 SUPPORT OF WTO DOHA DEVELOPMENT AGENDA FOR FIGHT AGAINST PROTECTIONISM (A-EJ-2)**

### *A.2.1 Summary of recommendation*

The authorities of the EU and Japan should jointly advocate strict respect of WTO disciplines such as the TRIPs to counter unhelpful protectionist tendencies.

The two authorities should step up efforts in concluding ambitious negotiations of the WTO Doha Development Agenda (DDA) by the end of the year. They should in particular press emerging countries including China to commit to more ambitious reductions on industrial tariffs and to participate in specific sector agreements.

### *A.2.2. Action taken and state of play*

Since these recommendations were issued, the EU has continued to make every effort to conclude the Doha Round. After the failure to agree on the so-called "modalities" in July 2008 – and then again in December 2008 - in July 2009, the G20 Leaders committed to conclude the Doha Round by the end of 2010. In September 2009, a Ministerial meeting was convened by the Indian Minister for Trade (Anand Sharma) into which more than 30 delegations took part in order to put the Doha Round back on track. This meeting set up an ambitious work program for the negotiations - at both bilateral and multilateral level. Some were hoping that this would have already led to some progress by the 7<sup>th</sup> Ministerial Conference of the WTO that took place in December 2009 in Geneva. Unfortunately, this was not the case – mainly due to the inability by major players to agree on the quantum (in terms of additional ambition) that was needed in order to find domestic political support to the deal.

Ministers could only agree that a stock-taking of the DDA should have taken place early in 2010. This took place in the week of 22 March at senior officials' level, but little progress in identifying and filling the gaps between the negotiating positions could be made on this occasion. The EU considers that the vast bulk of the Doha modalities are duly addressed in the package currently on the table (i.e. the Chairs' texts circulated in December 2008).

In this regard, while the EU shares the BRT 'opinion that some additional efforts could be asked from emerging economies, this should not amount to a total reopening of the negotiating package. This would take a long time and risk having dangerous consequences. The EU continues making the strong case to its trading partners that concluding Doha is part of the global exit strategy from current economic crisis, as it would give both a boost to the world economy and reinforce the role of the WTO as insurance policy against trade protectionism.

The EU therefore remains firmly committed to achieving an ambitious, balanced and comprehensive outcome to the Doha Round as swiftly as possible on the basis of the progress already made.

## **A.3. APPLYING INTERNATIONAL STANDARDS AND ENHANCED COOPERATION IN THE PROMOTION OF GLOBAL STANDARDS (A-EJ-3)**

### *A.3.1.1. Summary of recommendation*

EU and Japan should adopt international products standards where applicable and in the meantime, mutually recognize products certified under similar or equivalent product standards in sectors such as Medical devices, Construction materials and organic products.

### *A.3.1.2. Action taken and state of play*

This recommendation is based on a rather ambitious assumption, in particular when referring to the "harmonisation of regulatory processes, mutual acceptance of product standards and certifications ...". It should be noted that international regulatory harmonisation is being pursued in given sectors, such as automotive,

medical devices and pharmaceuticals. The mutual acceptance of "product standards and certification" is rather difficult to achieve. With regard to standards it is important that their application remains voluntary. In such case, they have a less trade restrictive effect. If standards remain of a voluntary nature, there is no need to mutually accept their application. Rather than to invest into the mutual acceptance by governments of standards, it is by far preferable that, as far as possible, standards are being harmonised internationally and that regulators are committed to rely on international standards.

With regard to the mutual acceptance of certificates, it should be noted that the existing mutual recognition agreement with Japan has a rather limited scope. Its implementation requires huge resources; the instrument of Mutual Recognition Agreement (MRA) is currently not considered a priority for other sectors than those where it is already in force.

#### *A.3.2.1 Summary of recommendation*

The authorities of EU and Japan should take the lead of efforts towards a global patent harmonization and a streamlining of the patent system.

#### *A.3.2.2 Action taken and state of play*

The European Commission supports global discussions and a future International Treaty aiming to streamline the global patent system, and considers it important to move forward within the informal "Alexandria process" (Group B+). However, practically all competence for substantive patent law matters rests with EU Member States. The main role of the European Commission is to work in order to coordinate position among EU Member States to facilitate progress within the Group B+. Talks on international patent law in WIPO, going beyond patent law harmonisation, restarted in June 2008, and are still on-going.

#### *A.3.3.1 Summary of recommendation*

Counterfeiting and piracy are major issues on which Japan and the EU should cooperate closely to establish a common international legal framework for IPR enforcement.

#### *A.3.3.2. Action taken and state of play*

Regarding international activities on Enforcement of IPR, negotiations on a multilateral Anti-Counterfeiting Trade Agreement (ACTA) are on-going. The seventh round of negotiations took place in Guadalajara, Mexico, in January 2010. Participants reaffirmed their objective to combat global infringements of intellectual property rights by increasing international cooperation, strengthening the framework of practices that contribute to effective enforcement and relevant IPR enforcement measures. Limited progress was made. The next round will be held in Wellington, New Zealand, in April 2010. A third stakeholders meeting should take place in Europe in the near future. The European Commission is actively committed to finalise this agreement as soon as possible.



#### *A.3.4.1 Summary of recommendation*

Given the importance for business as well as for society, EU and Japan should make efforts to harmonise the regulations for energy conservation and relevant labelling rules.

#### *A.3.4.2. Action taken and state of play*

The European Commission fully agree with this recommendation. In 2010-2011, Directorate General Enterprise and Industry will work on developing regulations setting environmental requirements on 6 product groups, under the Ecodesign Directive 2005/32/EC:

- non household refrigerating equipment
- distribution transformers
- sound and audio equipment such as DVD players and game consoles
- industrial and laboratory ovens and furnaces
- machine tools
- air conditioning and ventilation systems

On each of these product families, the Commission (Directorate General Enterprise and Industry) would be interested in getting contact details of desk officers in relevant Japanese Ministries, in order to identify existing test procedures or regulations. Such coordination work is already ongoing with the United States (Department of Energy and Environmental Protection Agency).

The Commission (Directorate General Enterprise and Industry)'s general objective is to promote convergence of regional test procedures and standards, by promoting new or existing global standards. For globalised products such as game consoles, information on products and markets could also be usefully mutualised.

#### *A.3.5.1 Summary of recommendation*

The EU and Japan should introduce regulatory cooperation through which, once an economic operator is approved as an AEO (Authorized Economic Operator) in Japan, its status should be recognized without additional formalities in the EU, and vice versa.

#### *A.3.5.2. Action taken and state of play*

At the second Joint Customs Cooperation Committee (JCCC) the EU and Japan confirmed that trade facilitation and the security of the supply chain can be enhanced significantly through mutual recognition of their respective Authorised Economic Operator (AEO) programmes. The JCCC examined the programmes and concluded that they are compatible and equivalent. Taking account also of the growing expectation of the business community, it instructed officials to prepare the appropriate formalisation of mutual recognition in 2010.

## **A.4. SUPPORTING TIMELY DEVELOPMENT OF BUSINESS (A-EJ-4)**

### **A.4.1 Social security contributions**

#### *A.4.1 Summary of recommendation*

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 interim measures, by which workers should be either exempted from contributing to pension funds by the host country or should get a refund in full when returning home.

#### *A.4.2. Action taken and state of play*

The problem of double-contributions can only be addressed by concluding bilateral social security agreements with all Member States.

It is the exclusive competence of Member States to conclude social security agreements with third countries. In this context, the Commission appreciates the fact that a growing number of bilateral social security agreements between Japan and some EU Member States have been concluded, or are being negotiated at present.

Following the agreements between Japan and Belgium and France in 2007, the social security agreements between Japan and the Netherlands and Czech Republic have entered into effect, and those between Japan and Spain and Italy have been signed. Furthermore, negotiation is underway between Japan and Ireland, and at preparatory stage between Japan and Hungary and Sweden.

Foreign employees are obliged to pay into the Japanese pension system but in many cases will not receive benefits or a full refund at the time of their departure from Japan. In the absence of bilateral social security agreements, benefits for departing foreign workers are calculated according to the length of their stay. It is to be expected that still considerable time will be needed at the current pace of progress before the problem of dual pension membership and wasted premium payments will be solved for all EU citizens. In this context, the Commission calls for rapid progress and reiterates its suggestion that departing expatriates not yet covered by a bilateral agreement should receive a full refund of all mandatory pension contributions paid to date, or at least the period and the amount for the refund should be extended from 3 to 5 years. The Commission would like to point out that some additional unilateral measures on pension schemes would help to offer more flexibility to personnel management.

#### Prospect for implementation

At the occasion of the EU-Japan Regulatory Reform Dialogue, the Commission, together with the EU, has repeatedly stressed again the importance of concluding bilateral social security agreements with all EU Member States as soon as possible.

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

Commission welcomes the efforts on exchange of information to launch negotiations with other EU countries and notes that Japan gives it a high priority.

#### **A.4.2. Smoother and swifter movement of intra-corporate transferees (ICTs)**

##### *A.4.2.1 Summary of recommendation*

The Japanese and EU authorities should realize far-reaching liberalisation of the movement of intra-corporate transferees (ICTs).

##### *A.4.2.2. Action taken and state of play*

The EU is well aware of the Japanese concerns in the area of movement of intra – corporate transferee. As announced in the Stockholm Programme, which constitutes the framework for EU migration policy for the period 2010–2014, the Commission and the Council will continue to implement the Policy Plan on legal migration. This implies setting up a specific scheme dedicated to ICTs which could provide for a fast-track procedure to enter into and stay in the territory of the EU Member States and facilitate the relocation of international companies’ key personnel within Europe. A proposal in this regard has been announced.

The proposal of the BRT raises the following comments:

- The future scheme must be in line with the Stockholm Programme which mentions the creation of flexible admission systems that are responsive to the priorities, needs, numbers and volumes determined by each Member State. Therefore, without prejudice to trade agreements, Member States should have discretion to determine the number of migrants and be able to check that these admissions are in accordance with their economic needs.
- The future scheme will build on a common definition of ICTs based on objective criteria. Within the future scheme, Member States should be able to verify that the persons benefiting from it fit within this scope.
- The specific scheme on ICTs should also be as simple as possible to implement and not represent an excessive burden for Member States.

##### *A.4.3.1. Summary of recommendation*

The Working Party believes that the ultimate objective of personal data protection for individual business is to adopt and implement a reliable and cost-effective personal data protection system at a level of a corporate group, within which the flow of data should be free across national borders. In order to achieve this, the national legislation of each country should promote such a system rather than impede by creating different requirements.

#### *A.4.3.2 Action taken and state of play*

The European Commission intends to improve the co-operation in the field of the protection of personal data and data transfers and to work towards the free movement of personal data between the EU and Japan according to the highest international standards.

Existence of appropriate data protection rules and administrative capacity in Japan is an important prerequisite for success in a number of EU policy areas. Several data protection events focusing on EU and Japanese data protection laws took place in 2009 with the support of the European Commission, for instance: a conference Privacy and Personal Data Protection between EU and Japan, Brussels, 23 April 2009; International Workshop on Information Systems for Social Innovation 2009, Tokyo, Japan, 30 September 2009.

The Commission is considering carrying out an in-depth analysis in order to have a complete picture of Japanese data protection laws and possibly launch an adequacy finding procedure. Nevertheless, this initiative should be supported by the Japanese side. In order to initiate an adequacy finding procedure, an official request should be presented to the European Commission.

### **A.5. EU POLICY ON COMPANY LAW (A-E-1)**

#### *A.5.1 Summary of recommendation*

The European Commission adopted a proposal for a Council Regulation on the status for European Private Company in June 2008. According to the proposal, it is to be applicable from 1 July 2010. The Council should adopt it without a delay, and the statute should realize the following points.

Widely accessible, easy to set up and inexpensive to run

Allowing a great deal of flexibility to founders and shareholders to organise themselves in a way that is best suited to their activities, and

As uniform throughout EU as possible

#### *A.5.2 Action taken and state of play*

The proposal on the Statute for a European Private Company (“the SPE”) was indeed adopted by the European Commission on 25 June 2008.

This new company form would enable small- and medium-sized enterprises (SMEs) to do business throughout the EU, with the aim of cutting costs and encouraging growth in this area. The SPE aims at offering SMEs a very flexible yet transparent company form.

The SPE has been designed to address the current onerous obligations on SMEs operating across borders, which need to set up subsidiaries in different company forms in every Member State in which they want to do business. In practical terms, the SPE would mean that SMEs can set up their company in the same form, no

matter if they do business in their own Member State or in another. Opting for the SPE will save entrepreneurs time and money on legal advice, management and administration.

The proposed SPE Regulation has to be adopted by a unanimous decision of the Member States in the Council of Ministers of the European Union. The European Parliament is also required to approve the proposal. The European Parliament adopted its report on the proposal in March 2009.

Technical discussions have been completed during the Swedish Presidency (second semester 2009), however Member States failed to reach a political agreement on the file in December 2009. The proposal is currently blocked in the Council. The Spanish Presidency (first semester 2010) is exploring possibilities to re-launch discussion to unblock the file.

## **A.6. JAPANESE EXPATRIATES (A-E-2)**

### *A.6.1.1. Summary of recommendation*

The working party proposes to include a number of elements related to the procedure, intra-EU mobility and rights for the family members, in the future proposal on ICTs. It also enquires about the report on the implementation of Directive 2003/109 on long-term residents.

### *A.6.1.2 Action taken and state of play*

As said in response to recommendation A-EJ-4, the EU is well aware of the Japanese concerns in the area of movement of intra –corporate transferee. As announced in the Stockholm Programme, which constitutes the framework for EU migration policy for the period 2010–2014, the Commission and the Council will continue to implement the Policy Plan on legal migration. This implies setting up a specific scheme dedicated to ICTs which could provide for a fast-track procedure to enter into and stay in the territory of the EU Member States and facilitate the relocation of international companies' key personnel within Europe. A proposal in this regard has been announced which would contain:

- As regards the application, a single application (residence and work permit) could be provided for in line with the proposal on a Directive on a single application procedure for a single permit for third-country nationals, currently discussed between the co-legislators.
- Provisions aiming at facilitating intra-EU mobility would be included in the future proposal.
- Attractive measures regarding family reunification should also be part of the proposal. However, such measures should be compliant with the principle of Union preference, as recalled in the Stockholm Programme. Such a legal requirement prevents from granting rights to ICTs' spouses that would not be already granted to EU-citizens' spouses. The future scheme will have due consideration for this principle.
- The first report on the implementation of the Directive 2003/109/EC on long-term residence status will be presented in January 2011, as foreseen in Article 24 of the Directive.

## **A.7. COMMUNITY PATENT AND PATENT PROSECUTION HIGHWAY (A-E-3)**

### *A.7.1.1 Summary of recommendation*

The working party urges the EU and its Member States to adopt and implement a Community Patent as soon as possible.

### *A.7.1.2 Action taken and state of play*

Europe's current patent system is considerably more expensive than the US and Japanese systems. The existing system of patent litigation in the EU leads to unnecessary costs for all the parties involved and causes lack of legal certainty. These factors leave no doubt on the urgent need for action to provide a simple, cost-effective and high-quality patent system in Europe. The European Commission believes that a truly competitive and attractive Community patent can be achieved provided there is political will to do so.

A breakthrough in the EU's endeavour to reform the patent system in Europe was achieved at the Competitiveness Council in December 2009 where the Ministers adopted Conclusions on an enhanced patent system in Europe and a general approach on the proposed EU Patent Regulation.

The package agreed covers major elements to bring about a single EU patent and establish a new patent court in the EU (e.g. composition of panels, jurisdiction of the court, transitional provisions). A unified court will mean that parties do not have to litigate in parallel in different countries incurring high costs. The court will include local and central chambers under a common appeal court. In the initial stages, parties will be able to continue to use national courts, allowing confidence to build up gradually in the new system. The central division will deal with claims for revocation of patents, and the local/regional divisions will hear infringement cases with flexibilities to handle cases involving both revocation and infringement.

Ministers have also agreed an approach on an EU Patent Regulation. The Conclusions on the EU patent cover the level and distribution of renewal fees and how the European Patent Office (EPO) can work together in enhanced partnerships with national patent offices. Renewal fees will be set at a level to facilitate European innovation and foster competitiveness. Furthermore, the EU patent will involve partnerships between patent offices in Europe to allow synergies to be created to bring about more rapid delivery of patents and increase speed of access to market for innovative products and services. The EPO would remain responsible for the granting of the EU patent. The European Parliament will now have the opportunity to debate the EU Patent Regulation.

However, the creation of the EU patent will depend on a solution to be found for the translation arrangements which will be subject of a separate Regulation. The Conclusions do not reach a decision on the translation arrangements, but instead refer to a separate Regulation to be adopted by unanimity under Article 118(2) TFEU which would come into force at the same time as the EU Patent Regulation. The European Commission will need to adopt a proposal for a Regulation on the translation arrangements.

In addition, the European Commission is conducting two studies, one on patent fees and the other on the financing of the Court. Adoption by the Council of the

negotiating mandate to conclude an agreement on the patent court will depend on the opinion of the European Court of Justice on the compatibility of this agreement with the treaties, due around summer 2010. The European Commission will work closely with the Council and the Parliament towards achieving a final package that will meet the trust and confidence of users.

#### *A.7.2.1 Summary of recommendation*

The Patent Prosecution Highway (PPH) aims to facilitate, and enhance the quality of patent examination at a participating IP office, by utilizing and sharing the result of examination at another participating IP office. The working party would like to urge patent offices of other EU member states as well as the EPO to participate in the PPH, for the benefit of patent applicants both in the EU and in Japan.

#### *A.7.2.2. Action taken and state of play*

The European Commission is concerned about the situation of the patent offices worldwide and their performance. The European Commission thus welcomes initiatives aiming at improving the efficiency and speed of the patent granting process, such as the Patent Prosecution Highway (PPH). However, the PPH and other utilisation schemes would be considerably more efficient if there were more "global" substantive patent law harmonization and the same "claims' patterns" for the patent applications worldwide.

The European Commission notes that Austrian, Danish, Finnish, German, Hungarian and UK national patent offices have joined the PPH pilot project. In addition, the European Patent Office (EPO) and the Japan Patent Office (JPO) announced on 13 November 2009 their intention to launch a bilateral Patent Prosecution Highway pilot programme, which started in January 2010 for a trial period of two years.

The European Commission is concerned about the very moderate industry participation in the PPH network and continues to believe that efforts should be invested in rectifying the deficiencies inherent in the Patent Cooperation Treaty (PCT) framework. The European Commission would mainly support proposals that will not undermine the current PCT system or will not hamper its future development.

### **A.8. FIGHT AGAINST COUNTERFEITED, PIRATED AND CONTRABAND GOODS (A-E-4)**

#### *A.8.1. Summary of recommendation*

Regarding the fight against counterfeiting and piracy, the working party would like to see further necessary steps such as possible proposals for modification of the Enforcement Directive with a view to step up efforts of all the EU member states to fight against counterfeited, pirated and contraband goods, both inside and outside of the EU.

### A.8.2. Action taken and state of play

The European Commission aims to ensure a highly efficient, proportionate and predictable system of enforcement of intellectual property rights, both within and outside the internal market. The current legal framework provides the tools to enforce intellectual property rights in a fair, effective and proportionate way. The European Commission remains committed to fighting counterfeiting and piracy by employing a balance between education and enforcement.

The European Commission adopted in September 2009 a Communication on "enhancing the enforcement of intellectual property rights in the internal market" (COM (2009) 467 final). The Communication sets out a series of practical initiatives. The European Commission proposed to complement the existing legal framework by more focused enforcement through greater collaboration between the private sector, national authorities and consumers.

The European Commission has proposed to put in place non-legislative measures to support enforcement, including fostering administrative cooperation throughout the Internal Market, setting up a network of National Coordinators, and facilitating voluntary arrangements between stakeholders. As for the latter, such agreements can easily be extended beyond the EU and become the foundation for best practice at global level with a focus on concrete problems, such as the sale of counterfeit goods over the internet.

At the second high level conference on counterfeiting and piracy held in April 2009, the European Commission launched a European Observatory on Counterfeiting and Piracy. The Observatory brings together national representatives, private sector experts and consumers to work to collect data on and analyse the scope and scale of the problem, share information, promote best practices and strategies, raise awareness and propose solutions to key problem. It will play a central delivery role by strengthening our knowledge base and promoting greater cooperation between national authorities involved in enforcement.

The European Commission is also developing structured stakeholder dialogues to identify and implement practical solutions that will tackle IPR infringements. The first meeting of the private stakeholders took place in September 2009. The main goal of the meeting was to exchange views about the overall mission, objectives, governance and future structure of the Observatory. The second meeting is planned in early 2010.

Regarding the Enforcement Directive, the European Commission shall draw up a report on its application, pursuant to article 8 of the Directive. The report should be published by end 2010 on the basis of each Member State's report on the implementation of the Directive. It should include an assessment of the effectiveness of the measures taken, as well as an evaluation of its impact on innovation and the development of the information society.

Regarding the fight against IPR infringements outside of the EU, the basic approach was set out by the European Commission at the end of 2004, in the *Strategy for the Enforcement of IPR in Third Countries* and re-enforced in the 2006 Communication *Global Europe*. Since then, the EU has substantially increased its work in this field,



creating specific dialogues with some of the key partners, such as China, Russia and Ukraine, introducing the issue at the WTO TRIPS Council, shifting technical assistance resources to enforcement and establishing reinforced co-operation with countries sharing our concerns, such as the Japan and the US. Apart from the WTO, we have also been active in other international fora (World Intellectual Property Organisation, World Health Organisation, G8, Organisation for Economic Cooperation and Development, etc.) and paid great attention to emerging debates likely to have an impact on IPR like climate change.

## **A.9. COMPETITIVENESS OF THE EU ECONOMY (A-E-5)**

### **A.9.1. Customs Classification**

#### *A.9.1.1. Summary of recommendation*

We believe that customs classification should be done in accordance with the Harmonized System Convention rules. However the rules do not provide a clear method of classification for such products as electric-electronics products. It is requested that the EU acknowledges the concerns and difficulties the businesses are facing, and to take steps to increase predictability and improve transparency upon importation of the IT products.

#### *A.9.1.2 Action taken and state of play*

The Commission is fully aware of the desiderata of Japanese industry with regard to the classification and tariff treatment of IT products. It invites Japanese industry to make proposals to its government for amending the HS nomenclature and the rules governing the interpretation of that nomenclature. It would appreciate that Japanese industry shows its support via its government for the EU's proposal in the WTO for updating the Information Technology Agreement. It would welcome any proposals contributing to the development of an even more predictable and transparent framework in trade between the EU and Japan, in particular concerning non-tariff barriers.

### **A.9.2 Taxation**

*To be provided later.*

### **A.9.3 Competition Policy**

#### *A.9.3.1 Summary of recommendation*

There are guidelines in the determination of the amount of penalties in case of an infringement of the competition rules. We would like to see more clarity in the determination of the amount of penalties so that businesses will not be unduly deterred and that the 'Lisbon Strategy' will be achieved.

#### *A.9.3.2. Action taken and state of play*

EU Competition Policy is crucial for delivering competitiveness of European industry which is key for the achievement of the goals of the Lisbon Strategy. A proactive competition policy and enforcement contributes to more competitive markets with increased innovation and greater productivity.

Fines are one of the means available to the European Commission in ensuring that companies do not engage in anticompetitive behaviour. To that end, fines must be set at a level that ensures sufficient deterrence dissuading undertakings from infringing the EU rules that outlaw cartels and other restrictive business practices (Article 101 TFEU<sup>1</sup>) and abuses of dominant position (Article 102 TFEU).

The European Commission considers that the current guidelines are sufficiently clear for a company to understand the scope of the possible fines that it may incur if it engages in illegal behaviour.

### **A.9.4 Integrated approach for CO2 reduction**

#### *A.9.4.1 Summary of recommendation*

The working party is supportive of the integrated approach for CO2 reduction proposed by the European Commission i.e. combining efforts from all parties (auto industry, fuel sector, policy makers and drivers) in order to achieve the EU's objective of 120g/km in 2012.

#### *A.9.4.2 Action taken and state of play*

The European Commission is in the process of implementing a series of regulations in relation to the objective of CO2 reduction from passenger cars that shall complement the relevant legislation e.g. the adoption of a procedure to approve the use of innovative technologies (eco-innovation). Moreover, the Commission is working on measures that will reduce the fuel consumption, and hence, the emissions of pollutants, like the development of efficiency test procedure on mobile air conditioning systems or the implementation of tyre pressure monitoring systems in vehicles. The European Commission is committed to develop some of these measures through the UN-ECE instruments.

In addition, the Commission has drawn up a proposal of regulation for CO2 emissions reduction of Light Commercial Vehicles, seeking for a long term target (2020) of 135 gCO2/km which is currently being discussed at the Council.

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<sup>1</sup> TFEU: Treaty on the Functioning of the European Union

## **A.9.5 Better regulation**

### *A.9.5.1 Summary of recommendation*

In order to support the competitiveness of the economy and industry, the European Commission should continue to put the emphasis on Better Regulation and, in particular, implement the procedures agreed concerning stakeholder consultations and impact assessments

### *A.9.5.2 Action taken and state of play*

The Commission continues to give high priority to simplifying and improving the regulatory environment in Europe. It consults stakeholders in different ways, through consultation papers (Green and White Papers), communications, advisory committees, expert groups, workshops, hearings and forums, and often in several phases during the preparation of a policy proposal.

In addition, the Commission carries out impact assessments on all initiatives which are likely to have a significant impact. It further strengthened the impact assessment system by revising the Impact Assessment Guidelines in January 2009 (better guidance for example on specific impacts on SMEs and potential impacts in terms of administrative burdens). The new guidelines also reinforce the role of stakeholder consultation

## **A.9.6 REACH**

### *A.9.6.1 Summary of recommendation*

The European commission should take further actions for education and capacity building in developing countries for compliance with REACH.

### *A.9.6.2 Action taken and state of play*

The European Commission takes note of the working party's suggestions and would like to recall the following:

Technical assistance - The first contact points for specific requests are the EC Delegations in the respective countries. The possibilities for technical assistance do exist, but specific requests must be made to the EC Delegations.

Developing countries - With regard to lead-times or grace periods for developing countries, this would be discriminatory, and contrary to the application of the REACH Regulation as well as the WTO TBT agreement.

WORKING PARTY B

**LIFE SCIENCES AND BIOTECHNOLOGY**

## 1. GENERAL REMARKS

### *1.1 Summary of recommendations*

Continue to intensively promote biotechnology related R&D. (B-EJ-1).

Significantly increase the budget for promotion of public understanding of Life Science and Biotechnology. (LS/BT) Establish “National LS/BT Understanding Promotion Plans” through a strong governmental initiative in cooperation with industry and academic sectors for the accelerated and efficient promotion of public understanding of biotechnology, particularly its contribution to broader issues of sustainability such as the food crisis, the breakdown of the environment and global warming. (B-EJ-2)

### *1.2. Action taken and state of play*

#### Recommendations of the Advisory Group on bio-based products:

In November 2009, the Advisory Group on bio-based products published a set of recommendations for measures to promote the market introduction of innovative bio-based products in Europe. Bio-based product is one of the 6 sectors of the Lead Market Initiative for Europe, that promotes the uptake of innovations to the market through a toolbox of public procurement, legislation and standardisation, with some complementary measures.

This Advisory group was composed of representatives from EU national governments, industry and academia, entitled the Ad-hoc Advisory Group for Bio-based Products. It has analyzed the current market conditions and how the legislative framework affects the introduction of products made from renewable raw material. It was the first time that a cross-disciplinary expert group has been set up at European level to discuss on renewable raw materials as well as bio-based products. Please note that these are recommendations, and that this was an independent group of advisors (independent of the EC).

On International issues, the Advisory Group made the following recommendation. “Support efforts to cooperate internationally, in particular, with the United States, through

- (i) a confirmation of high-level political commitment and broad R&D support for the lighthouse projects on bio-based products;
- (ii) attempts to harmonise EU and US legislation based on best practice;
- (iii) attempts to harmonise industry standards and normative measures in the EU, US, Japan, China, Brazil, and other major trading partners.

More information:

[http://ec.europa.eu/enterprise/sectors/biotechnology/files/docs/bio\\_based\\_from\\_promise\\_to\\_market\\_en.pdf](http://ec.europa.eu/enterprise/sectors/biotechnology/files/docs/bio_based_from_promise_to_market_en.pdf)

*Europe2020 Strategy identifies the Bio-based economy as a priority for research and innovation.*

Research and innovation policy in Europe needs to focus on challenges facing European society, such as climate change, energy&resource efficiency, health and demographic change. This requires the coordination of a full set of policies; on the funding side, on creating favourable market conditions and on the demand-side (public procurement, standardisation, regulation).

In the Europe2020 Strategy, it is announced that a number of 'European Research and Innovation Partnerships' will be set up, and one of these could be for 'building the bio-economy by 2020'. The concept of these partnerships needs to be developed further, but would ideally link EU and Member State levels, with industry and other stakeholders to speed up the development and deployment of technologies needed to meet these societal challenges.

Japan has a major and longstanding consensus on innovation as a key element for responding to societal challenges, particularly with regard to climate change and energy generation research. Past examples are the Science and Technology Basic Plan (2006-2010) by the Japanese Ministry of Economy, Trade and Industry and the New Economic Growth Strategy.

## **2. HEALTHCARE**

### *2.1.1. Summary of recommendation*

Each state operates its own healthcare system in different ways, resulting in gaps in survival rates and the QOL of citizens. BRT members calls on the European Union to clarify its healthcare policy and to discuss and totally improve healthcare situations in Member States by securing appropriate healthcare budgets, preventing interference with patient access to new medicines, and considering the proper utilization of healthcare technology assessment. (B-E-4)

### *2.1.2 Action taken and state of play*

The Commission has been engaged in a constructive dialogue with stakeholders and Member States to resolve issues related to innovation, pricing, reimbursement and access to medicines. This process called the "Pharmaceutical Forum" was concluded in October 2008. Currently the Commission is exploring options how to follow-up on this exercise. With regard to pricing and reimbursement the enforcement of the so-called "Transparency" Directive has been and will continue to be a priority.

### *2.2.1. Summary of recommendation*

BRT members also argue for urgent responses by EU governments to the danger of counterfeit drugs that enter the market due to the repackaging of pharmaceuticals, and also to the confusion of medication caused when prescriptions for original (brand) and similar biopharmaceuticals use the same generic drug names as WHO

INN rules. These issues have a very serious impact on patient safety, and prompt actions are needed.(B-E-5)

### *2.2.2. Action taken and state of play*

In 2008 the European Commission adopted a legal proposal for a Directive on falsified medicines with the objective to prevent the entry of such medicines into the legal supply chain. After a thorough analysis of potential entry points of falsified medicines into the legal supply chain the Commission proposed to tighten the legal framework, in particular for manufacturers, including parallel traders, wholesale distributors and traders. Manufacturers repackaging a medicinal product, such as done by parallel traders will be liable for any damages related to the potential falsification of their medicinal products. In addition, actors in the distribution chain will have to inform authorities and marketing authorisation holders when they identify or suspect falsified medicines to be in the legal supply chain. With these provisions, it is expected that the legal supply chain will be secured, including the supply through parallel trade. As regards biosimilars, the issue is not linked to falsification, but to the risks stemming from possible side effects from biosimilars with the same international name originating from different manufacturers. The EU tries to address this risk by ensuring traceability in the supply chain back to the manufacturer without undue limitations to the substitution of biosimilars."

## **3. PLANT BIOTECHNOLOGY**

### *3.1.1 Summary of recommendation*

The BRT members urge EU and Japan to increase spending for research in plant biotechnology and enhance international cooperation to advance the development of plants with new beneficial traits to the advantage of developed and developing countries. (B-EJ-6)

### *3.1.2 Action taken and state of play*

The EU has placed innovation for a greener economy at the heart of its political agenda. The bio-economy is an important cornerstone in this process as highlighted in the Europe 2020 Strategy, which underlines the role of the bio-economy as part of its "Innovation Union".

In response to the specific recommendations dealing with plant biotechnology and industrial biotechnology, it should be stressed that the EU by the 7<sup>th</sup> Research and Development Framework Programme (2007-2013) under the Food, Agriculture and Fisheries, and Biotechnology programme promotes the development of the Knowledge Based Bio-Economy. Priority is given to agriculture, food security and climate change including plant biotechnology as well as to industrial biotechnology and the development of bio based products.

The entering into force of the Agreement between European Commission and Japan on cooperation in Science and Technologies is expected to enhance cooperation in these fields.

### *3.2.1 Summary of recommendation*

It is important to implement and enforce existing regulatory frameworks of EU government on GMO crops. (B-EJ-7)

- To be provided later

## **4. INDUSTRIAL BIOTECHNOLOGY & BIOFUELS**

### *4.1. Summary of recommendations*

To increase the cooperation between the EU and Japan to enhance global competitiveness of the biobased economy, we suggest a number of actions that would strengthen activities in the area of industrial biotechnology: (B-EJ-8)

### *4.2. Action taken and state of play*

Advance the unification of product standards (such as determination of biobased content, environmental footprint, etc.) through EU-Japan cooperation

The EC and the relevant European Standardisation organisations are currently working on standardisation mandates for 2 bio-based products: bio-plastics and bio-lubricants.



Working party C

Information & Communication Technologies (ICT)

## Preamble

With the new Commission we have a new strategy. The European Commission has launched the “Europe 2020 Strategy” to move out of the crisis and prepare the EU economy for the next decade. The Commission has identified three key drivers for growth, to be implemented through concrete actions at EU and national levels: smart growth (fostering knowledge, innovation, education and digital society), sustainable growth (making our production more resource efficient while boosting our competitiveness) and inclusive growth (raising participation in the labour market, the acquisition of skills and the fight against poverty). One of the Flagship Initiatives is “A Digital Agenda for Europe”.

*The aim is to deliver sustainable economic and social benefits from a Digital Single Market based on fast and ultra fast internet and interoperable applications, with broadband access for all by 2013, access for all to much higher internet speeds (30 Mbps or above) by 2020, and 50% or more of European households subscribing to internet connections above 100 Mbps.*

*At EU level, the Commission will work:*

- *To provide a stable legal framework that stimulate investments in an open and competitive high speed internet infrastructure and in related services;*
- *To develop an efficient spectrum policy;*
- *To facilitate the use of the EU's structural funds in pursuit of this agenda;*
- *To create a true single market for online content and services (i.e. borderless and safe EU web services and digital content markets, with high levels of trust and confidence, a balanced regulatory framework with clear rights regimes, the fostering of multi-territorial licences, adequate protection and remuneration for rights holders and active support for the digitisation of Europe's rich cultural heritage, and to shape the global governance of the internet;*
- *To reform the research and innovation funds and increase support in the field of ICTs so as to reinforce Europe's technology strength in key strategic fields and create the conditions for high growth SMEs to lead emerging markets and to stimulate ICT innovation across all business sectors;*
- *– To promote internet access and take-up by all European citizens, especially through actions in support of digital literacy and accessibility.*

*At national level, Member States will need:*

- *– To draw up operational high speed internet strategies, and target public funding, including structural funds, on areas not fully served by private investments;*
- *– To establish a legal framework for co-ordinating public works to reduce costs of network rollout;*

- *To promote deployment and usage of modern accessible online services (e.g. e-government, online health, smart home, digital skills, security).*

Against this background and given where we are in preparing the next steps it is clear that we are not always in a position to provide detailed responses.

## **1. CREATION OF NEW ECONOMY AND SOCIETY BY ICT**

### **1.1. Broadband Investments and ICT as Key drivers for Economic Recovery (C-EJ-1)**

#### *1.1.1. Summary of recommendation*

The ICT sector's role for economic growth and the creation of jobs has been widely described and acknowledged. Last June, the OECD Ministerial Meeting in Korea published the Seoul Declaration for the Future of the Internet Economy, which advocated that "the Internet economy, which covers the full range of our economic, social, and cultural activities supported by the Internet and related information and communications technologies (ICT), will strengthen our capacity to improve the quality of life for all our citizens by providing new opportunities for employment, productivity, education, health, and public services" and "act as a key driver for the creation of enterprises and communities and stimulating closer global co-operation."

#### *1.1.2. Action taken and state of play*

In 2009 the European Commission indicated that it aimed to achieve 100 % high-speed internet coverage for all citizens by 2010 as part of the European Economic Recovery Plan. €1 billion was earmarked to help rural areas get online, bring new jobs and help businesses grow. On average, 93 % of Europeans can enjoy a high speed online connection but in some countries broadband covers less than half of the rural population (see the table in the annex). Broadband internet connection is expected to create 1 million jobs and boost the EU's economy by €850 billion between 2006 and 2015.

The money was to be injected into the existing Rural Development Programmes, which had already been drafted and approved on the basis of the rules established for the European Agricultural Fund for Rural Development. This means that no new instrument needed to be created and that they will be managed by the national rural development managing authorities.

### **1.2. ICT Solutions towards the Achievement of a Low-Carbon Society (C-EJ-2)**

#### *1.2.1. Summary of recommendation*

Climate change continues to be one of the biggest challenges to both industrialized and developing modern societies. The use of ICT will be fundamental to achieve the objective of a low-carbon-society. Through ICT solutions and services, greenhouse gas (GHG) emissions can be reduced

considerably and various other sectors will be able to reduce their own carbon emissions footprint.

#### *1.2.2. Action taken and state of play*

The Commission already addressed the potential role of ICT in the development of a low carbon society in a Communication adopted in March 2009 entitled "Mobilizing ICT to facilitate the transition to an energy-efficient, low carbon economy".

As a follow-up to that the Commission adopted a Recommendation in October 2009 on "on mobilising Information and Communications Technologies to facilitate the transition to an energy-efficient, low-carbon economy".

With FP7 support is being given to R&D projects to promote further innovation both in ICTs themselves as well as in their application for bring about efficiency gains. FP7 is open to international collaboration and cooperation. Japanese researchers are encouraged to participate.

### **1.3. Striking a Balance between Security and Facilitation of Trade (C-EJ-3)**

#### *1.3.1. Summary of recommendation*

Since the terrorist attacks in the United States on September 11, 2001, a global trend of stricter security measures has been imposing burdens on the management resources of companies, and is also becoming a hindrance to a smooth international supply chain. Based on the WCO SAFE Framework on Standards, institutions are being developed around the world such as Authorized Economic Operator (AEO) programs and the advance cargo manifest declaration rules. However, their content is not always the same and some of them sometimes invite excessively tight regulations. The multinational companies of the EU and Japan share concerns about further burdens on businesses and unwanted hindrances to smooth trade, as a result of such regulations. Particularly in this time of economic downturn worldwide, such negative effects can work as a non-tariff barrier that clogs global economic activities.

#### *1.3.2. Action taken and state of play*

To be provided later

## **2. NEW REGULATORY/INSTITUTIONAL FRAMEWORK FOR PROMOTING INNOVATION**

### **2.1. Maintenance of the WTO' Information Technology Agreement (ITA) (C-EJ-4)**

#### *2.1.1. Summary of recommendation*

The BRT recommends that the authorities should do their best to ensure that the maintenance of the current ITA is achieved as soon as possible. The EU and Japan should also work towards the wider adoption of the ITA.

#### *2.1.2. Action taken and state of play*

On 16 September 2008 the EC presented a proposal for an update of the ITA. The proposal firstly concerns the removal of existing NTBs and the prohibition of new ones. The objective is to build on the ambitious NTB proposal tabled by the EC in the DDA round under NAMA, by promoting the recognition of internationally agreed standards, and the generalisation of the less burdensome ways for the assessment of conformity of IT products with regulatory requirements.

Secondly it calls for negotiations on the product coverage. Many ITA members agree that it is high time to review the product coverage. Technology development has significantly changed the product landscape since 1996 when the ITA was negotiated. There is also a need to establish new effective mechanisms to keep the agreement up to date and fit for the future.

Finally the proposal calls for inclusion of new members to the ITA to widen its geographical coverage. The proposal was discussed on 30 October 2008 in the ITA committee and the EU is currently further developing the proposal and intends to present this work and discuss it again in the ITA committee in the near future.

The EU has on several occasions expressed its willingness to commence negotiations on an update of the ITA and invite Japan along with other ITA members to consider such negotiations based on the 2008 EC proposal.

### **2.2. Accelerating Innovation by Convergence/Federation of Communication and Broadcasting (C-EJ-5)**

#### *2.2.1 Summary of recommendation*

Along with the rapid innovation of ICT technologies, new services are arising beyond the existing framework of communication and broadcasting. We recognize that both governments are addressing a fundamental review of legal frameworks at this moment in response to the demands of this era of convergence / federation of communication and broadcasting. We hope for an institutional environment in which flexible business operations are allowed, in view of the reinforcement of international competitiveness of the ICT industry

through emergence of new markets with the technological progress and innovation that we pursue.

Therefore, we recommend that the governments of both the EU and Japan create an institutional framework in each country and conduct dialogues and collaboration to ensure international consistency.

### 2.2.2. *Action taken and state of play*

The regulatory framework for electronic communications networks and services adopted in the EU in 2002 took already account of the convergence of telephone, internet, television broadcast and mobile phone services. In addition, an Audiovisual Media Services Directive covering all EU audiovisual media services (including on-demand services) in the digital age was adopted in November 2007.

In the light of additional changes in the sector, some of which are described in the 2009 EU-Japan BDRT Recommendations, the Commission launched a review of the regulatory framework for electronic communications networks and services in November 2007. The European Parliament and the Council of Ministers reached an agreement on the EU Telecoms Reform proposed by the Commission in November 2009. The new rules were published on 18 December 2009 and will be transposed into national laws of the 27 Member States by June 2011. The entry into force of the new rules is expected to bring additional benefits to consumers and businesses alike and contribute to the creation of an effective internal market in telecoms.

The new EU telecoms reform package comprises 5 different EU Directives (Framework Directive, Access Directive, Authorisation Directive, Universal Service Directive and the e-Privacy Directive) and a new Regulation setting up the European Body of Telecoms Regulators BEREC. It has been accompanied by a Directive to reform the GSM Directive of 1987 to free airwaves for 3G and other mobile services.

A new European Telecoms Body (called BEREC, Body of European Regulators of Electronic Communications) will help ensure fair competition and more consistency of regulation on the telecoms markets. In addition, the independence of national telecoms regulators will be reinforced by eliminating political interference in their day-to-day duties and by adding protection against arbitrary dismissal for their heads. National telecoms regulators will also gain the additional tool of being able to oblige telecoms operators to separate communication networks from their service branches, as a last-resort remedy.

In order to avoid inconsistent regulation that could distort competition in the single telecoms market, the new EU telecoms rules will give the European Commission the power to oversee regulatory remedies proposed by national regulators. Furthermore, the Commission can adopt additional harmonisation measures in the form of recommendations or (binding) decisions if divergences in the regulatory approaches of national regulators, including to remedies, persist across the EU in the longer term,

The reform will also contribute to accelerate broadband access for all Europeans by better managing radio spectrum and by making it effectively available for wireless broadband services in regions where building a new fibre infrastructure is too costly; and by allowing Member States to expand universal service provisions beyond narrow-band internet access. The reform puts a much stronger emphasis on technology and service flexibility in spectrum use, making it easier for operators to introduce innovative technologies and services. A further important initiative adopted in October 2009 was the reform of the GSM Directive, which will allow operators to introduce new services, starting with 3G and extending later to other new technologies, to operate in the GSM band which was previously reserved exclusively for GSM services.

The reforms foreseen in the in the new package of rules for Europe's telecoms networks and services will also reinforce the rights of European consumers (e.g. right to change, in 1 working day, fixed or mobile operator while keeping their old phone number, better consumer information or a reinforced protection of consumers against personal data breaches and spam.

Last but not least, the new telecoms rules include new guarantees for an open and more "neutral" net: national telecoms authorities will have the powers to set minimum quality levels for network transmission services so as to promote "net neutrality" and "net freedoms" for European citizens. In addition, thanks to new transparency requirements, consumers must be informed – before signing a contract – about the nature of the service to which they are subscribing, including traffic management techniques and their impact on service quality, as well as any other limitations (such as bandwidth caps or available connection speed).

### **2.3. Adapt Regulation to Promote Investment in Next Generation Networks (C-EJ-6)**

#### *2.3.1 Summary of recommendation*

The shift to Internet Protocol-based services is going to be a major step of innovation, which will create new business models and user expectations for innovative services. Governments are strongly recommended to create a regulatory climate that supports businesses and investments.

Broadband fixed and mobile traffic over the networks is already growing exponentially. In order to prevent congestion and to preserve the quality of services, the future Internet will need a new architecture so that it can respond to future services and user demand.

Therefore it is necessary to ensure that there are appropriate conditions for investment and that further infrastructure-based competition is stimulated.

#### *2.3.2 Action taken and state of play*

The EU Telecoms Reform published on 18 December 2009 (described under C-EJ-5) will contribute substantially to encourage competition and investment

in next generation access (NGA) networks. These new rules will bring legal certainty for investment in NGA networks. These networks, based on new optical fibre and wireless network technologies, are replacing less efficient traditional copper-wire networks and will allow high-speed internet connections. The reform of the telecoms rules reaffirms the importance of competition in this new sector while at the same time preserving incentives to invest by taking into account the risks involved in allowing access to NGA networks and allowing for various cooperative arrangements between investors and access-seeking operators. In this way, the new rules will also ensure telecoms operators receive a fair return on their investments. On the basis of the new rules, the Commission plans to issue a recommendation for the regulation of access to NGA networks in 2010, taking into account the results of public consultations in 2008<sup>1</sup> and 2009<sup>2</sup>. The rules governing the sharing of network elements, such as ducts or in-building wiring, between operators are also updated by the reform. Besides improving competition and services for businesses and consumers, this will also help lower the overall financial costs for operators of deploying NGA networks.

## **2.4. Fundamental Review of the copyright levy system and the Compensation System for Audio Private Copying/Improvement of the Current Levy System (C-EJ-7)**

### *2.4.1 Summary of recommendation*

In order to promote further lawful use of digital content, it is necessary to implement dialogue/cooperation between the EU and Japan concerning preparation for a thorough stakeholders' discussion on the compensation system for private copying. Currently compensation is paid by means of copyright levies, a system which dates back to the analogue era (at least in Europe). Copyright levies are a way of compensating for revenue loss caused by private copying, but they are not intended to fight piracy.

### *2.4.2. Action taken and state of play*

EU Member States enjoy a large discretion on how to provide right-holders with a fair compensation for acts of private copying, in line with the 2001 Directive on Copyright in the information society. In view of the variety of

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<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/08/1370&format=HTML&aged=0&language=EN&guiLanguage=en>

2

<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/09/909&format=HTML&aged=0&language=EN&guiLanguage=en>



national practices, the Commission has been working with all relevant stakeholders to consider a more coherent approach.

An EU stakeholder platform on private copying levies has met regularly since July 2008 to discuss trade-related aspects of private copying levies. The aim of the platform is to reach a comprehensive stakeholders' agreement on both trade aspects and tariff methodology; this agreement should thereafter be supplemented by a Commission recommendation. The role of the Commission in this stakeholder-driven process is limited to that of a facilitator of discussions.

In December 2008, an interim agreement was reached on cross-border trade, refund schemes and electronic commerce in goods subject to levies, with a view to bringing major reductions in trade barriers currently caused by the territorial application of levies. However, this interim agreement was conditional on the outcome of the result of the issue of rate-setting and methodology for selecting products subject to levies.

The ICT Industry made clear that more predictability as to rates and products chosen for levies is essential to ensure planning security when launching new products. Following intense debates in 2009, the ICT Industry deemed that no sufficient progress was made on rate-setting and methodology and decided in early January 2010 to abandon the stakeholder platform.

The issues raised by levies are practical matters that require practical responses. The stakeholders themselves are therefore well-placed to identify and develop mutually acceptable solutions in this area. In the absence of any stakeholders' agreement, it will be more difficult for the Commission to propose any legislative intervention.

Japan and the EU pursue their dialogue on intellectual property rights; the most recent dialogue took place in Tokyo on 18 March 2010. Copyright in Internet age and ccooperation on the fight against piracy were on the agenda.

## **2.5. Personal Data Protection Regime- International Data Transfers (C-EJ-8)**

### *2.5.1 Summary of recommendation*

In parallel with the start of an in-depth analysis by the European Commission, the governments of the EU and Japan should quickly start the dialogue towards the building of international policy to encourage companies to establish and implement reliable and cost-effective schemes in order to allow the free flow of personal data between the EU and Japan.

### *2.5.2 Action taken and state of play*

The European Commission intends to improve the co-operation in the field of the protection of personal data and data transfers and to work towards the free movement of personal data between the EU and Japan according to the highest international standards.

Existence of appropriate data protection rules and administrative capacity in Japan is an important prerequisite for success in a number of EU policy areas. Several data protection events focusing on EU and Japanese data protection laws took place in 2009 with the support of the European Commission, for instance: a conference Privacy and Personal Data Protection between EU and Japan, Brussels, 23 April 2009; International Workshop on Information Systems for Social Innovation 2009, Tokyo, Japan, 30 September 2009.

The Commission is considering carrying out an in-depth analysis in order to have a complete picture of Japanese data protection laws and possibly launch an adequacy finding procedure. Nevertheless, this initiative should be supported by the Japanese side. In order to initiate an adequacy finding procedure, an official request should be presented to the European Commission.

### **3. PUBLIC-PRIVATE PARTNERSHIP FOR THE ADVANCED USAGE OF ICT**

#### **3.1. Shaping collaborative Policies to Assure Dependability and Information Security of Information System (C-EJ-9)**

##### *3.1.1. Summary of recommendation*

In today's information age, every social infrastructure can be supported by ICT. Information systems have become an essential part of the social infrastructures that sustain economic activities in EU and Japan. In light of this situation, the EU and Japan share awareness of the importance of information systems, and have been taking actions to assure the dependability and the security of systems. The EU and Japan also share concerns about the international impact when accidents in these information systems occur.

##### *3.1.2. Action taken and state of play*

In 2009 the Commission adopted a Communication to the Parliament, the Council, the Economic and Social Committee and the Committee of the regions on "Critical Information Infrastructure Protection - "Protecting Europe from large scale cyber-attacks and disruptions: enhancing preparedness, security and resilience".

This was followed by a workshop on the establishment of a European Public-Private Partnership for Resilience (EP3R).

The objectives of the workshop were to:

- i) exchange experiences on Public-Private Partnerships in the field of resilience of ICT infrastructures;
- ii) gather the ideas and views on the European Public-Private Partnership for Resilience;

iii) discuss the way forward to the establishment of EP3R, in particular with regard to principles for its establishment, its objectives and composition.

The audience was composed of Member State and European Commission officials, experts from the private sector and academia who are involved in matters related to public-private partnership in the field of resilience of electronic communications and protection of critical information infrastructures.

With FP7 support is being given to R&D projects to promote dependability and security. FP7 is open to international collaboration and cooperation. Japanese researchers are encouraged to participate.

### **3.2. Reinforce the role of Public Private Partnerships (C-EJ-10)**

#### *3.2.1. Summary of recommendation*

A dialogue between the officials of the EU and Japan on Public Private Partnerships on ICT in the context of e-government was initiated as part of last year's recommendations. However, the responses from officials indicate some unilateral measures to promote e-government, but neither in the context of Public Private Partnerships on ICT, nor as a dialogue between the authorities of the EU and Japan.

We believe that the current economic crisis has magnified the importance of Public Private Partnerships. Since private-sector investment in information, communications and service technologies is three times higher than corresponding investments by the public sector, the benefits through Public Private Partnerships should be significant. The EU and Japan should conduct a dialogue on best practices and joint initiatives on how Public Private Partnerships on ICT can be promoted to advance e-government developments in the current economic crisis.

#### *3.2.2. Action taken and state of play*

We support the development of electronic-Government. We launch and manage e-Government projects funded under the Framework Programmes as well as under the ICT Policy Support Programme, the e-Participation Preparatory Action and the eTEN Programme. Furthermore, we are in charge of the e-Government Subgroup and the monitoring of the e-Government Action Plan Implementation. We also organise a bi-annual Ministerial Conference on e-Government during which Member States commit themselves to concrete actions in this field through a Ministerial Declaration and a subsequent e-Government Action Plan.

We have proposed public-private partnerships in particular contexts. However we do not believe that public-partnerships are valid in all contexts. Each proposal has to be evaluated on its merits.

Working Party D

**FINANCIAL SERVICES, ACCOUNTING AND TAXES ISSUES**

## 1. CONCURRING WITH THE FINANCIAL SYSTEM REFORM (D-EJ-1)

### *1.1 Summary of recommendation*

- The Summit on Financial Markets and the World Economy (G20 Summit) identified the root causes of the current crisis: market participants seeking higher yields without an adequate appreciation of the risks and without exercising proper due diligence; weak underwriting standards; unsound risk management practices; increasingly complex and opaque financial products; and consequent excessive leverage, the combination of which created vulnerabilities in the system. The G20 Summit also pointed out that in some advanced countries, policy-makers, regulators and supervisors did not adequately appreciate and address the risks building up in financial markets, nor did they keep pace with financial innovation or take into account the systemic ramifications of domestic regulatory action. We agree with the G20 summit's view on the causes of the financial crisis.
- The G20 Summit upheld the common principles for financial market reform, including (1) strengthening transparency and accountability, (2) enhancing sound regulation, (3) promoting integrity in financial markets, (4) reinforcing international cooperation, and (5) reforming international financial institutions. The G20 countries are now at the stage of establishing action plans and implementing them.
- We agree that these financial reforms will enhance the transparency and accountability of financial institutions, financial markets, and financial products, while ensuring their fairness and integrity. We note, however, that innovation is also important, and that a careful balance must be struck between innovativeness and regulation.
- The G20 Summit upheld that once the economy recovers, more stringent regulations would be introduced. We assert that governments should be prudent in determining whether the economy is truly on a recovery track, and make sure the regulations themselves, as well as the timing of their implementation, are considered with flexibility.
- The stability of financial markets and their proper regulation are important for market users, including companies that raise capital. While we currently see government intervention to markets in order to stabilize the financial system and support institutions, such intervention must not distort market and thus be removed as soon as practicable.

### *1.2 Action taken and State of play*

The London and Pittsburgh G-20 Summits' declarations are a remarkable recognition by the international community of our inter-dependence and the fact that we can achieve far more by acting together.

EU Member States are now implementing an economic recovery plan which includes further aligning their economic policies and strengthening the Single European Market while rejecting protectionism. The economic and financial situation is still fragile. The European Commission is committed to carry through

with the strategy endorsed in Pittsburgh and supports the implementation of FSB recommendations.

We need to keep support measures in place in a co-ordinated way, but be ready with an exit strategy. Even if different countries exit at different times we need to have a co-ordinated approach which puts the global economy back on track with sound public finances and new sources of growth.

We also must keep up the pressure for reform of financial markets. The European Commission has put several proposals on the table, including legal proposals for a new supervisory architecture.

## **2. PRUDENTIAL REGULATION (D-EJ-2)**

### *2.1 Summary of recommendation*

- To mitigate the pro-cyclicality of bank's capital requirements, the G20 leaders agreed to raise the bank's capital buffer above the required minimum when the economy recovers and allow banks to decrease that buffer during economic downturns to sustain smooth lending. The G20 Summit also asked the Basel Committee of Banking Supervision (BCBS) to review minimum levels of capital and develop recommendations by 2010.
- We need to be fully aware that a policy of raising capital buffers or minimum capital levels in response to the business cycle involves the risk of exacerbating the pro-cyclicality of capital requirements should such policy be implemented at the wrong time. We assert that the determination of when the economy is recovering should be made prudently.
- The strengthening of the capital requirements for trading books is now being discussed at BCBS. A broader range of financial institutions, including financial institutions that do not take deposits, are also complying with Basel II. Financial institutions are subject to various regulations in their respective industries. Solvency II is being introduced to insurance companies. We assert that the governments should keep in mind that the differences between various financial institutions cannot be ignored in regards to the nature of their businesses, the associated risks, and how they are affected by regulatory changes.
- We believe that certain transitional measures should be provided if guidelines for harmonization of the definition of capital are created, because the soundness of financial institutions may be impaired if the new rules are applied in a single step.
- When risk-based capital requirements are supplemented with a simple, transparent, non-risk based measure, it is important that a level playing field be secured, to take into account differences in financial standards across countries.
- We also believe that the level playing field between financial institutions with public money infusion and those without such arrangement should be secured.

### *2.2 Action taken and state of play*

The European Commission will actively support the current work to develop by end-2010 internationally agreed rules on better quality capital and new liquidity requirements. The EU will be vigilant that (i) overall capital levels are raised and the quality of capital is improved; (ii) calibration and timing of measures take into

account cumulative effect of all reforms; (iii) a package of measures is developed to address pro-cyclicality; (iv) the work of the Basel Committee on Banking Supervision is closely aligned with the G-20 commitments; and (v) global implementation of Basel II remains on track.

The European Commission is also considering the introduction, through the loan loss provisioning regime, of enhanced soundness of counterparty credit risk management and measurement, the removal of national options and discretions from banking legislations, and a leverage ratio as a supplementary measure to the Basel II risk-based framework.

As regards deposit insurance, the European Commission is examining the scope and coverage level of the scheme, the possibilities to reduce the payout delays, the financing of funds, the possibility of a pan-EU fund and its role in crisis management.

The European Commission will actively contribute and push for solutions that are consistent with the Single European Market and therefore do not favour a particular group structure. The EU will strive to put in place a sound framework for effective crisis management that enables early intervention in and resolution the orderly wind-down of cross-border financial institutions.

### **3. RISK MANAGEMENT (D-EJ-3)**

#### *3.1 Summary of recommendation*

- One lesson learned from the recent market turmoil is that financial institutions need to strengthen their management of counterparty and liquidity risk as well as meet capital requirements. However, we have been in the situation that governments and the central banks have had to take exceptional measures to support certain financial institutions and supply them with liquidity. Although risk management concepts are moving in the right direction, we believe that such measures should not be taken hastily.
- To manage liquidity risk, the G20 has agreed to build a global framework for promoting stronger liquidity buffers at banks, including cross-border institutions. We note, however, that such a framework could jeopardize the level playing field or lead to freezing of assets if liquidity buffer regulations differ among countries. In building this global framework for promoting stronger liquidity buffers, we ask that governments consider liquidity in a cross-border context and harmonize regulations across countries.
- To enhance the management of counterparty risk, a realistic and feasible level of regulations should be required.
- We believe that the corporate management and compensation structure based on the long term view is important for sound risk management.

### *3.2 Action taken and state of play*

The European Commission proposed in October 2008 changes to the regulation of liquidity risk management. The Council and Parliament endorsed these changes in September 2009. All financial institutions will need to have robust strategies, policies, processes and systems for the identification, measurement, management and monitoring of liquidity risk so as to ensure that credit institutions maintain adequate levels of liquidity buffers. The European Commission is currently considering developing global minimum quantitative standards for liquidity regulation.

The European Commission is also reviewing the appropriate treatment of exposures arising from derivatives and repo style transactions. This includes measures to incentivise firms to clear their transactions via central counterparties.

All G-20 jurisdictions should promptly and fully implement the FSB Principles for Sound Compensation Practices in line with the FSB Implementation Standards. FSB monitoring of implementation must be rigorous and transparent. The EU has already adopted measures which aim to implement the FSB principles strictly. The European Commission will present its findings on the application of its 2009 Recommendations on remuneration in the spring of 2010, and may strengthen them.

## **4. ENHANCING THE RISK MANAGEMENT OF SECURITIZATION (D-EJ-4)**

### *4.1 Summary of recommendation*

- It is obvious that securitized products were among the major causes of financial crisis contagion. The structure of securitized products became increasingly complex, and self discipline at the financial institutions in the securitization business, credit rating agencies and other entities, including their due diligence measures, failed to function properly. However, we do not believe that this diminishes in any way the importance of securitization per se, which is to enable the transfer of credit risk. In economies like Japan where credit risk has been concentrated in the banking sector, risk diversification through securitization is still an important means of mitigating systemic risk.
- The G20 leaders agreed that the BCBS and authorities should take forward work on improving incentives for risk management of securitization, including considering due diligence and quantitative retention requirements. The aim of quantitative retention requirements, which would require originators and other service providers to hold a certain portion of the securitized products, is to align their incentives with those of investors. We believe that such measures risk diminishing the incentives for the securitization itself, and that setting the right level of required retention will be difficult.

### *4.2. Action taken and state of play*

The European Commission proposed in October 2008 substantial changes to the regulation of securitised products that created a channel for contagion of impaired



assets. The measures were endorsed by the Council and Parliament and should be implemented by end 2010.

The new regulation requires originators and sponsors of securitised products to retain at least 5% of these products in their portfolio. They also need to disclose their retention and ensure that prospective investors have readily available access to all materially relevant data on the credit quality and performance of the individual underlying exposures, cash flows and collateral supporting a securitisation exposure. The new regulation also requests financial institutions buying securitised products to carry out due diligence and demonstrate their understandings of these products to financial supervisors. The due diligence requirements for EU banks went beyond what was agreed by the Basel Committee in June 2009. For this reason, the European Commission asked the Basel Committee to revisit its due diligence standards.

The approach aims at insuring an alignment of interests between investors and originators, making sure (1) that investors do not blindly invest in what they do not really understand; (2) that investors exercise discipline over issuers to avoid overly complex products with weak underlying loans; (3) that originators also keep their own money at risk and do not have an incentive to securitise bad loans.

Further Commission proposals in July 2009, introduced increased capital requirements for synthetic securitised products which carry higher risk.

## 5. ACCOUNTING ISSUES (D-EJ-5)

### 5.1. Summary of recommendation

- In 2008 the Working Party 2 (the previous title for the Working Party D) recommended enhancement of the governance of the accounting standard setting bodies and the convergence of accounting standards. The Financial Stability Board is going to undertake a strategic review of the policy development work of international standard setting bodies, and the IASB has established an external Monitoring Board, members of which include the IOSCO, the European Commission, the US Securities and Exchange Commission, and Japan's Financial Services Agency. In addition, IASB and FASB have established the Financial Crisis Advisory Group (FCAG), which is comprised of senior leaders with broad international experience in financial markets. FCAG will advise the IASB and FASB on the standard-setting implications of the global financial crisis and on potential changes to the global regulatory environment. We support these trends and look forward to further developments.
- To address pro-cyclicality, the Financial Stability Forum has recommended that the IASB and other international standard setting bodies look at loan loss provisions and fair value accounting as well as bank capital requirements. We note that such prudential regulations could result in certain conflicts with investor protections, and thus must be carefully considered.
- While the purpose of financial accounting is to provide financial information to a company's outside stakeholders such as shareholders and creditors, we wish to point out that the view of a company's management is also important when setting standards. Changes in accounting standards have impact on corporate activities

and thus on the economy. We believe that net income is useful as accounting information for corporate performance.

- IASB is in the process of revising its financial instrument accounting standard, and we support the approach to recognize the net unrealized gain on available-for-sale securities as other comprehensive income. We wish to point out that when securities are sold, gains or losses realized by the sale should be recognized in net income.
- As part of the process to strengthen the immediate recognition in the accounting standards for employee benefits, the actuarial gains and losses may be recognized immediately upon accrual as income or expense. The immediate recognition of the actuarial gains or losses coming from short term financial market fluctuations could cause the pension plans, which are long term promises between employers and participants, to give excessive fluctuation to the profit and loss statement. We believe such standard should not be adopted.
- With regards to the IASB's financial statement presentation project, we are concerned about the requirement for the use of direct method in cash flow statement. The users of financial statements are able to acquire sufficient useful information from disclosures with indirect method. Based on the fact that companies will incur large amount of cost, we do not see any overriding benefit coming from the requirement of direct method.

### *5.2 Action taken and state of play*

The European Commission attaches great importance to the International Accounting Standards Board (IASB) governance and to the global convergence of accounting standards. More and more jurisdictions are in the process of ensuring convergence between their national Generally Accepted Accounting Principles (GAAP) and IFRS or adopting IFRS directly. Japan committed to make a decision regarding the mandatory use of IFRS in or around 2012.

The European Commission supports the FSB work and is a member of the IASB Monitoring Board established in early 2009. The European Commission took note of the FCAG report published in July 2009 and the key principles highlighted therein. The implications of the global financial crisis on standard-setting led to important steps forward in the governance of the IASB. However, there is still further work to do.

The European Commission intends to continue and intensify policy and technical dialogue with Japan in order to make sure that there is an ongoing debate and exchange of views, e.g. regarding the issue of further convergence of accounting standards and necessary improvements regarding the governance of international standard setting bodies.

G-20 leaders in London called on the accounting standard setters to work urgently with supervisors and regulators to improve standards on valuation and provisioning and achieve a single set of high-quality global accounting standards. In addition, in Pittsburgh they called on international accounting bodies to redouble their efforts to achieve a single set of high quality, global accounting standards, and complete their convergence project by June 2011.

The European Commission shares some of the concerns of the Japanese authorities regarding accounting standards developed by the IASB. New standards are expected to address practical problems and they need to respond to interests of different kind of stakeholders without adding too much complexity. The IASB thus needs to develop high quality standards that need to be understandable and practicable.

Standard setters (IASB, FASB) and prudential regulators (Basel Committee on Banking Supervision) should work together towards an improved loan loss provisioning regime and fair value accounting in general. The European Commission fully supports this initiative and notes that the IASB institutional framework should further enhance the involvement of various stakeholders. Changes to be made should not be at the expense of transparency; financial reporting should provide relevant information for investment decisions. The European Commission believes that all stakeholders', including preparers, should contribute to the consultations when new standards are being drafted.

The European Commission closely follows the IASB's work on revising the accounting requirements for financial instruments. In November 2009, the IASB issued a new International Financial Reporting Standard (IFRS 9 Financial Instruments) on the classification and measurement of financial assets. Publication of this new standard represents the completion of the first part of a three-part project which should also cover impairment methodology for financial assets and hedge accounting. The European Commission, following intense debate with EU Member States, decided in November 2009 not to adopt IFRS 9 via fast-track endorsement procedure. The EU needs to evaluate all consequences of the changes introduced by the IASB and could wait for additional related standards to be issued. In any case, since the effective implementation date of IFRS 9 is 1 January 2013, EU issuers can still prepare financial statements fully in line with IFRS.

The IASB is also conducting a project to revise IAS 19 Post-employment Benefits. The IASB plans to publish a first draft on the recognition and presentation of changes in the defined benefit obligation and in plan assets during the first semester 2010. There are concerns in the EU whether the immediate recognition of all actuarial gains or losses in the profit and loss statement would not result in excessive volatility. Concerns are also raised regarding repercussions on companies offering pension schemes to their employees.

In addition, the IASB plans to publish a final standard on financial statement presentation in 2011. The IASB is currently deliberating the issues raised by respondents to the discussion paper with a view to developing an exposure draft for release in April/May 2010. There are concerns in the EU whether the elimination of net income would be acceptable.

From an EU perspective, Japan is one of the key partners in the area of accounting. The European Commission intends to continue and intensify dialogue with Japan. The European Commission also believes it is of utmost importance that views from stakeholders in the EU, Japan and elsewhere are seriously considered during upcoming IASB setting standard processes.

**6. TAX ISSUE PROPOSAL FOR EU AND JAPAN**

To be provided later.

Working party E

**INNOVATION, ENVIRONMENT AND SUSTAINABLE  
DEVELOPMENT**

## **INNOVATION, ENVIRONMENT AND SUSTAINABLE DEVELOPMENT**

### **E1. INNOVATION AND CLIMATE CHANGE**

To be provided later

### **E2. ADDRESSING GLOBAL WARMING**

#### **E.2.1 Post-2012 Framework**

##### **E.2.1a. Participation of all major greenhouse gas emitting countries (E-EJ-2.1a):**

###### *E.2.1a.1 Summary of recommendation*

All major emitting countries should participate in the Post-2012 Framework in a responsible manner; otherwise any international agreement will not be effective. The developing countries should be open towards flexible and diverse approaches taking into account their national circumstances.

###### *E.2.1a.2 Action taken and state of play*

The European Union fully agrees with the need of all major emitting countries participating in the Post-2012 framework in order to establish an effective response to climate change. We also agree that we need to be open towards flexible and diverse approaches taking into account national circumstances.

##### **E- 2.1b: Agreement on long-term targets (E-EJ-2.1b)**

###### *E.2.1b.1 Summary of recommendation*

The ultimate objective for prevention of global warming is to stabilize GHG concentration in the atmosphere at a level that would not endanger the climate system in the long run. It is important to agree upon that ultimate objective and to share reasonable and feasible long-term targets of reducing and deterring GHG emissions.

###### *E.2.1b.2 Action taken and state of play*

The new Japanese government has dramatically changed the Japanese policy on Climate Change, as recently confirmed by the Japanese support for the Copenhagen Accord and the submission to the UN Framework Convention on Climate Change (UNFCCC) of an ambitious 25% emission reduction target.

The European Union decided in March 2007 of reducing emissions to at least 20% below 1990 levels by 2020, and for 20% of energy consumption across the EU to

come from renewable sources by 2020. At that time, the EU also offered to commit to a 30% reduction in greenhouse emissions if other developed countries agreed to join in.

EU and Japanese policy have been converging in the last months and we should continue our dialogue on Climate Change at all levels in order to reinforce our negotiating position and achieve an ambitious, effective international agreement in which all major economies participate.

In spite of the EU efforts, the results of Copenhagen fall short of the EU's ambitious objective and more needs to be done to achieve a satisfactory global climate change regime. However, one should also not underestimate what was achieved in Copenhagen: the Accord was negotiated by head of states and government representing some 80% of global emissions, included a large representation of developing countries and more than 100 countries expressed their association with the accord. Also, for the first time, a number of developing countries (27 to date) submitted their Nationally Appropriate Mitigation Action as requested by annex II of the Copenhagen Accord showing their willingness to contribute actively to the fight against climate change.

The European Union will continue to exert its climate leadership role in 2010. Following the first steps taken in Copenhagen we are committed to finalise an ambitious, legally binding post-2012 agreement by the end of 2010 at the Cancun Climate Conference. We must, of course, address the shortcomings of the Copenhagen Accord - notably the insufficient pledges compared with the demands of science. We must use all available means to put flesh on the bones of the Copenhagen Accord and to secure that an increasing number of countries will associate themselves with the Accord.

## **E.2.1c Sectoral approach (E-EJ-2-1c)**

### *E.2.1c.1 Summary of recommendation*

The Japanese and European sides are both supportive of using the "sectoral approach" as a mean to achieve a greater amount of emissions reductions. The Japanese side underline notably the potential enhancement of technology transfer and the incentive for developing countries to participate. On the European side, fears of potential market distortions remain.

### *E.2.1c.2 Action taken and state of play*

Sectoral approaches are certainly a promising way forward. They have the potential of leveraging a higher amount of emission reductions (across an entire sector rather than by a single installation) also in developing countries while providing a better level playing field for competing companies in developed countries.

By targeting specific sectors, such approaches are concrete enough as to determine realistic emission reductions: account can be taken of specific low emission technologies; business tools such as performance standards and benchmarking as well as business best practice. They are also flexible enough as

to take account of specific circumstances in different countries, such as regional resource constraints. Sectoral actions can also be a way to strengthen capacity in developing countries to conduct environmental policies, including the establishment and improvement of systems for measurement, reporting and verification of greenhouse emissions.

The Commission has launched a study on sectoral approaches, which will be completed in May 2010. The study consists of three main elements: a practical data gathering and capacity building exercise in certain industry sectors; an analytical component to model the potential benefits of sectoral approaches, including effects on competitiveness; and a policy element to determine what would be needed to make sectoral approaches operational, as part of a post 2012 climate framework. The study resources can be consulted at: "<http://www.ccap.org/index.php?component=resources&program=26>"

The Commission also agree on the crucial importance of dissemination of existing low-carbon technologies and development of breakthrough technology. In this context an innovative framework to promote technology transfer is necessary. Public private partnerships should indeed be considered in this regard. The Commission has recently launched a study seeking to identify options and a possible mandate for a more formal business engagement in the climate change international negotiations. One of its aims is examining the most effective ways of enhancing technology development and deployment in the international context. More information can be found at: [www.businessandunfccc.org](http://www.businessandunfccc.org)

## **E-2-1d            Establishment of medium-term targets and policies to achieve them (E-EJ-2-1d)**

### *E.2.1d.1            Summary of recommendation*

To reach medium-term target, they must be fair, feasible and agreed by each country and each sector. For emerging countries, the target should be set to the ratio of GHG emissions to GDP or intensity targets by each sector. Because of the great variety of situation, different approaches are necessary.

As regards cap-and-trade emission scheme, the Japanese side insists on the need to find the right approach capable of preserving the competitiveness of companies and at the same time the promotion of innovative technologies. For the EU side, costs and benefits must be mitigated to prevent carbon leakage

### *E.2.1d.2            Action taken and state of play*

Japan is considering the establishment of a cap-and-trade Emission Trading System (ETS) and the EU would be happy to increase the bilateral cooperation in this area with a view to link the future Japanese system with the EU ETS and the creation of an OECD-wide carbon market.



**E-2.1e Position on the base year (E-EJ-2.1e)***E.2.1e.1 Summary of recommendation*

There are different bases to calculate medium-term targets. For the Japanese side, it is important to take the particularities of each country into account and various bases are acceptable. For the European side, they prefer the setting of 1990 as the base year for calculation.

*E.2.1e.2 Action taken and state of play*

Please see the reply provided last year to question "6.4.Post-Kyoto Protocol" in conjunction with the above response about "sectoral approach" strategy.

**E-2.1f Promotion for development of technology and technical assistance (E-EJ-2.1f)***E.2.1f.1 Summary of recommendation*

EU and Japan should actively promote the joint development and dissemination of innovative low-carbon technologies toward practical use by sharing technological roadmaps, strengthening partnerships including with emerging countries like China and India, and increasing investment in research and development through public-private partnerships while preserving intellectual property rights.

*E.2.1f.2 Action taken and state of play*

First discussions have been held at trilateral level (European Commission-Directorate General "Research"), Japan (METI/NEDO) and US (DoE) on the idea of developing a common approach towards emerging countries in terms of energy research cooperation. The idea was welcomed between the three sides and discussion will continue later this year.

**E.2.2 Other recommendations on addressing global warming****E-2.2a Promoting clean energy (E-EJ-2.2a)***E.2.2a.1 Summary of recommendation*

To reduce GHG emissions it is of particular importance to reduce the dependency on fossil fuels in power generation. Nuclear power generation should be promoted among clean energies. Increased utilization of renewable energies is essential and these energy sources offer new business and employment opportunities. Increased research and development is required to develop appropriate energy storage solutions. EU and Japan should encourage their private sectors to intensify cooperation and define appropriate instruments to enhance cooperation between universities and research & development institutions.

### *E.2.2a.2 Action taken and state of play*

The development of renewable energy - particularly energy from wind, water, solar power and biomass - is a central aim of the EU energy policy, contributing both to climate change and energy security objectives.

In 2008, the Community agreed on a new legislative package on climate change, including the Directive on the promotion of the use of energy from renewable sources, which was formally adopted in 2009. The new Directive on renewable energy sets binding national targets for Member States, which add up to a 20% share for renewable energy in the EU energy mix in 2020. Furthermore, the Directive sets a binding 10% share of renewable in transport for each Member State and introduces a sustainability regime for bio fuels and bio liquids used by Member States to count towards their national target.

The European Economic Recovery Plan, in which a total of € 4 billion was reserved for energy projects, €565 million is reserved for offshore wind projects and approximately €1 billion is reserved for carbon capture and storage projects.

The EU Member States are free to choose their energy mix, including the use of nuclear energy. To role of the EU is to develop in the interest of all Member States the most advanced legal framework for nuclear energy, meeting the highest standards of safety, security and non-proliferation. An EU-wide legal framework was enacted through the adoption of the EU Nuclear Safety Directive in 2009, and solutions for nuclear waste management, in particular geological disposal, are partly entering the phase of practical implementation. Another important role of the EU is to encourage and support third countries to meet the highest standards of safety, security and non-proliferation, through developing international cooperation in the nuclear energy field, in particular with the International Atomic Energy Agency.

Research and development is another area where the EU is implementing new policies. The Strategic Energy Technology Plan was put in place in 2007 with the intent to change "bottom-up" ideas-driven R&D funding to a more guided strategic approach, in several industrial initiatives: wind, solar, biofuels, smart grid, CCS and sustainable nuclear. International cooperation is a key element of the SET-Plan. A Commission Communication was adopted in October 2009, based on industry road-maps for key technologies identifying the need for € 50 billion investments in low-carbon technologies to 2020.

Policy developments in the energy field, including diversification of energy sources, promotion of renewable energy, approaches in nuclear energy field, as well as research and development, are addressed in the framework of the EU-Japan Energy Dialogue. The last dialogue meeting in 2009 provided an opportunity for the EU to present the agreed climate change package and for the Japan to update on the implementation of its existing laws and policies to promote new energy, including the Action Plan for Promoting the Introduction of Solar Power Generation. Technical and informal contacts take place regularly between the Commission services and the Japanese authorities on a wide spectrum of these issues, and particularly as the Japanese government put forward its new objectives for greenhouse gas emission reduction. For example, an EU-Japan workshop on

current status and technical development of smart grids was organized in Brussels by the EU-Japan Centre for Industrial Cooperation in December 2009, in which representatives of both the Commission and METI participated.

On the R&D side, in March 2009 DG Research organized jointly with the METI and in cooperation with the New Energy and Industrial Technology Development Organisation (NEDO) a strategic workshop on energy research and technological development in Tokyo. The European and Japanese scientific experts came together to discuss research areas on PV, power storage and CCS, with view to identifying topics with potential for cooperation and discussing possible forms of cooperation. As a follow-up workshop of officials METI/NEDO was held in October 2009. It was agreed to start working toward a coordinated call and a researcher exchange on solar energy as well as to hold workshops in 2010 on CCS and power storage.

Cooperation is also ongoing in the context of international organizations, dealing with various aspects of energy policy such as the International Energy Agency, the International Renewable Energy Agency, the International Partnership on Energy Efficiency Cooperation, as well as others. Both the EU and Japan are now involved in the elaboration of the Low Carbon Energy Technology Platform, proposed by the G8 Energy Ministers at their meeting in May 2009.

## **E-2.2b Continuation of “green policy” ( E-EJ-2.2b)**

### *E.2.2b.1 Summary of recommendation*

Governments’ efforts towards a low-carbon society/economy are highly appreciated. However, since GHG emissions from the residential sector have been increasing continuously we request to the Commission and Government of Japan to continue raising public awareness to reduce carbon dioxide emissions. Reduction of GHG emissions must be promoted through the total life-cycle basis in current and future “green policy”.

### *E.2.2.b2 Action taken and state of play*

The EU is committed to creating the best conditions for green growth and eco-innovation and making the transition to a more eco-efficient economy. To that effect we must work for and with industry, helping innovators and entrepreneurs in all shapes and sizes of enterprises to move first and fast to seize the real economic opportunities from investing in new, low carbon technologies.

That is why, identifying and addressing market failures and regulatory barriers that hinder the competitiveness of environmental industries and influence the uptake of more sustainable solutions by other industries is a key objective of the Action Plan on Sustainable Consumption and Production and Sustainable Industrial Policy [http://ec.europa.eu/enterprise/policies/sustainable-business/eco-industries/index\\_en.htm](http://ec.europa.eu/enterprise/policies/sustainable-business/eco-industries/index_en.htm).

All enterprises, having energy and environment issues as the core source of income are considered part of the core eco-industries. An important step in the process of developing policy initiatives for these environmental industries was taken with the

delivery of a Commission commissioned Study on the competitiveness of environmental industries in Europe, which can be downloaded on the website of Directorate General Enterprise and Industry.

As a follow-up and with the view to identifying areas for future policy initiatives in the light of the political priority attached to this by the new Commission, Directorate General Enterprise and Industry will consult widely and deeply with the concerned stakeholders in the coming months.