The EU-Japan Business Dialogue Roundtable

Working Group One

CREATING AN OPEN ENVIRONMENT FOR TRADE AND INVESTMENT:

Reviewing progress in Japan from a European perspective

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Contents

Introduction

1. Opening remarks:

We would like to extend our appreciation to the Government of Japan (GOJ) for replying in detail to the recommendations contained in the WG1 Joint Report submitted in Tokyo last year.

This has provided all members of the Dialogue a clear gauge with which to judge progress regarding specific issues and an indication as to where we should concentrate our efforts in the future. Our own assessment of these issues is contained in the second part of this report.

It is important, however, that as the working group recommendations become more and more specific, we do not lose sight of the principals and ultimate objectives underlying these proposals.

2. Objectives:

Creating an open environment for trade and investment implies much more than simply improving market access for foreign goods and services by eliminating explicit barriers to trade such as tariffs and quotas and removing discriminatory restrictions on foreign investment.

An open environment for trade and investment also implies the existence of a competitive internal market and the necessary economic infrastructure to do business efficiently. This is of concern to all businesses, regardless of national origin.

Before analysing the progress made on specific Tokyo Recommendations, we would like to take this opportunity to restate the priority issues that European members identified during last year's conference to help guide the creation of an open environment for trade and investment in Japan.

3. Priority issues:

Regulatory issues

1. Increasing **transparency** and **clarity** in the regulatory environment to make it easier for companies to predict the consequences of regulatory decisions, plan for regulatory developments, and efficiently allocate resources to comply with regulatory requirements.
2. Increasing efficiency in the product approval process to make it easier for companies to introduce **innovative products at competitive prices**.

3. Increasing the scope of **deregulation** and **re-regulation** to promote a truly **competitive market environment**.

Business facilitation issues

1. Improving the tax system to allow for **tax-neutral global M&A** and **taxation on a consolidated basis.**
2. **Strengthening the legal framework** to make it more consistent, efficient and effective in **protecting economic rights**.
3. Reviewing labour and immigration laws with the goal of improving the **efficient allocation of human resources** both within and across national boundaries.

Progress Report on Specific Recommendations

1. Advanced ruling process

Summary of Tokyo Recommendation:

- A formal rulings process should be established whereby companies would be able to receive written, binding clarification regarding a planned business transaction or a particular regulatory situation. These rulings should then be made available in an anonymous format on a regular basis to establish a written body of precedent in order to help companies navigate the regulatory process.

Current status:

- On March 27, 2001, a Cabinet Decision was issued committing the Government of Japan (GOJ) to the establishment of a formal rulings process on a limited scale, with special emphasis on the financial services and IT sectors.
- Each individual national government ministry and agency is now required to establish and implement guidelines based on this Cabinet Decision "as soon as possible in FY2001".

Commentary:

- A lack of transparency and clarity in the Japanese regulatory regime is one of the factors most frequently cited by European businesses as inhibiting the development of a truly open environment for trade and investment in Japan. This is a systemic problem that is not likely to be solved overnight.
- We very much welcome the recent GOJ initiative to develop a Japanese style "No-Action Letter" system, but have a number of concerns both with the principles contained in the original Cabinet Decision and the prospects for meaningful implementation of this reform.

Concerns regarding the original Cabinet Decision:

- Replies will not be legally binding.
- Since replies are not legally binding, there will not be a body of legal precedent.
- Oral replies will still be allowed under certain circumstances.
- The scope of the reform will be limited initially to "sectors such as IT and finance where new products are vigorously created", and not explicitly include other important areas such as taxation.
- The Cabinet Decision will apply only to central government ministries and agencies, and not local government entities or self-regulating bodies.

Concerns regarding the implementation of this decision:

- The success of the proposed clarification mechanism will depend to a large extent on the commitment of the various regulatory authorities to give clear and binding guidance in a timely and efficient manner. There is some concern that the ministries and agencies will adhere to the letter of the Cabinet Decision, but not its spirit in the development and implementation of individual guidelines.
- Staffing shortages and a lack of qualified individuals may lead to delays in dealing with requests for advanced clearance.

Questions:

- Why will replies not be legally binding?
- What is the current status in the development of individual ministry and agency guidelines?
- Has the GOJ made budget allocations to ensure adequate staffing levels?
- When will these guidelines be released for public comment?

New recommendations:

- Each ministry and agency should develop and implement guidelines for an advanced clearance process based on the March 27 Cabinet Decision as soon as possible.
- Guidelines should also be developed for areas such as taxation, which are not explicitly mentioned in the Cabinet Decision.
- All replies should be legally binding.
- The implementation of this reform should be closely monitored.

2. Independent regulatory supervision

Summary of Tokyo Recommendation:

- Regulatory independence should be increased in sectors such as telecommunications, transportation, and energy based on the model provided by the independent Financial Services Agency already established to regulate the financial services sector.

Current status:

- Increasing regulatory independence in these three sectors is not currently being considered.

Commentary:

- We are disappointed that the GOJ does not recognize the value of regulatory independence as a means with which to promote fairness, neutrality and competitive principles in the regulatory process. This is unfortunate. European experience clearly shows that independence has contributed to increased competition, market access opportunities for non-incumbent firms, and ultimately a better deal for consumers.

Questions:

- What does the GOJ mean exactly by the phrase "neutrality and fairness of the regulating authorities will be secured over the years to come." (p.5 of the GOJ reply) How will this be accomplished?
- How does the GOJ intend to do this without increasing independence in regulatory supervision?

New recommendations:

- An independent regulator with a pro-competitive mandate should be established to supervise the telecommunications, energy and transportation sectors in Japan.

3. Product approval methodology

Summary of Tokyo Recommendation:

- "File-and-use" notification procedures should replace the current pre-approval needed for products in sectors such as insurance, animal health, and medical diagnostics.

Current status:

Insurance:

- A notification system for certain commercial lines has been in place since 1998. A notification-in-principle system for personal lines is being studied, but the GOJ remains concerned about preserving consumer safety.

Animal health:

- The GOJ has no intention of adopting a notification system for animal health products.

In vitro diagnostics (IVDs):

- The GOJ has no intention of completely eliminating the prior-approval process for IVDs, though is currently studying the introduction of a limited notification system for products considered low risk.

Commentary:

Insurance:

- There is really no need for the regulator to be involved at all in the approval of new products, as this only serves to stifle the introduction of innovative insurance products at competitive prices. Regulation should focus instead on the macro-level supervision of solvency margins and capital adequacy ratio in line with international best practice.

Animal health:

- The product approval system for animal health products in Japan lags well behind current international standards of best practice in this sector. Some suggestions for improving the situation are provided below.

In-vitro diagnostics:

- Currently only 12% of new product approval applications for IVDs are currently processed within the 6-month period promised by the GOJ in 1985.
- Medical diagnostic producers have for a number of years been lobbying for the introduction of a product approval system based on risk classifications, with lower risk products subject to a simple notification procedure. The Office of the Trade Ombudsman (OTO) issued a decision in 1995 calling on the MHLW to "study what types of medical diagnostic products do not need approval and establish a notification system for such products as soon as possible". Five years have passed, and no such system has been established.
- It should be noted that since IVDs never come in direct contact with the human body, most advanced industrialized nations treat IVDs as a type of medical device. In Japan, however, IVDs still require approval as a pharmaceutical.

New recommendations:

Insurance:

- All remaining requirements for prior product approval and pricing involvement by FSA should be abolished.

Animal Health:

- Minor modifications to already-approved products should be allowed on a notification basis, without the need to navigate the time and energy consuming partial amendment procedure.
- The acute toxicity study employing animals for mycelial (feed grade) products, a test unique to Japan, required for each batch to detect toxic substances should be eliminated.
- The current mandatory assay for biological products should be replaced with a non-compulsory official batch release, as is common practice in Europe. For in-vitro diagnostic products this requirement should be eliminated all together.
- Reports prepared for New Animal Drug Application should be accepted in their original language with a summary in Japanese, as is currently the practice for pharmaceutical products intended for human use.
- Maximum Residue Levels and required withdrawal period should be established at the time of New

Animal Drug Application, with all residue studies based on accepted international MRL standards, instead of the current zero-tolerance stance the GOJ takes regarding these products.

In-vitro diagnostics:

- The GOJ should develop a clear and detailed strategy for meeting its own goal of processing approvals for in-vitro diagnostic products within six months. This strategy should include provisions for the following:
    1. Allocation of sufficient human resources to deal with new product approval applications
    2. Elimination (or refocusing) all application requirements that are unique to Japan and/or have no basis in science, such as the 3 lot/ 3 time test data requirement.
    3. The quick establishment of a product approval process based on risk classification, with lower risk products subject to a simple notification procedure.

4. Product approval harmonization

Summary of Tokyo Recommendation:

- In principle, the European participants support the principle of "one standard, one test, and one approval" for all products regardless of origin, and urges the Japanese Government in cooperation with regulatory authorities around the world, to work towards an approval process that does not require per country approval.
- An important first step in this ultimate goal is the quick implementation of the planned MRA agreement between the EU and Japan.
- The GOJ should also be vigilant in unilaterally reducing the time and energy needed for companies to bring their products to market by applying regulatory practices already accepted by the international community.

Current status:

- The MRA with the EU has been signed, and now must be ratified and implemented.

Commentary:

- We are happy that the MRA has finally been signed. This is just one step, though, in the long road towards implementation.
- Vigilance must be maintained in order that this agreement is implemented effectively.
- We also look forward to the eventual expansion of this agreement into areas such as medical devices, professional services, organic food certification, cosmetics and eco-labels.
- Eventually the mutual recognition of product standards and manufacturing processes should extend to mutual recognition of the approvals themselves, so that products need only receive approval once, regardless of where they are being sold, as per our original recommendation.

Questions:

- Does the GOJ have a concrete timetable for the ratification and implementation of the current MRA?
- Will this agreement be monitored to ensure effectiveness?

New recommendations:

- We maintain our original request that the GOJ should, in cooperation with regulatory authorities around the world, work towards an approval process that does not require per country approval.
- The MRA should be ratified and implemented as soon as possible. The EU and Japan should monitor this agreement to make sure it is implemented effectively. Work should begin on expanding the scope of this agreement to include sectors such as medical devices, professional services, organic food certification, cosmetics and eco-labelling.
- The GOJ should be vigilant in unilaterally reducing the time and energy needed for companies to bring their products to market by applying regulatory practices already accepted by the international community, such as maximum residue limits developed by the CODEX Alimentarius Commission and risk-based assessment of harmful and non-harmful organisms in the importation of phytosanitary products.

5. Deregulation to promote competition

Summary of Tokyo Recommendation:

- The scope of deregulation needs to be increased in order to counter the inefficiency of managed competition in sectors such as shipping, civil aviation and construction.

Current status:

Port operations:

- The Port Transportation Business Law was amended effective Nov.1, 2000. The licensing/approval system for port services has been partially liberalized and various adjustment controls have been eliminated.

Civil aviation:

- The domestic air travel market was partially liberalized in 2000 allowing companies to sell at self-determined rates. Major barriers still prevent the same for international air travel.

Construction:

- The Building Standards Law (BSL) was revised in 1998 to allow for the first time product approval on a performance (instead of prescription) basis. The Ministry of Land, Infrastructure and Transport (MLIT) is currently in the process of implementing these reforms, including, for the first time, accrediting third-party testing agencies. An act "Promoting Proper Tendering and Contracting for Public Works" was recently passed by the Diet, which the GOJ hopes will increase transparency and accountability in the bidding process.

Commentary:

- The original purpose of this proposal was to stress the importance of regulatory reform in promoting a competitive market environment in Japan in order to (a) increase market access opportunities for non-incumbent firms, (b) promote product and service innovation and (c) reduce the cost of doing business.
- Recent policy documents released by the GOJ such as METI's structural reform "Action Plan" (December 1, 2000), the 3-year Programme for Regulatory Reform (March 30, 2001), and the Economic and Fiscal Policy Council's blueprint for structural reform of the Japanese economy (June 22, 2001) all contain positive references to increasing competition through regulatory reform. The challenge now is turning these goals into reality.
- Recent changes to the Port Transportation Law, Building Standards Law, Civil Aviation Law, the introduction of new laws relating to government procurement procedures, and the establishment of wider government programs such as the 3-year Regulatory Reform Program are all welcome developments, but often fall short of complete liberalization and adequate competition-based supervision the original recommendation entails.
- We are worried that a lack of effective implementation will seriously dilute the value of recent reforms, especially in the construction and shipping sectors.
- We are also worried about the MLIT's general attitude towards competition and market access in the construction sector. Based on the GOJ's reply to last year's recommendations, the MLIT does not appear to even acknowledge that problems exist. This makes constructive dialogue difficult.

New recommendations:

- We maintain our original request.

6. Regulating dominant positions

Summary of Tokyo Recommendation:

- Dominant market positions in sectors such as telecommunications need to be adequately monitored and effectively regulated to prevent possible anti-competitive practices such as predatory pricing, cross subsidies from monopolies to market based activities, and misuse of customer information.

Current status:

- The GOJ recently amended the Telecommunications Business Law (TBL) introducing asymmetrical (dominant carrier) legislation. Economic and Fiscal Policy Council's blueprint for structural reform released June 22 and approved by the Cabinet on June 26 promised to accelerate these reforms.

Commentary:

- We are sceptical that recent amendments to the TBL will be enough to promote a truly competitive market environment in the Japanese telecommunications sector. Some of these concerns are listed below.
- The application of asymmetrical regulations is not based on specific economic criteria.
- The move to tariff notifications is not consistent with a move to asymmetric regulation. Dominant carriers' rates should be approved and strictly enforced by the regulator, for example through a published Reference Interconnect Offer (RIO).
- Details surrounding the establishment of a proposed dispute resolution committee remain unclear. For example, will the rulings handed down by this committee be legally binding?
- No specific criteria have been established to guide applications by NTT companies wanting to engage in telecom business currently prohibited by law.
- Much of the detail of the legislation amending the TBL has been left to the MPHPT to work out through the issuance of administrative guidelines, notifications, directives etc. Given the lack of detail contained in the original bill, it is expected that over 50 guidelines will be needed to bring this piece of legislation to life. We are worried that given the volume, it will be difficult to subject all guidelines to a public comment process as required by law. We are also worried that these guidelines will not be actionable (i.e. enforceable by law) by injured parties.

Questions:

- What is the timeline for the release of administrative guidelines needed for the implementation of this legislation?
- Will all of these guidelines be subject to public comment?
- How will the dispute resolution committee work? What will its powers be? Will decisions handed down by this committee be enforceable by law?
- The Economic and Fiscal Policy Council's blueprint for structural reform calls for more measures to ensure adequate competition in the telecommunications sector. Is this over and above recent changes to the TBL? What will this "drastic review" entail?

New recommendations:

- We maintain our original request.

7. Tax implications of corporate restructuring

Summary of Tokyo Recommendation:

- Global mergers and acquisitions and local corporate restructuring should in principle be allowed without immediate tax costs.
- Property transfer relief should mirror corporate income tax relief rules, in effect making it easier to make intra-group transfer of buildings and assets without large tax consequences.
- Share-for-share and assets-for-share exchanges should receive deferrals when there is over 25% post-transfer participation.
- There should be no discrimination between Japanese and foreign assets/shares.

Current status:

- The GOJ recently introduced new legislation that specifically addresses the tax implications of corporate restructuring (e.g. the transfer of assets and shares). Effective FY01, tax deferrals for share transfers are now available, so long as the restructuring satisfies a number of criteria set out in the bill.

Commentary:

- We welcome the amendments with regard to the taxation of corporate re-organization that became effective as per April 1, 2001.
- We are concerned, however, about the lack of clarity surrounding alleged "tax avoidance" and conditions relating to "continuity" (the requirement that shares be held continuously and the transferred business should be continued by the transferee). This lack of clarity could lead to serious misunderstandings between the tax authorities and companies restructuring their operations.
- We are also very concerned that tax deferrals have still not been made available to shares of foreign firms, since global share-for-share transfers are not possible under the Japanese Commercial Code. This is a serious oversight, and one that will surely have an adverse affect on the investment environment. It should be noted that measures exist in most major European tax jurisdictions for global share-for-share exchanges and subsequent tax deferral. In other words, it is possible (in most cases) for Japanese firms to purchase European firms in a share-for-share exchange "tax-free", but not the other way around.

Questions:

- Does the NTA have any intention of expanding its advance ruling process for transfer pricing into other areas such as corporate restructuring?

New recommendations:

- Taxpayers should be able to obtain formal advance clearance on whether or not an intended re-organization meets certain material conditions, such as the absence of tax avoidance and clearance regarding the application of the continuity requirement (see also "formal rulings process")
- Foreign shares and assets should be treated the same as domestic Japanese shares and assets with regards to "tax-free" share-for-share transfers. (See also "Commercial Code: Global share-for-share transfers")

8. Consolidated taxation

Summary of Tokyo Recommendation:

- A consolidated tax system should be implemented no later than 2002, taking the following into consideration:
  a) The common ownership requirement under the proposed consolidated tax system should be significantly less than 100% in order to accommodate situations where it is impossible for fully integrated companies to achieve complete ownership.
  b) Companies should be allowed to set acquisition financing costs against the profits of acquisition targets.
  c) Losses in joint ventures should be transferable to substantive shareholders.

Current status:

- Still under discussion.

Commentary:

- It appears that the GOJ is concerned that the introduction of a consolidated tax system will lead to loss of tax revenue and it is likely that such as system will be introduced in combination with reforms designed to widen the tax base, etc. (increase in consumption tax, perhaps?)
- The introduction of a consolidated tax system is a high priority for many companies doing business in Japan. Without an effective system for taxing groups of companies in place, many types of common corporate restructurings now possible in Japan do not make any sense (e.g. holding company structures).

Questions:

- What sort of consolidated tax system is the GOJ currently considering?
- Will stakeholders be given adequate time to make comments on any draft legislation that is developed?

New recommendations:

- We maintain our original request.

9. Corporate governance

Summary of Tokyo Recommendation:

- Targets for corporate governance, including protecting investor rights and freedom of structuring, should be developed, discussed and monitored in upcoming changes to the Japanese commercial code.

Current status:

- Draft legislation has been released with the recommendation that a new type of company be created in which audit, nomination and compensation committees would have to consist of a majority of outside directors (the statutory auditor position could then be waived). All large companies incorporated under the old system (including privately held firms) would be required to appoint at least one outside director to its board.

Commentary:

- We are happy that the draft legislation clearly indicates the need to strengthen the independence of the Board of Directors, making them more accountable to the shareholders and providing adequate oversight of management practices. If implemented effectively, these reforms have the potential to greatly improve oversight capacities and may in fact improve the market for corporate control in Japan, which is not as highly developed as in Europe or the US.
- The proposed changes to the commercial code also recommend that foreign companies that regularly do business in Japan appoint a representative that would be jointly and severally liable for all the foreign company's debt. This is unreasonable. The introduction of such as system will make it very difficult for foreign firms doing business in Japan (but not incorporated as a Japanese company) to find individuals willing to take on this risk. This will affect the financial services sector in particular, as many European firms currently prefer the branch (representative office) structure to incorporation.
- The definition of "outside director" needs to be clarified so as to truly exclude those with current/former ties to the company and ensure that these individuals truly work for the interest of the shareholders.
- We are worried that public companies incorporated under the current system will not adhere to the spirit of the proposed reforms and only appoint a "token" outside presence.
- There is no real reason why large, privately held firms (such as wholly owned foreign subsidiaries) should be required to appoint outside directors or statutory auditors.

Questions:

- When will legislation regarding commercial code reforms be finalized?
- What is the timeline for implementation once the new legislation is agreed to?

New recommendations:

- We encourage the GOJ to work towards the quick implementation of Commercial Code reforms designed to improve corporate governance practices in Japan, especially those related to improving board oversight capacities, independence, and accountability to shareholders, taking into account the concerns outlined above.

10. Cross-border share-for-share transfers

Summary of Tokyo Recommendation:

- The commercial code should be completely neutral, treating foreign and local firms alike. For example share-swapping arrangements that apply only to Japanese companies should extend to all investors, regardless of nation origin.

Current status:

- No provision has been made available for foreign companies to make stock-for-stock acquisitions of Japanese firms, and therefore take advantage of tax-deferral advantages available to domestic share and asset transfers. The GOJ position is that global share swaps would raise shareholder protection problems since shareholders of one company would be forced to become shareholders in a firm based outside the country.

Commentary:

- The inability of foreign firms to acquire Japanese firms through a share-for-share transaction and therefore take advantage of tax deferral mechanisms available to wholly domestic transactions is clearly discriminatory.
- This also flies in the face of international trends supporting global M&A activity involving share-for-share transfers. Foreign firms are able to pursue these types of deals in countries such as the UK, France, Germany and the US.
- We also fail to understand the GOJ's concern about protecting Japanese shareholders against a foreign share-for-share acquisition. After all, nobody is "forcing" anybody to do anything: it is the shareholders themselves who make the decision whether or not to accept a foreign acquisition offer, which currently requires 2/3 support. Prohibiting global share-swaps simply denies Japanese shareholders of this choice.

Questions:

- We would like the GOJ to clarify its opposition to this recommendation and clearly explain why it is unwilling to extend to foreign firms the same privileges it affords domestic ones.

New recommendations:

- We maintain our original request.

11. Provision of legal services

Summary of Tokyo Recommendation:

- Barriers within the legal profession, such as prohibitions on foreign-domestic partnerships and requirements for written advice for foreign lawyers advising on third country law should be removed to ensure access to comprehensive, integrated legal advice in Japan.

Current status:

- Domestic/foreign partnerships – The GOJ's current position is that the "Specific Joint Enterprise" system provides adequate means for foreign/domestic lawyers to work together and has no intention of allowing complete freedom of association between foreign/domestic lawyers in Japan.
- Advising on third country law – The GOJ current position is that requirement for foreign lawyers to receive written advice before advising on third country law is necessary to protect clients.

Commentary:

- The Judicial Reform Council (JRC) report approved by the Cabinet on June 15 contains many good recommendations for the complete overhaul of the Japanese legal system. If implemented properly, the proposals contained in this report such as increasing the number of lawyers in Japan, expanding the role of specialized attorneys, and improving the disclosure process in civil trials could greatly improve efficiency and accountability in the Japanese legal system, which is one of the main goals of this working group.
- While the Final Report clearly recognizes the need for firms doing business in the global economy to be able to procure comprehensive and integrated legal advice, it did not explicitly call for the complete elimination of barriers in the legal services profession between foreign and domestic lawyers. This is unfortunate as these restrictions are not only clearly discriminatory, but also represent a major barrier to the establishment of a truly global legal services sector in Japan, something that the business community desperately needs.
- It should be noted that business organisations and government representatives have been lobbying for complete freedom of association between foreign and domestic lawyers ever since the Foreign Lawyers Law went into effect in 1987.

Questions:

- Will the GOJ implement all of the JRC's recommendations?
- When/how will the proposals be implemented?

New recommendations:

- We maintain our original request.

12. Pension reform

Summary of Tokyo Recommendation:

- The planned defined contribution (DC) pension scheme should be made more attractive for companies operating in Japan by including the following in its implementation:
    1. Employees and employers should be allowed to make joint contributions.
    2. Participants should be able to borrow from their pension reserves.
    3. The maximum contributable yearly limit should be raised.
    4. Relief and technical assistance should be provided to help companies make the switch from a defined benefit to a defined contribution system.

Current status:

- Legislation was passed on June 22, 2001 creating a DC pension scheme and reforming the current defined benefit (DB) corporate pension plan systems.

Commentary:

Defined benefit fund related:

- There has been no ministerial ordinances released yet concerning the detailed implementation of this reform, so it is difficult to predict the potential benefits/pitfalls of the new system.
- No details, for example, have been released regarding the new "minimum funding" requirement, an area of keen interest to companies with this type of plan.

Defined contribution related:

- Most of our recommendations have been ignored: tax exempt limits are much too low, there is no corporate matching, and participants are not allowed to borrow from their pension reserves (in other words, withdraw before they reach 60 years of age)
- It is still unclear what the status of the special corporate tax on DC plan contributions will be after the moratorium on this tax enacted by the Cabinet expires after FY2004.

General comments:

- The success of this reform will really depend on the attitude the GOJ in the implementation.

Questions:

- When will the new legislation regarding pension reform take effect?
- Will the GOJ monitor the implementation of these two pieces of legislation to make sure that they achieve their intended objectives?

New recommendations:

- New legislation reforming the corporate pension system in Japan should be implemented as soon as possible.
- The implementation should take into consideration the concerns mentioned above.
- The effects of these reforms should be monitored to make sure that they meet the needs of all the stakeholders involved.

13. Visas and work permits

Summary of Tokyo Recommendation:

- Japanese immigration law should make it easier for companies to efficiently allocate human resources on a global basis. Specific proposals include the following:
    1. The re-entry permit system should be abolished. Foreign workers should free to come and go as they please within the period specified by the original visa.
    2. The requirement for two-full time employees to obtain the investor/manager visa should be abolished.
    3. Companies should be able to decide independently who is eligible as a transferee, and not be limited by time of employment.
    4. The ten-years experience requirement for engineers, skilled labour, and humanities specialists should be cut in half.

Current status:

- Re-entry permit system – The maximum period during which re-entry is permitted has been extended from one to three years as of Feb.18, 2000. However, the GOJ has no intention of eliminating the re-entry permit system all together.
- Investor/manager visa – The two-full time employee equivalency requirement has been modified (as of Dec.25, 2000) to allow for potential investors that do not hire two employees but invest 5 million or more annually in a new project.
- Transferees – No change. Applicants must have worked a minimum of one year at head office in order to be eligible for this visa.
- Ten-years experience requirement – The GOJ is currently thinking about reviewing regulations regarding foreign specialists and engineers in areas where these skills are currently in demand.

Commentary:

- Re-entry permit system – While we appreciate the GOJ's efforts to extend the validity of re-entry permits, it is still not clear why a re-entry permit system is required.
- Investor/manager visa – It is premature to evaluate the impact these changes will have on applicants for this visa status.
- Transferees – While we understand the GOJ's desire to prevent the abuse of Japanese immigration laws, this requirement represents an unnecessary burden on European companies transferring employees to operations in Japan, especially for training purposes.
- Ten-years experience requirement – We are encouraged by current discussions surrounding specialist workers, especially in the IT sectors, and hope that the GOJ will reach a conclusion on this issue as soon as possible.

New recommendations:

- We maintain our original request.
- We will monitor recent changes to the investor/manager category to make sure this requirement does not prevent otherwise qualified individuals from receiving this visa.
- We urge the GOJ to take action on liberalizing requirements for specialist workers as soon as possible.