

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

**Brussels
May 27-28, 2003**

**“New Challenges for Sustaining Growth and Competitiveness:
Promoting Mutual Investment
and
Securing Benefits From EU Enlargement”**

The EU-Japan Business Dialogue Round Table held its annual meeting in Brussels on 27 and 28 May 2003 in the presence of Commissioner Liikanen, and Mr. Tetsuro Yano, Senior Vice-Minister for Foreign Affairs (MOFA), Mr. Kouya Nishikawa, Parliamentary Secretary for Economy, Trade & Industry (METI) and Mr. Shinichi Nabekura, Vice-Minister for Policy Coordination, Ministry of Public Management, Home Affairs, Posts & Telecommunications (MPHPT), under the co-chairmanship of Mr. Yotaro Kobayashi and Viscount Etienne Davignon.

The Members of the Round Table noted the positive impact of the Recommendations of the EU-Japan Round Table in 2002 on investment and trade flows, while highlighting remaining obstacles. They regret that some of their previous Recommendations are still not fully implemented and that the EU-Japan economic relationship has not reached its full potential. The Members emphasised the need to follow up recent commitments to promote an increase in mutual trade and investment with concrete measures designed to open markets and facilitate commercial activity. Only in this way will the benefits of increased trade and investment be realized.

List of contents

Part I: Summary of the Recommendations

Policy Statement concerning the World Trade Organization (*Working Party 4*)

Part II: Key Points of the Recommendations of :

- o *Working Party 1* on Trade & Investment
- o *Working Party 2* on Accounting & Tax Issues
- o *Working Party 3* on Information Society

Summary of Recommendations

The Members welcomed the Declaration of the EU-Japan Summit in Athens on 2 May, relating to bilateral economic relations, and in particular the call for considerable potential for growth in two-way flows of trade and investment. They noted with interest the results of the last EU-Japan Summit; namely - as far as Trade is concerned - the Summit agreed to launch closer bilateral dialogue in the areas of intellectual property protection, government procurement, access to medicines for developing countries and aviation-related technological matters.

1. Investment - Call for FDI Agreement

In order to accelerate the implementation of the “Japan-EU Initiatives on Investment”, in their Summit statement the authorities of Japan and the EU “encourage the close involvement of the private sector, in particular the EU-Japan Business Dialogue Round Table”.

For their part, the Members have responded positively to this request and will take all necessary steps. For many years they have attached great importance to this question, and in Part II of this document they set out precise suggestions that could foster FDI. The idea of asking the EU and Japan to negotiate a “FDI Enhancement Agreement” was adopted by the plenary in order to provide a more structured framework to mutual efforts to promote and facilitate and increase in foreign direct investment.

It is envisaged that such an Agreement would go beyond the commitments agreed to at the recent EU-Japan Summit to address the many ideological and structural barriers inhibiting foreign direct investment between the EU and Japan in areas such as taxation, corporate reorganization, human resource allocation and the regulation of commercial activity.

The Members expect that EU and Japanese governments will cooperate with the private sector, which intends to study the actual key impediments to FDI with the goal of facilitating the conclusion of this Agreement.

The Members hope that the Special Zones for Structural Reform, which were recently declared by the Japanese government, will contribute to attract FDI and that further development is expected in terms of the areas of deregulation and the regions to be covered.

2. EU Enlargement

The Members noted the great potential for growth and investment resulting from the expansion of the European Union by 10 new Member States, and stressed the importance of ensuring that the Enlargement would benefit both EU and Japan.

Therefore, all efforts should be made, while taking account of WTO rules, in order to avoid that Enlargement hamper Japanese traders and investors’ interests and activities in the acceding countries.

3. Information and Communication Technology

The EU-Japan Business Dialogue Round Table wishes to stress that the advent of a mass market for interactive multimedia services over a variety of broadband networks represents huge business opportunities for the ICT sector at large, as well as growth for the whole economy, and can contribute significantly to advancing economic and social welfare.

The Members are convinced that creating the conditions necessary to encourage the development and growth of broadband services will play an important role in achieving the Information Society, which is the goal of e-Japan/e-Europe initiatives.

In order to see continued investment in growth by means of new services provided on broadband networks, a number of key conditions need to be addressed on the public policy side, both in Japan and Europe.

The Round Table notably urges the European Institutions, the European Union Member States and the Japanese Government to have pro-active strategies for broadband, to connect their public administrations to broadband by 2005 and to adopt aggressive broadband penetration targets.

4. Life Sciences and Biotechnology

The Members recognise that there will be enormous business opportunities in Life Sciences and Biotechnology, which will comprise the leading industries in the 21st century. However, there are many challenges to realize the business. Considering the interdependence of economies it is a given fact that legislation concerning biotechnology and biotechnological products needs a global harmonization in the long term. As a prerequisite we have to strive for a common understanding on risk assessments and approval procedures.

The Members think that a joint seminar on the status of the implementation of the EU and Japan biotechnology strategy would be a good start for the new Working Party. Such a seminar should be held prior to the next Round Table meeting which is expected to take place in Japan next year. The Members count on a strong support for the new activities from the Japanese Government and the EU.

5. Corporate Social Responsibility

Corporate Social Responsibility is taking on increasing importance for European and Japanese companies. The subject was addressed for the first time, and will become a regular feature of the Round Table.

6. Sustainable Development

The definitions of sustainable Development vary greatly and the Round Table looks forward to exploring this subject in further depth. Among the issues that may be considered under this heading are the environment, population and migration, ethical business practices, skills development, etc. The Round Table may wish to consider forming a working party on these important issues for future consideration, and to make joint recommendations.

The Members affirm the necessity to establish a global approach to sustainable development, based on common rules in which all countries participate. In this respect, the EU and Japanese Authorities should further consider constructing the future global framework to combat climate change.

The Members hope that the EU Member States pay attention to harmonisation, respecting the objectives, and avoiding excess burden on the related industry when transposing and implementing the recently published “Waste Electrical & Electronic Equipment” and “Restriction of Hazardous Substances” Directives.

The Japanese Members are concerned about the introduction of the new chemical control by the EU. The regulation should focus on science-based risk assessment of chemicals and should be feasible with high cost-performance rates.

The Members also affirm that it is necessary to diversify energy resources by carbon-neutral energy such as biomass and hydrogen for the realisation of sustainable society. The diversification of energy resources will lead not only to reduction of CO₂ but to creation of new industries and employment.

7. The economic situation in the EU and Japan

The Members noted the negative effect that the global and domestic economic climate was having on business development in the EU and Japan.

The Japanese Members expressed concerns about the beleaguered Euro-zone economy where, in particular Germany and France, two large economies in the area, are now faced with the risk of a recession. The Euro-zone economy could suffer significantly from the rapid appreciation of the Euro in recent weeks, and deflation has now surfaced as a serious risk factor. In addition, it is restricted to overly tight monetary and fiscal policies.

They urge EU and Member States to take measures in the middle and long term, including restructuring their economies.

The European Members are deeply concerned about the absence of growth in Japan, and the increased deflation as revealed by the last official figures and high level of government debt, and banking sector weakness.

The level of deflation and the absence of growth are of risk for the world economy as a whole, taking into account the size of the Japanese economy in the world economy.

It is crucial that the Japanese authorities implement the structural reforms needed to revitalize the Japanese economy and alleviate deflationary pressures.

8. EU-Japan Centre for Industrial Cooperation

In this context, the EU-Japan Centre is expected to continue to support the EU-Japan Business Dialogue Round Table and, more importantly, to adapt its activities to address the new challenges.

**EU-Japan Business Dialogue Round Table
Brussels, 27-28 May 2003**

Policy Statement

concerning the

World Trade Organization

On the occasion of the annual meeting of the EU-Japan Business Dialogue Round Table, business leaders from the European Union and Japan have adopted the following message:

1. We strongly believe that, at a time of growing global political concern and economic uncertainty, further liberalisation of international trade and investment will have a decisive impact on the world's economic growth.

The successful conclusion of a new trade Round negotiation can help restore the unity of the international community through the strengthening of the multilateral free trade system, and provide meaningful answers to our challenges for the sustainable development of a global economy, the realisation of a highly sophisticated Information Society, and the innovation of new technologies.

2. Last year, at our annual meeting held in Tokyo in July 2002, we welcomed the start of a new Round of negotiations and the adoption of a broad and balanced agenda in Doha in November 2001.

We reaffirm that it would be essential to achieve a successful and timely conclusion of the ambitious multilateral trade Round agreed in Doha. We urge all WTO members, including the European Union and Japan, to accelerate the process to complete negotiations by the target date of 1 January 2005. In particular, we encourage the European Union and Japan, together with the United States, to take a leading role to push the negotiation forward. We also note that European Union and Japan share a common position on many issues and expect both parties to pursue closer mutual cooperation.

3. We strongly support the comprehensive approach of a new Round negotiation to address every negotiation agenda without excluding any specific agenda.

Whilst observing progress in a number of areas, we regret noticing that several deadlines of the Doha Development Agenda have expired without a consensus having been reached, notably in the areas of Agriculture, Special and Differential Treatment, and TRIPs and Health. An agreement in these three areas would have been extremely beneficial, not only in terms of progress in the Round, but also for the specific economic and social significance of the issues involved.

4. We encourage all WTO members to achieve a successful outcome of the Fifth WTO Ministerial Conference in Cancún, Mexico, in September 2003, to deliver the necessary progress, including the formal launch of negotiations on all the Singapore issues, which would allow for the timely completion of the Round under the single undertaking approach.

We are prepared to make further efforts in promoting awareness on the importance of, and seeking support for, all the Singapore issues.

5. We recognise the central role of developing countries for the success of the new Round. We therefore expect the negotiations to incorporate consideration of the needs of developing countries in the process, and encourage the European Union and Japan to continue the effort for “capacity building,” in order to allow more effective participation of developing countries in the WTO’s decision-making process.

6. We emphasize that all WTO members should fully comply with all their WTO commitments.

We are deeply concerned about the emerging trend of protectionism and the move to trade-distorting measures, which overshadow the WTO negotiation process. We ask all countries to conform to multilateral rules, and call for the European Union and Japan to confront protectionism by reinforcing the multilateral principles of openness and non-discrimination.

Recognizing the importance of intellectual property rights in today’s economy, we urge in particular the European Union and Japan to monitor the infringements of these rights, and to take appropriate actions, when necessary.

7. We welcome the fact that the European Union and Japan are constructively working together with the aim of making progress in the negotiations and achieving successful results. We encourage the European Union and Japan to continue to maintain close contacts with the representatives of the private sector.

8. We hereby agree that we shall continue to study individual agenda items in detail, and to provide policy proposals from time to time in response to the progress of government-to-government negotiations.

Key Points of the Recommendations

The key points of the Recommendations of the Round Table currently being held are presented in this section, which lists the gist of the Recommendations by both EU and Japanese Round Table Working Parties.

Please refer to each Working Party Recommendation package for full text.

Working Party 1 on Trade & Investment

§ 1. Recommendations to the EU and Japan

Joint recommendations:

1-EJ-1 Call for the negotiation of a Framework Agreement on the Enhancement of Foreign Direct Investment (FDI) between the EU and Japan

It is envisaged that this Agreement would contain the following commitments:

(1) Expression of unequivocal support toward the enhancement of FDI

1. The benefits to the EU and Japan for a mutual increase in FDI should be clearly stated
2. The agreement should contain a commitment to cooperate at the highest level to promote the benefits of foreign investment to the general public

(2) Eliminating tax-related barriers to investment

1. Prevention of double taxation

- a) An agreement should be concluded providing for an exemption from withholding taxation on dividend payments, interest and royalty payments among affiliated companies between the EU and Japan.
- b) It should be agreed that EU-Japan investments would be mutually exempt from controlled foreign corporation (CFC) taxation. Based on the agreement, the treaties for the avoidance of double taxation concluded between each EU Member State and Japan should be revised to provide for the mutual exemption of CFC taxation. Abuse of this exemption should be addressed in the treaties.
- c) Agreement should be reached to expand the application of the foreign tax credit system. Based on this agreement, the foreign tax credit systems should be revised in the EU Member States and Japan.

2. Transfer pricing taxation
 - a) The EU Arbitration Convention, which provides for arbitration in case of disagreements among the tax authorities of the EU Member States, should be extended to include transactions between the EU and Japan.
 - b) Documentation requirements should be harmonized and simplified and mutually acceptable standards of best practice concerning methodologies (including clearer interpretation of OECD Guidelines) should be developed in order to reduce costs associated with complying with transfer pricing regulations.
 - c) Guidelines on unilateral and bilateral advance price agreements (APAs) for transactions taking place between the EU and Japan should be established. At the same time, the system should be improved so that it functions more smoothly.

(3) Facilitating business development: human resource considerations

1. An agreement should be reached to speed up work and residence permit acquisition procedures for intra-company transfers between the EU and Japan, to enable transferred personnel to submit applications for permits after entering the destination country, and to grant the same rights to spouses.
2. A commitment should be made to conclude social security treaties between all the Member States and Japan at the earliest possible date. In addition, ways to expedite the conclusion of such treaties should be studied, including the possible conclusion of a model social security treaty between the EU and Japan.

(4) Facilitating corporate reorganization: legal and tax perspectives

1. The EU Merger Directive should be expanded with regard to the types of companies and the types of transactions covered, including transactions involving Japanese companies. The requirement for firms to hold shares in “shell” companies after reorganization should be abolished in every EU Member State.
2. The Japanese Commercial Code and company laws in the EU member states should be amended to allow for cross-border share exchanges between the EU and Japan. Relevant tax laws should also be amended so that tax may be deferred.

(5) Facilitating new business development through regulatory reform

Direct investment should be enhanced by revising regulations concerning market access, including regulations on the transfer of assets, services and intellectual property and regulations on capital, as well as by establishing an open business environment that does not place new market entrants at a competitive disadvantage.

§2. Recommendations to the EU

Japan-side recommendations:

1-E-1 EU policy on taxation and company organization

1. A common consolidated corporate tax base within the EU should be established as soon as possible based on uniform tax accounting rules, without a distinctions between the types of companies.

2. Tax deferral of unrealized gains on cross-border goodwill transfer between group companies should be allowed. Tax deferral on real property transactions and transfer of other intangible assets should also be allowed.
3. We support the Report presented by the High Level Group of Company Law Experts (November 2002), which calls for prioritizing a Tenth Company Law Directive, aimed at building a “legal framework for cross-border mergers”, and its early implementation.
4. We welcome the political agreement (January 2003) on the adoption of the directive aimed at exempting withholding taxation on payments of interests and royalties between affiliated companies, and expect an early adoption and implementation.
5. We hope a timely adoption of the directive, which allows offsetting the losses of subsidiaries/branches against the profits of the parent company.

1-E-2 Smooth movement of workers in the EU

1. Double taxation on contributions and payout of occupational pensions should be eliminated.
2. We welcome a political agreement (December 2002) on the draft Council Regulation to extend the totalization of basic pensions to non-EU nationals when they move across the EU countries and expect its early implementation.

1-E-3 Swift decision making of the EU after its enlargement

1. We hope the realization of the EU’s institutional reforms that will enable speedier decision-making, particularly, the abolishment of unanimity requirements in the legislation of taxation policy.
2. In the process of the enlargement of the EU, we call for sufficient preparations, publication of roadmaps, timetables or progress, etc. for the smooth transition of customs duties and value-added taxes in the new Member States.

1-E-4 Reasonable settlement of tariff classifications

1. Tariff classification based on ITA agreement should be applied to IT products designed utilizing digital or network technology. Especially, reconsideration should be made for products with multifunctional capabilities by IT technology, since unreasonably classified cases are observed.
2. We do recommend that multifunctional products based on IT technology be classified under the ITA products in tariff classification through reasonable discussions at the WCO conference to be held in the coming fall.

1-E-5 Proposed European Commission regulation on chemicals control

We support the objective of the regulation to protect human health and the environment, but urge the Commission to focus on risk assessment and risk control of chemicals based on scientific evidence. Obligations under the TBT and other WTO agreements should be taken into account.

1-E-6 Community patent

We welcome the decision to establish a unified patent system and expect its early adoption and implementation.

§3. Recommendations to Japan

Europe-side recommendations:

1-J-1 Promoting economic growth

1. More effective use of monetary and fiscal policy should be made to combat price and asset deflation.
2. More efforts should be made to re-capitalize the banking system and clean-up the bad loan situation.
3. Public spending should be redirected into more productive areas of the economy.

1-J-2 Championing business activity at the local level

1. More private sector involvement in the delivery of public services should be encouraged through the use of PFI/PPP schemes.
2. Local governments should take a more proactive role in attracting investment beyond current promotion efforts; for example, by offering special tax and/or regulatory incentives to potential investors.

1-J-3 ~ 1-J-4 Modernizing legal and tax systems to support foreign investment

1. Commercial and tax laws should be revised to allow for cross border stock swaps on a tax-neutral basis (1-J-3).
2. Legislation before the Diet allowing Japanese and foreign lawyers to form partnerships and allowing foreign lawyers to employ Japanese lawyers as associates should be implemented as soon as possible (1-J-4).

1-J-5 ~ 1-J-11 Facilitating business development through regulatory reform

1. Japanese regulators should take a pro-active stance in promoting regulatory transparency and clarity. As a *matter of standard practice*, all requests for clarification (including request for clarification received outside of the “no-action letter system”) should be answered *in writing* (1-J-5).
2. Regulatory reform initiatives should be strengthened to promote competitive market mechanisms and eliminate the regulatory burden associated with introducing new products into the Japanese market in areas such as telecommunications (1-J-6), banking (1-J-7), food (1-J-8), insurance (1-J-9), in-vitro diagnostics (1-J-10), and animal health (1-J-11).

Japan-side recommendations

1-J-12 Tax reform to facilitate investment in Japan

1. A new rule should be established for participation exemption of dividends and capital gains from taxation
2. Improvements should be made to the CFC tax system

Working Party 2 on Accounting and Tax Issues

[Recommendations to the EU and Japan]

2-EJ-1 ADOPTION OF INTERNATIONAL ACCOUNTING STANDARDS

[Joint Recommendation]

(1) Involvement in the formation of IAS

- We hope that the GOJ and the EC will closely observe the progress of IASB projects, encourage extensive discussion among all stakeholders, seek to integrate their opinions, and be involved actively in the formation of IFRS through activities of IOSCO and the Standard Advisory Commission (SAC) with the IASB.

- Furthermore, to address our particular concerns about performance reporting, we ask the GOJ and the

EC to convey our opinions on this subject to the professional bodies advising them, and to the IASB.

2-EJ-2 TRANSFER PRICING

[Joint Recommendation]

(1) Implementation of rules consistent with OECD's Transfer Pricing Guidelines

(2) Support for discussion in OECD on the standardization of Advance Pricing Agreements (APA).

[Recommendations to the EU]

2-E-1 ADOPTION OF INTERNATIONAL ACCOUNTING STANDARDS

[Joint Recommendation]

(1) Progress in implementing IAS

- We are pleased that the EU continues to make steady progress towards implementation of IAS in 2005 for listed companies.

2-E-2 CONSOLIDATED TAX

[Joint Recommendation]

(1) Single consolidated corporate taxation in the EU's internal market

We hope that the EC will bring forward further initiatives this year and that the Communication expected in October 2003 will be issued then.

2-E-3 ELECTRONIC COMMERCE TAXATION

[Joint Recommendation]

(1) Support transposition by the Member States of Directive 2002/38/EC by 1 July 2003.

[Recommendations to Japan]

2-J-1 ADOPTION OF INTERNATIONAL ACCOUNTING STANDARDS

[Joint Recommendation]

- (1) Progress in implementing IAS
 - We recommend that the GOJ commits itself soon to IAS and establishes a timetable for adoption of these standards by listed companies in Japan

2-J-2 CONSOLIDATED TAX

[Joint Recommendation]

- (1) Improvement of the consolidated tax system
 - We hope that the GOJ will reform the system, abolishing the 2% surtax and allowing the carrying forward of tax losses in subsidiaries incurred before the system came into effect.

2-J-3 ELECTRONIC COMMERCE TAXATION

[Joint Recommendation]

- (1) Invite the GOJ to intensify its study of OECD's principles on e-commerce taxation.

Working Party 3 on Information Society

[Joint Recommendations to EU and Japan]

3-EJ-1 The following actions should be promoted to achieve the IT society aimed at by eJapan/eEurope and to help economic growth and help solve social problems.

- (a) Solution of social problems (e.g. unemployment) through the eJapan/eEurope initiatives
- (b) Public authorities at national level should lay down specific national targets for broadband subscribers
- (c) Development of solutions and business models
- (d) Global expansion of high quality broadband networks and ensuring their interoperability
- (e) Creation of business opportunities through cooperation with communities
- (f) Development of new business models through linkage between telecommunications and broadcasting with the appropriate regulatory conditions

3-EJ-2 Both the government and private sector should contribute to the successful deployment of broadband; for example, rule-making of copyright protection.

The private sector should promote the construction and implementation of business models that capitalize on broadband services while the government should promote policies to develop an environment that facilitates the use of broadband services.

3-EJ-3 It is necessary to monitor the progress of eJapan/eEurope periodically, and both the government and the private sector should develop and implement actions to accelerate such progress.

Because both technology and markets are subject to dramatic change in an IT society, it is necessary to monitor the progress of eJapan/eEurope periodically.

3-EJ-4 It is necessary to establish a competitive environment that stimulates investment in broadband.

Establishment of a competitive environment inspired by competition principles and ensuring that a level playing field exists for all markets participants will stimulate investment in broadband infrastructures and services and foster innovation.