



Issues for the New Millennium
The EBC Report on the Japanese Business Environment
2000

The
European Business Community
In Japan

The European Business Community in Japan

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The EBC is the trade policy arm of the following European business organisations in Japan:

Austrian Business Council
Belgium-Luxembourg Chamber of Commerce in Japan
British Chamber of Commerce in Japan
Danish Chamber of Commerce in Japan
Enterprise Ireland
Finnish Chamber of Commerce in Japan
French Chamber of Commerce and Industry in Japan
German Chamber of Commerce and Industry in Japan
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About the EBC:

The European Business Community (EBC) is the trade policy arm of the 13 European National Chambers of Commerce and Business Associations in Japan. First established in 1972, the EBC works to improve the trade and investment environment for European companies in Japan.

The EBC currently represents more than 3,000 local European companies and individuals who are members of their national chambers of commerce. Around 360 of the companies participate directly in the EBC's 27 industry committees and subcommittees, whose work aims to improve the local business environment in a wide variety of economic sectors.

EBC speaks from a platform based on member consensus, representing the common view of companies from a major economic region in the world and one of Japan's most important trading partners.

The EBC works closely with the Delegation of the European Commission in Japan and the embassies of European countries to co-ordinate policy proposals and facilitate European business in Japan.

For more information on the EBC and its activities, please contact the EBC secretariat at the following address:

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Written and edited by Casey Sedgman

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Message from the Chairman

Issues for the New Millennium has been published by the European Business Community (EBC) to identify the unresolved issues affecting European trade and investment in Japan as we enter the 21st century. Reflecting the depth of practical experience, views and recommendations of industry experts within EBC committees and member companies, this publication covers 26 key sectors and provides the most up-to-date assessment of the current business environment in Japan.

While there has been tremendous change in Japan over the last 20 years, the EBC's *Issues for the New Millennium* shows the need for a more dynamic regulatory reform program than we are seeing at present and swifter action to eliminate the pervasive non-regulatory barriers to trade that still persist. I sincerely hope that the latest publication of the EBC's premier policy report will serve as an effective tool in encouraging the Japanese government to improve European access to a wide variety of sectors. The greatest beneficiaries of more open markets will be Japanese companies due to their improved international competitiveness. Ultimately, Japanese consumers will enjoy a greater diversity of products and lower prices because of more competition in the market.



Issues for the New Millennium will be used as a key document in the EU-Japan Business Dialogue Roundtable to be held in Japan this July. The findings of these high-level business discussions will be made available to the European Commission prior to the EU-Japan Summit, the annual bilateral political meeting, which this year will be held in Japan shortly after the Business Dialogue. I hope that this publication will not only have a significant impact on the bilateral business and bilateral government discussions, but also improve understanding and communication within the business community.

I would like to thank the enormous number of EBC members for their ongoing contribution of time and effort to support EBC's sector-based committees. Without the valuable insight drawn from their industry experience, *Issues for the New Millennium* could not have been produced. I would also like to acknowledge the important contributions of the capable representatives of the Delegation of the European Commission in Japan and the European National Embassies in Tokyo for their expertise and participation in EBC's committees. Many EBC members deserve special recognition for their generous financial contributions that allowed us to produce this report, and I am extremely proud to be able to list these supporters in the Acknowledgments section of this publication.

EBC members are located in Japan. They are operating alongside their Japanese counterparts and are employing Japanese staff. EBC's *Issues for the New Millennium* is an attempt to find solutions to encourage growth and development in the Japanese economy by improving the business environment.

Isabelle Hupperts,
Chairman,
European Business Community

Message from the Executive Director



The European Business Community in Japan (EBC) is a unique organisation - it speaks with one voice on a variety of trade and market access issues, yet represents companies with strong national interests from the diverse countries of Europe. As the trade policy arm of the 13 European National Chambers of Commerce and Business Associations in Japan, the EBC represents more than 3,000 local European business interests in the ongoing dialogue on trade issues with the Japanese government and industry organisations.

Issues for the New Millennium is the EBC's latest effort to address many of the major challenges that European companies face in the Japanese business environment. This publication recommends a suite of measures relating to deregulation, transparency, infrastructure reforms and the mutual recognition of standards in a bid to improve the Japanese business environment and increase European investment.

The EBC is extremely fortunate to be led by Isabelle Hupperts, whose depth of insight and understanding acquired from extensive Japanese business and cultural experience has proven invaluable in directing EBC's efforts to promote European business interests in Japan. Moreover, she is responsible for the milestone achievement of gaining a meaningful role for the EBC Chairman in the annual high-level EU-Japan Business Dialogue Roundtable, the second of which will be held this July in Japan. Her guidance throughout the production of *Issues for the New Millennium* was invaluable.



The EBC is equally fortunate to have 27 sector committee chairmen and over 360 committee members whose enthusiasm and efforts are the driving force of the EBC. Without the knowledge and experience of these dedicated people, it would not have been possible to produce *Issues for the New Millennium*.

The task of completing a project of this magnitude was overwhelming. Casey Sedgman, as the editor of *Issues for the New Millennium*, deserves special recognition for the way in which he met the multiple challenges of researching, writing and compiling the material for this publication. His valuable work has ensured that *Issues for the New Millennium* will serve as a high-level reference document in both the business and government sectors as we enter the 21st century.

I would like to express my appreciation for the unfailing support of everyone involved in the production of this publication and hope that it will make a significant contribution to the growth and development of both the Japanese economy and European companies doing business in Japan.

Alison Murray,
Executive-Director,
European Business Community

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Meiho Corporation	Radiometer K.K.	Solvay Automotive Asia K.K.
Midas International	Roche Diagnostics K.K.	Sonderhoff & Einsel Ltd.
Merck Japan Ltd.	Rolls Royce International Ltd.	Sulzer Medica Japan K.K.
Nihon L'Oreal K.K.	Royal & Sun Alliance Insurance plc	Swedbank
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Summary



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Ms. Alison Murray

Executive Director,
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summary

The Japanese economy is experiencing a period of fundamental change as it enters the new millennium. A decade of stagnant growth clearly revealed the need to address many of the structural and regulatory deficiencies that have plagued the Japanese economy for much of the post-war era. In response, the Japanese Government embarked on an ambitious program to reduce regulatory barriers, stimulate the economy, improve market access, strengthen competition, and promote inward investment. Barriers to trade and investment are slowly falling, and opportunities increasing for European companies in Japan.



The European Business Community (EBC) warmly supports attempts by Japanese government and business to deal with deep-seeded problems in the Japanese economy. European companies have a long history in Japan and take an intimate interest in its recovery and continued development. This policy paper was produced with this in mind — to provide constructive suggestions for improving the Japanese business environment for the benefit of all concerned.

The EBC feels that more can be done to improve the regulatory environment and harmonise Japanese standards with international best practice. This would stimulate competition, improve market access, and ultimately benefit Japanese consumers, industry and society. Many European countries have undergone similar economic transformations in recent years, and the EBC welcomes every opportunity to share this experience.

A summary of the key issues and recommendations follow on the next three pages. This is followed by a more detailed analysis of specific business sectors and issues. For more information on the ideas presented in this publication, please contact any one of the individual committee chairmen, or the EBC secretariat. The EBC is committed to Japan, and will continue to work towards improving the Japanese business environment.



Key Issues:

- **Product approval** — The restrictive and time-consuming product approval process and regulatory environment in Japan stifles the introduction of innovative products at competitive prices. The EBC urges the Japanese Government to reduce micro-level steering by regulatory authorities in product design and approval. "File and use" notification procedures should replace the current pre-approval needed for products in such diverse sectors as insurance, animal health and medical diagnostics. This would promote good corporate governance and ultimately better serve the Japanese consumer.
- **Regulatory burden** — Onerous licensing, filing and product distribution regulations further limit companies' ability to offer innovative products and services at competitive prices. Filing and licensing requirements in such diverse sectors as health sciences, cosmetics, telecommunications, civil aviation, and shipping not only present a major barrier to product innovation and service delivery, but also often fail in their original purpose to protect consumers and society. The EBC urges the Japanese Government to increase the scope of deregulation and re-regulation to promote a more competitive environment in the Japanese economy and provide effect safeguards against abuse.
- **Standards harmonisation** — Increasing harmonisation with Europe and the rest of the world will expose Japan to international best practice and reduce redundancies in the product approval process. Improvements have been made in the acceptance of foreign data in the approval process for pharmaceutical products, and the EBC urges the Japanese Government to extend this recognition to medical devices, animal health products, cosmetics, and other goods requiring re-testing for approval in Japan. The EBC is discouraged, however, by the continued delay in the implementation of the planned Mutual Recognition Agreement (MRA) with the EU in telecommunications terminal equipment, electromagnetic compatibility, electrical safety, good medical practice for pharmaceuticals, and good laboratory practice for chemicals. In addition to a quick conclusion of the MRA, the EBC would like the Japanese Government to expand the scope of harmonisation and mutual recognition to include European product definitions, organic food regulation, and construction services licensing.
- **Regulatory transparency** — The regulatory environment lacks transparency in Japan, which makes it difficult for companies to both predict the consequences of business decisions, and plan for new regulatory developments. The EBC encourages the Japanese Government to establish a system in which companies could ask for written clarification on issues of concern. This body of precedent would serve to complement and clarify existing rules, especially in areas with evolving or complicated regulatory environments such as the financial sector and the Japanese tax system. This would not only make it easier for companies to navigate regulations governing trade in Japan, but also improve the investment environment.



- **Regulatory oversight** — In addition to expanding the scope of deregulation, the EBC encourages the Japanese Government to renew its commitment to promoting competition in the Japanese economy by refocusing regulation on companies with dominance and, as has been accomplished in the financial sector, establishing independent regulatory authorities with pro-competitive mandates. In particular, the EBC would like the Japanese Government to review business practices and the role of regulatory authorities in the construction sector, on the waterfront, and at Japan's international airports. In sectors such as telecommunications, deregulation itself will not improve the competitive environment; the continued dominance of NTT affiliated companies needs to be addressed to ensure that new companies can compete effectively and the benefits of liberalisation are passed on to the Japanese consumer.
- **Accounting practices and financial supervision** — Japanese financial accounting practices remain inconsistent and obscure, and market value accounting for current assets and liabilities is not adequately enforced. It is imperative that the Japanese Government does all that it can to promote financial transparency, as improper disclosure and accounting practices undermine confidence in the financial system and act as barriers to increased investment in the Japanese economy. Wherever possible, accounting and disclosure practices should be consistent with accepted international standards as set out by such bodies as the OECD.
- **Procurement** — The government procurement process effectively eliminates competition in a number of important sectors such as construction, aerospace, and defence. The system lacks transparency, as many government contracts remain heavily influenced by politics, lobbying, and bid rigging. This not only restricts Japanese access to innovative European products and services, but also increases overall costs to the Japanese taxpayer. Procurement decisions should be made on a competitive basis free from political influence so that Japan can experience the benefits of buying European products.
- **Government influence in the private sector** — The EBC is concerned about the undue amount of non-regulatory influence the Japanese Government exerts over the private sector through procurement decisions, market activity in areas such as insurance and telecommunications, and ministerial and bureaucratic guidance. The EBC feels that in order to promote true regulatory transparency and competition in the Japanese market, the Japanese Government will have to take a more neutral and objective stance in promoting industrial development and guiding private sector business and investment decisions.



Summary cont'd

- **Tariffs** — Tariffs remain an important barrier to trade in key economic sectors such as industrial materials and food products. High tariff rates limit the ability of the Japanese consumer to buy high quality products at internationally competitive prices. High tariff rates also have an adverse effect on the competitiveness of important Japanese industries such as steel and glass that rely on cheap commodity procurement to survive in an increasingly international market. All remaining tariffs and quotas should be eliminated for the benefit of Japanese consumers and industry.
- **Taxation** — The EBC is encouraged by the Japanese Government's apparent commitment to bring the Japanese tax regime in line with international practice. The EBC welcomes reductions in the overall effective corporate tax rate and the planned introduction of a system for taxing groups of companies. However, the EBC feels much more can be done to improve the Japanese investment environment, improve transparency in the tax system, harmonise tax standards with the rest of the world, and provide tax relief to companies working to overcome the challenging economic environment that has characterised Japan for much of the past decade.
- **Border control** — Despite recent attempts to rectify the situation, port of entry procedures and facilities at Japanese airports and harbours are still in desperate need of improvement. Plant quarantine laws do not conform to accepted international standards that clearly distinguish between harmful and non-harmful organisms. Furthermore, Japanese Customs authorities exercise excessive arbitrary control in applying tariffs, testing imported products, and seizing suspected counterfeit goods. This situation is further exacerbated by inadequate handling facilities and high costs caused by a lack of competition in services at Japanese ports of entry.
- **Legal environment** — As the Japanese economy becomes more and more exposed to international standards and practices, it is imperative that companies have access to comprehensive trans-national legal advice and a transparent legal process that provides appropriate recourse for clear transgressions of commercial and intellectual property law. EBC urges the Japanese Government to remove barriers within the legal profession to make it easier for companies to obtain the integrated legal services they need to do business in an increasingly international environment. At the same time, the EBC would like to see improvements made to the legal process itself through improved disclosure laws, increased damage awards for intellectual property rights violations, and increased transparency in the commercial code surrounding merger and acquisition activity.



Business

Fundamentals

**E-Commerce
Intellectual Property
Investment
Legal Services
Tax**

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e-commerce

Electronic commerce is rapidly becoming a major force in the global economy. As e-commerce continues to grow, there will be an increasing need to address issues in such areas as infrastructure, governance, security, privacy and content that will affect the development of this sector in Japan and around the world. The EBC E-Commerce Committee looks forward to adding its voice to the policy debate surrounding the development of electronic commerce in Japan, with special emphasis on the issues outlined below.

Key issues:



- **Authentication and security regulation** — The EBC is very concerned that the National Police Agency (NPA) wishes to impose a strict regulatory regime on all Certification Authorities (CA) in areas such as security, personnel, use of customer information, and control of encryption keys. These regulations would be difficult to implement, disadvantage electronic commerce over other forms of commerce, be inconsistent with standards in the rest of the world, and ultimately slow the development of e-commerce in Japan.

Recommendation: The EBC supports a light-handed approach to Internet regulation. Consumers should be able to choose the appropriate technology and authentication mechanism that meets their needs. The EBC favours the development of a voluntary, industry-led scheme for CA accreditation.

- **Harmonisation of international standards** — Electronic commerce is truly a global phenomenon, requiring an international effort to solve problems related to such issues as interoperability, consumer protection, taxation, and Internet regulation.

Recommendation: The EBC urges the Japanese government and industry to continue working towards harmonisation of electronic commerce standards and increasing international dialogue with counterparts around the world.

- **Public policy debate** — A complex maze of business organisations, government ministries, consumer groups, and research institutes is involved in the development and promotion of Internet standards and business practices in Japan. This makes it difficult to follow, and participate in, the public policy debate surrounding the development of electronic commerce in Japan.

Recommendation: The EBC supports increased clarity, consolidation and a more meaningful role for international business groups in the debate surrounding the development of e-commerce in Japan.

Background:

EBC E-Commerce Committee Member Companies

BT Japan
Cable & Wireless IDC
EU-Japan Centre
Eurotechnology
France Telecom
ICL Japan
JAPON.NET
Nippon Ericsson
Nokia Japan
OneWorld
Pascale Sinnaeve
Skandinaviska Enskilda Bank
STMicroelectronics
Virgin Atlantic Airways

E-Commerce in Japan

The Japanese market in electronic transactions is predicted to surpass the 70 trillion-yen mark by the year 2003. As such, the Japanese Government is pushing the development of electronic commerce through policy initiatives designed to promote entrepreneurship, infrastructure development, and increased Internet usage. With over 15 million users, Japan is already the second largest Internet market in the world. And with over 3 million internet-capable mobile phones, the leading market for this emerging segment. The newly established EBC E-Commerce Committee is excited about the prospects for electronic commerce in Japan, and looks forward to making a meaningful contribution to the policy debate surrounding the usage of the Internet to do business.

Governance and the regulatory environment

The EBC generally supports the basic principles for electronic commerce emphasised by other business and governmental forums such as the EU-Japan Business Dialogue Roundtable, the Alliance for Global Business, and the OECD Forum on Electronic Commerce. In particular, the EBC agrees that the private sector should lead the development of the Internet through the establishment of internationally recognised codes of conduct, guidelines, and enforcement mechanisms designed to promote the safe and efficient usage of the Internet to do business. This will require a concerted effort on the part of governments, businesses, and consumer groups to increase information exchange and work towards the international harmonisation of standards and practices.

Promoting trust

Promoting trust and confidence in Internet transactions is one of the keys to the development of electronic commerce in Japan and around the world. Protecting electronic transactions through the use of authentication and security technologies will be one of the primary ways to build this confidence. The EBC is concerned, however, that Japan is considering a proposal submitted by the National Police Agency (NPA) recommending the implementation of a strict regulatory regime for accreditation authorities in areas such as security, personnel decisions, use of customer information, and the control of encryption keys.

The EBC feels these proposed regulations would be counterproductive to the development of electronic commerce in Japan. In order to promote trust and confidence in electronic commerce, the EBC recommends that:

- Digital signatures be legally recognised and given the same legal authority as seals in Japan
- Businesses be able to freely choose security and authentication technologies that suit their needs
- There be no discrimination between the providers and users of similar services
- All developments be consistent with international standards and practice.

Other issues

Telecommunication infrastructure provides the backbone for electronic commerce. Restrictions on network access, bandwidth limitations, and interoperability are major obstacles to the growth of electronic commerce around the world. The EBC encourages the Japanese Government to promote infrastructure development by continuing to open markets and eliminate barriers to competition by, amongst other things, reducing interconnection rates and restrictions to NTT's fixed and mobile networks.

Issues such as taxation, liability, and applicable law are difficult to address given the international nature of electronic transactions. It is important to develop consistent international standards on the application of taxes, tariffs, and commercial law to avoid such problems as double taxation and intermediary liability.

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intellectual property

Protection of intellectual property rights is becoming more and more important with the rapid development and incorporation of technology and software into the Japanese economy. In recognition of the increasing importance of intellectual property rights protection to the Japanese economy, the Japanese Government has made an effort in recent years to improve the application process for rights procurement and enforce applicable laws. The EBC is encouraged by these developments and urges the Japanese Government to continue addressing the issues outlined below.

Key issues:



- **Legal process** — The legal process for patent and trade mark protection lacks efficiency and transparency in Japan. Patents are commonly given only a narrow scope of protection and inadequate disclosure laws make it very difficult to collect evidence against suspected infringements. Furthermore, awards for damage rarely reflect the economic impact patent infringement has on the right holder.

Recommendations:

1. *The EBC encourages the Japanese Government to provide judicial or administrative means for a patent owner to obtain information about suspected infringement, with appropriate safeguards against abuse.*
2. *The interpretation of design claims should be extended to protect against minor modifications.*
3. *Awards for damages should adequately reflect the economic impact of the infringement.*

- **Border control** — Japanese Customs remains the sole authority for seizing goods imported into Japan. Unlike in Europe, neither rights owners nor defendants have any input into Customs decisions. The liberalisation of parallel imports is also used much too often as a way to circumvent the law on counterfeit goods.

Recommendation:

Procedures for seizing suspected counterfeit goods at the Japanese border should be subject to a transparent judicial process. The burden of proof should be shared between the importer and the rights holder, and not simply be subject to an arbitrary decision by Japanese Customs.

Background:

Improvements to Japanese Patent Law

The EBC is generally pleased with efforts made by the Japanese Government to improve the protection of intellectual property rights in recent years. The application process, in particular, has greatly improved. Pre-grant oppositions have been replaced with post-grant oppositions, and Patent Law revisions have limited the extent to which patent applications can be amended after filing. It is now also possible to file patent applications first in English, and provide a Japanese translation later.

Japan has also been taking an increasingly active role in the international trend towards global harmonisation of intellectual property rights through such forums as the World Intellectual Property Organisation (WIPO) and the General Agreement on Tariffs and Trade (GATT). The Japanese Patent Office has been particularly progressive in bringing Japanese practice in line with international standards.

The legal process

Unfortunately, improvements to the application process continue to be offset by problems with the Japanese legal system that continue to make it difficult to both prove infringements and collect damages from violators. In particular, the EBC is concerned about the issues outlined below.

- **Inadequate disclosure laws:** Despite amendments in 1996 to the Code of Civil Procedure, disclosure laws remain inadequate. As a result, it remains difficult to collect information on suspected intellectual property rights violations.
- **Design interpretation:** Japanese courts continue to take a very narrow view in interpreting the similarity of designs under the design and unfair competition law, depriving the law of its primary purpose - effectiveness. Even minor changes prevent counterfeit goods from being accepted as dead copies.
- **Small awards for damage:** Awards for damage rarely reflect the economic impact a violation has had on the rights holder. Changes to the Patent Law in January 1999 attempted to shift damage awards from a royalties based system to a profit based system. However, since disclosure laws prevent rights holders from collecting adequate information on suspected violations, it has proven difficult to assess the economic impact of a violation and little has actually improved.
- **Not enough lawyers:** The EBC is also concerned that there are not enough lawyers to deal with the amount of intellectual property rights claims in Japan. Strict codes of conduct prevent *Benrishi* (patent attorneys) from representing clients in court, although this law is currently under review. Small damage awards also act as a disincentive for lawyers to become involved with intellectual property right claims.

Other issues

The parallel import of patented products continues to be a problem in Japan. The Supreme Court has ruled that except for limited cases, parallel imports would not be considered in violation of Patent Law. Too often, importers use this interpretation to circumvent the law on counterfeit goods.

No recognition or trademark protection is provided for European spirits and wines with famous geographical indications such as Scotch whisky, Bordeaux wines, and Cognac liqueurs. Japanese producers are allowed to market products using European geographical indications, even though the indication may be completely unrelated to the actual product being sold. This not only is misleading to consumers, but also dilutes the value of the name of origin of the goods.

The Tokyo Court of Appeal has denied motions filed by European and Japanese pharmaceutical firms to prevent generic drug producers from developing generic products before patent expiry. Research based pharmaceutical firms depend on patent protection to justify the large amount of time and money spent on developing innovative new products for the Japanese market, and as such, should receive protection in Japan from premature development by generic producers.

For more information, contact:

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investment

Foreign investment has great potential to stimulate the Japanese economy, provide increased employment opportunities, and expose the Japanese economy to new international business practices. The Japanese Government seems to recognise this potential, and has committed more and more resources to increasing the flow of inward investment. However, despite official government policy supporting foreign investment, numerous barriers exist which continue to frustrate foreign companies' efforts to invest in Japan. This is detrimental to European companies wanting to pursue business opportunities in Japan, and ultimately the Japanese economy itself.

Key issues:



- **Mergers and Acquisitions** — Japan's investment promotion program is heavily biased towards green-field and business development investment. The EBC feels this attitude is rather naïve; mergers and acquisitions have as much, if not more, potential to stimulate the Japanese economy as other forms of investment. Unfortunately, an historical bias against M&A activity has soured the Japanese investment environment, and foreign investment remains a fraction of that in the rest of the developed world.

Recommendations:

- 1. The Japanese tax system needs to be overhauled to remove the numerous disincentives against M&A, corporate restructuring, and the establishment of joint ventures. Global mergers and acquisitions and local corporate restructuring should in principle be allowed without immediate tax costs. The EBC encourages the Japanese Government to speed up plans to introduce a consolidated tax system, taking into full account industry recommendations regarding its implementation.*
- 2. Discrimination in the commercial code should be removed in line with OECD "national treatment" principle guidelines. Squeeze-out legislation allowing Japanese registered companies to compel the sale of stock from minority shareholders, for example, should be extended to majority foreign investors as well. Increased transparency and availability of appropriate recourse in view of clear transgressions of commercial law is also essential to ensure investor rights are protected.*
- 3. Measures should be introduced to improve corporate governance practices to protect shareholder rights and make sure that firm loyalty does not lead to premature rejection of M&A offers. Cross-shareholding schemes should also be reviewed.*

Investment cont'd:

EBC FDI Taskforce Members

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Mr. Stephane Ginoux (Eurocopter)
Mr. Sebastian Groeger (DASA)
Ms. Isabelle Hupperts (Société Générale de Belgique)
Mr. Bruce Inglis (Philips)
Mr. Markus Janssen (Haarmann, Hemmelrath & Partner)
Dr. Heinrich Menkhaus (GCCIJ)
Mr. David Roach (Pricewaterhouse Coopers)

Overview

Ultimately, increasing flows of inward investment will depend on the costs and perceived benefits of investment opportunities in the Japanese economy. As such, it is important that the Japanese Government work towards improving the economic climate and removing the numerous regulatory disincentives that plague the Japanese investment environment. Deregulation has been instrumental, for example, in attracting foreign investment in such sectors as telecommunications and financial services. The EBC feels, however, that the Japanese Government can do much more to reduce investment barriers by promoting competition, increasing the scope of deregulation, and improving transparency in the regulatory environment surrounding investment activity.

Further recommendations:

- An appropriate land transaction disclosure mechanism should be introduced to make it easier for companies to acquire information and make informed decisions on real estate transactions. Tax relief measures should also be introduced to mitigate the tax implications associated with buying and selling land and stimulate the real-estate market.
- The Japanese Government needs to improve access to integrated legal services for foreign investors by removing restrictions within the legal profession, such as those preventing Japanese and foreign lawyers from forming partnerships.
- The EBC urges that Japanese Government to bring financial disclosure and accounting standards in line with accepted international practice by requiring adequate disclosure of current assets and liabilities at market-based prices. Access to accurate financial information is critical to firms wanting to pursue a merger or acquisition. In Japan, however, there is very little financial information available when it comes, for example, to disclosure of potential liabilities such as under-funded pension schemes.
- Financial markets should be supportive of M&A activity. Rules governing the listing and swapping of shares should be further relaxed to make it easier to make transactions on over-the-counter markets.
- Bankruptcy regulations should be reformed to allow acquisition of a company's assets in a rescue format rather than requiring an immediate official receiver. This would help preserve employment and protect underlying corporate value.
- Labour laws and standards should be reviewed with the goal of facilitating greater labour mobility. While the situation is gradually changing, the tradition of preserving lifetime employment has seriously affected investment in Japan by making it difficult to transfer employees from one company to another after a merger or acquisition. In particular, the EBC would like the planned defined contribution pension scheme and appropriate tax deferrals implemented as quickly as possible to make it easier to transfer employee pensions.
- The increasing number of foreign business operations in Japan has revealed an acute need for a review of Japanese immigration policy affecting employees of foreign companies in Japan. In particular, the EBC urges the Japanese government to abolish the re-entry permit system, reduce the number of years experience needed for engineers, skilled labour, and humanity specialists to obtain a work visa, and eliminate the two full time employee requirement for the investor/manager visa.

legal services

Japan's legal infrastructure must be able to meet the increasing demand for comprehensive trans-national legal services in the wake of economic liberalisation, deregulation, and globalisation. However, structural deficiencies in the Japanese legal system and restrictions on the activities of foreign lawyers continue to undermine the development of a globally competitive legal system in Japan. The EBC Legal Services Committee would like to see progress in the following issue areas in order to ensure that consumers in Japan have access to the comprehensive legal services they require.

Key issues:



- **Partnership** — Japanese law prohibits partnerships between Japanese lawyers and foreign lawyers permitted to practice the law of their home jurisdiction in Japan. This is contrary to common practice in most other developed nations. Clients would receive much better service if Japanese and foreign lawyers could practice together in a single law firm. This is especially true in areas such as capital markets where blending multinational expertise would be of great benefit to businesses in Japan.

Recommendation: The EBC urges the Japanese Government to remove the prohibition on partnerships between Japanese lawyers and foreign lawyers.

- **Equal treatment** — Discriminatory regulations preventing foreign lawyers from advising directly on third country law limit the ability of international law firms to offer services to clients who require comprehensive legal advice over several jurisdictions. This appears to be an attempt to oblige clients to use Japanese lawyers, despite the fact that international law firms are clearly more experienced in co-ordinating legal advice over several jurisdictions and offering integrated legal services.

Recommendation: Foreign lawyers should be able to practice law without discrimination. Any regulations that do not apply to Japanese lawyers, such as those surrounding third country law, should be removed.

Background:

EBC Legal Services Committee Member Companies

Allen & Overy
Ashurst Morris Crisp
Clifford Chance
Denton Hall
Dr. Neumann & Partner
Freshfields
Gide Loyrette Nouel
Haarmann, Hemmelrath & Partners
Linklaters & Alliance
Lovell White Durrant
S&E Ltd.
Trenité van Doorne
Tokyo Aoyama Law Office
White & Case

Overview

Foreign law firms are permitted to practice only through designated lawyers who have been licensed to practice the law of their home jurisdiction in Japan. Foreign lawyers licensed to work in Japan act for Japanese clients needing legal advice in jurisdictions that the lawyer is qualified to practice, and existing foreign clients who want to use their existing lawyers to assist them in obtaining appropriate legal advice in Japan.

The conditions surrounding foreign lawyer activity in Japan is quite restrictive. This is becoming more and more relevant as clients demand more comprehensive trans-national legal advice to deal with economic liberalisation, deregulation and globalisation.

Joint enterprises and partnerships

Service to clients could be vastly improved, especially in areas that require trans-national expertise such as financial services, if Japanese and foreign lawyers were allowed to practice together in a single law firm.

Currently, the closest approximation to full partnership between Japanese and foreign lawyers in Japan is the Specified Joint Enterprise. This awkward arrangement allows the establishment of a limited contractual joint venture between individual Japanese and foreign lawyers to advise Japanese clients on foreign related law issues in Japan and foreign clients on Japanese law.

There are a number of reasons why this arrangement has not been successful:

- Team spirit and comprehensive coverage are important drawing cards of major international law firms, something a joint enterprise cannot offer.
- It is difficult to maintain the artificial barriers between the various entities involved in a joint enterprise, including separate accounts and human resource planning. The requirement that contracting parties maintain independent operations effectively removes a joint enterprise's *raison d'être* - the efficient provision of integrated legal services.
- Since more than one firm is involved in the activities of a joint enterprise, there is an increased chance of conflict of interest arising between the contracting parties.
- Lawyers working through joint enterprises do not have the same career advancement opportunities that exist in a completely integrated international law firm.

International law firms with the ability to offer completely integrated services to clients in Japan have the potential to make a major contribution to the Japanese economy. This would benefit not only foreign companies wanting to do business in Japan, but also Japanese companies with business interests that extend beyond the Japanese border.

Third country law

Foreign lawyers are not permitted to provide advice to clients on the laws of countries other than the country of the lawyer's original qualification without written advice from a lawyer qualified in the relevant jurisdiction. This restriction does not apply to Japanese lawyers.

In effect, this restriction discriminates against international law offices and prevents clients in Japan from obtaining the most comprehensive legal services available. The EBC urges the Japanese Government to remove this restriction for the benefit of all companies doing business in Japan.

tax

In recent years, the Japanese tax system has become more consistent with the tax regimes of other OECD countries. Encouraging developments include a reduction in the overall effective tax rate on corporate income by some 10% in the last two years, and the planned introduction of a system for taxing groups of companies. The EBC welcomes this trend and hopes to see further progress in the issue areas outlined below.

Key issues:



- **Tax relief** — Companies in Japan have been operating in a challenging economic environment for much of the 1990s. The EBC urges the Japanese Government to do all that it can to improve the Japanese business and investment environment by helping companies obtain full relief for all losses.

Recommendations:

1. Tax losses that have arisen since 1995 should be made available for carry forward indefinitely (instead of the current five-year limit).
2. Deemed asset lives for tax purposes should be shortened to reflect the actual time scale under which fixed assets decline in economic value.
3. Legislation should be amended to allow companies to enter the current value of real estate in their books and tax-deduct losses caused by the "bubble economy."

- **The investment environment** — The EBC encourages the Japanese Government to do all that it can to reduce the tax barriers to investment in Japan, including the implementation of a planned consolidated tax system no later than 2002.

Recommendations:

1. Global mergers and acquisitions, local corporate restructuring and demergers should in principle be allowed without immediate tax costs.
2. Companies should be allowed to set acquisition financing costs against the profits of the acquisition target.
3. In order to accommodate situations where it is impossible for fully integrated companies to achieve complete ownership, the common ownership requirement under the proposed consolidated tax system should be significantly less than 100%.
4. Losses in joint venture companies should be transferable to substantive shareholders.

Key issues continued:

EBC Tax Committee Member Companies

BASF Japan
Bayer
Ciba Speciality Chemicals
Daimler-Chrysler Japan Holding Co
KPMG Peat Marwick
Loyens & Volkmaars
Haarmann, Hemmelrath & Partner
Novartis Japan
Dalpayrat Foreign Law Office
PricewaterhouseCoopers
Rhone-Poulenc Japan
Sonderhoff & Einsel
White & Case

- **Taxpayer protection** — The right to taxpayer confidentiality is explicitly affirmed by the OECD. In Japan, however, disputes between taxpayers and the tax authorities are frequently published in the media. The EBC views any "leaking" of information protected by taxpayer confidentiality laws with extreme concern, as such disclosure is invariably harmful to the taxpayer's business. There is also a definite lack of transparency in the way tax authorities respond to requests for clarification. No record of any guidance is made available to the public. As a result, it is often difficult for companies to accurately predict the tax consequences of a business decision.

Recommendations:

1. *The Japanese Government should forcefully apply existing legislation to fully protect taxpayer confidentiality, even in situations where an investigation results in a significant adjustment to taxable income.*
2. *The EBC would like a formalised rulings process established in which companies would have the right to receive written clarification regarding a planned transaction or a particular tax situation. The EBC would like these rulings made available to the public in an anonymous form on a regular basis to establish a written body of precedent.*

- **Transfer pricing** — In Japan, comparable transactions used by tax authorities as the basis for transfer pricing assessments are kept secret. As a result, companies can not confirm the accuracy of any transfer pricing adjustment, which is subject to an automatic non-waiveable penalty on any additional tax assessed. The situation is further complicated by the fact that the methodology used in Japan to set transfer prices lacks consistency with established OECD guidelines. For example, Japan does not yet allow the use of net profit margins to validate "arm's length" results.

Recommendations:

1. *The EBC urges the Japanese Government to make transfer-pricing guidelines fully consistent with accepted OECD principles in terms of methodology, practical guidance, and assessments, for example to allow basket pricing, ranges and net margin methods.*
2. *Transfer-pricing adjustments should be based solely on information to which the taxpayer has access, and any penalties imposed should accurately reflect the severity of the taxpayer's conduct.*

- **Benefit taxation** — The Japanese tax authorities have adopted a strict line in assessing expatriates on employer contributions to foreign pension plans. Unlike Japanese nationals participating in a "Qualified Pension Plan", expatriates are assessed on the assumption that a benefit arises at the time of contribution. This is despite the fact that the expatriate will be taxed again on the benefit after retirement.

Tax legislation was recently reformed to allow for taxation of stock-option income at favourable rates. However, the rule only applies to the stock of Japanese companies. This disadvantages employees (both foreign and Japanese) of foreign companies.

Recommendation:

Foreign pension plans with characteristics similar to a Japanese "Qualified Pension Plan" should be regarded as equivalent and treated accordingly. Similarly, stock option tax benefits should be extended to all employees.

Consumer Goods

**Cosmetics
Cut Flowers
Food
Liquor**

For more information, contact:

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cosmetics

The Japanese cosmetics regulatory environment will soon undergo a fundamental change that will provide all manufacturers with a greater opportunity to develop innovative products for the demanding Japanese market. Despite these proposed changes, much work remains to be done in order to harmonise regulations with international standards and expand the scope of deregulation to at least some of the Quasi-Drug categories. The EBC Cosmetics Committee warmly supports the principles behind cosmetics deregulation, and hopes to see the proposed changes implemented and enforced in a consistent and meaningful manner.

Key issues:



- **Harmonisation of Positive & Negative lists** — The new regulatory system proposed by the Ministry of Health and Welfare (MHW) is very similar to the system that has been operating for many years in Europe. However, although the ingredient categories covered by the three proposed Positive Lists are the same as in Europe, the contents will be quite different.

Recommendation: The EBC strongly urges MHW to liaise with European Commission regulators and their scientific advisory committee in order to harmonise the Positive and Negative Lists.

- **Approval of new ingredients** — Proposed regulatory changes will not make it any easier to add new ingredients to the new Positive Lists, nor will they harmonise approval criteria with other countries.

Recommendation: The EBC encourages MHW to join with its counterparts in Europe to establish mutually acceptable safety standards for the acceptance of new ingredients both to the Positive Lists and to Quasi-Drug cosmetic categories.

- **Review of the Quasi-Drug System** — The present Quasi-Drug System dates back to the post-war period when the general safety and efficacy standard of cosmetics was far from what it is today.

Recommendation: EBC welcomes a full public discussion of the Quasi-Drug system, bringing together representatives from industry, the dermatology field and consumer groups, in order to evaluate whether this categorisation contributes to public welfare and the betterment of the cosmetics industry.

Background:

EBC Cosmetic Committee Member Companies

Chanel
Clarins
CTF Marketing Co.
Elle International Co.
Guerlain
Mary Cohr Japon
Nihon L'Oreal
Nippon Lever
Parfums Christian Dior (Japan)
Parfums Givenchy
Parfums Nina Ricci Japon
Pierre Fabre Japon Co.
Sanofi-Synthelabo
Schwarzkopf
Thalgo Cosmetic Japon Co.
The Boots Company Japan
Wella Japan Co.
Yves Saint Laurent Parfums

The Japanese cosmetics market

Although stagnant for the last few years, the cosmetics market in Japan remains the second largest in the world at nearly ¥1.5 trillion at manufacturers' shipping prices.

The market is still dominated by Japanese manufacturers. Foreign brands, combining imported and locally produced products, barely account for 20% of the market. Most cosmetics retailers are connected to "chain-store" systems organised by Japanese cosmetics makers and generally do not sell imported brands. As a result, the distribution of imported cosmetics has been limited to selective and costly channels such as department stores.

The cosmetics regulatory environment

The production and importation of cosmetic products are subject to approval by the Ministry of Health and Welfare (MHW). Although procedures have been partially simplified by the introduction of the Comprehensive Licensing System (CLS), registration of new products is still required when any ingredients to be used are not listed as approved within the specific product category. Approval of non-listed ingredients can be slow and costly, and the process occasionally lacks transparency. Even if the ingredient has a long history of safe usage in the EU or the US, there is no guarantee that it will be approved for use in Japan. As a result, there are considerably fewer raw materials which may be used to manufacture cosmetics in Japan than in Europe and the United States, and foreign makers are obliged to reformulate their products not to improve performance or better match market needs, but simply to meet Japanese ministerial regulations.

The Quasi-Drug regulatory environment

Many product categories considered cosmetics in Europe and the United States are treated as Quasi-Drugs in Japan and are subject to far more restrictions than other cosmetics. The logic in determining why certain products have been classified as Quasi-drugs remains obscure. The Quasi-Drug list contains such disparate items as deodorants, lip creams, hair colorants, anti-dandruff shampoos and talcum powder, in addition to such non-cosmetic items as insecticides and sanitary napkins.

The number of ingredients that may be used in each Quasi-Drug category is very limited and the process required to obtain approval for new ingredients is extremely costly and time consuming. This represents a major barrier to bringing new technology to Japanese consumers.

The deregulatory process

In July 1998 the Ministry of Health and Welfare committed itself to a major change in the regulatory system for cosmetics. The EBC welcomes this development, and is encouraged by MHW attempts to seek industry comment on proposed reforms, including opinions from the EBC.

These changes are planned to take effect by the end of March 2001. Although no official document has yet been published, it is anticipated that MHW will apply a similar framework to the present European system, shifting product safety responsibility to manufacturers and importers, setting up limited positive and negative lists and imposing full ingredient labelling (in Japanese) on product containers.

Further, in its March 30th 1999 revision to the three-year program for promoting deregulation, the Prime Minister's Office proposed that products treated as cosmetics in both Europe and the United States but as Quasi-Drugs in Japan should also be considered cosmetics in Japan.

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cut flowers

Non-tariff barriers such as restrictive plant quarantine regulations, limited inspection capacity, and high cost of entry at airports have limited cut flower imports into Japan. While the EBC Cut Flower Committee feels there is great potential in the Japanese cut flower market, imports will not increase until fundamental improvements are made in the plant quarantine system and airport infrastructure.

Key issues:



- **Plant quarantine regulations** — Japanese plant quarantine regulations are restrictive and do not conform to internationally accepted standards. Despite recent changes to its Plant Quarantine Law, Japan still does not make sufficient distinction between harmful and non-harmful organisms.

Recommendation: The Japanese list of non-quarantine organisms should be extended to include all non-harmful organisms found in cut flowers. The EBC urges the Japanese Government to focus on the main insects (mites, aphids and thrips) that currently account for 80-90% of all shipment rejections.

- **Cost** — There is no effective competition between companies that supply airport facility services in Japan. As a result, fumigation costs at Narita Airport are about five times higher than in the US and the EU, while cooling charges are 3-4 times higher than the rates charged by companies outside the airport.

Recommendation: The EBC urges the Japanese Government to establish a truly competitive environment for the supply of fumigation, warehouse and cooling facilities at Japanese airports.

- **Inspection and handling facilities** — The facilities at most international airports in Japan are inadequate for handling large volumes of cut flowers and other perishables. While inspection capacity has improved over the last few years, there is still much room for improvement.

Recommendation: Further improvements are necessary at bonded warehouses and dispatch areas, especially at Narita where the largest volumes of imports are handled. Inspection capacity should be increased during peak seasons and inspection made available from 06:00 hrs.

Background:

EBC Cut Flowers Committee Member Companies

Greenwings Japan
Otani Shokai

Note: The EBC Cut Flowers Committee has become the Phytosanitary Committee, reflecting its expanded mandate to deal with issues across a wider range of perishable goods.

The market for cut flowers in Japan

The market for cut flowers in Japan is one of the largest in the world. Annual consumption stands at approximately 800 billion yen per year, and is expected to grow as more and more flowers are bought for home use. Domestic producers have traditionally dominated cut flower sales in Japan, with imports accounting for less than 6% of the total market.

Sales in the institutional market (weddings, funerals, other special occasions) account for the largest part of the cut flower market in Japan. Compared to many countries in Europe, the consumption of flowers for daily use is under developed.

While the EBC feels there is great potential in the cut flower market geared towards personal consumption, this situation will not improve significantly until mass-market products can be supplied at prices below present levels. Japanese growers, however, have not yet achieved the economies of scale that have long been a feature of the industry in, for example, the Netherlands. European producers, for their part, have been unable to make use of this comparative advantage due to a number of trade barriers preventing the importation of large volumes of flowers at low prices.

Barriers to trade

Restrictive Japanese plant quarantine regulations are by far the largest barrier to trade in cut flowers. Japan practices "zero-tolerance" for all but 63 organisms, none of them relevant to the cut flower sector. In practice, shipments of flowers in which one insect is found are still rejected, even if the insect is common in Japan.

In theory, zero-tolerance is supposed to be applied to organisms which, on the basis of the SPS chapter of the GATT Uruguay Round Agreement, are considered to be harmful. In 1996 the risk assessment chapter was added to Japan's plant quarantine law. In practice, this revision has so far not had an effect on cut flower imports, as the Japanese Government still does not make a sufficient, nor practical, distinction between harmful and non-harmful organisms. Insects such as thrips and aphids, for example, are not mentioned on the new list of non-quarantine pests, even though they are common in Japan. These main insects are responsible for 80-90% of rejected shipments.

The infrastructure at Japan's international airports is also in desperate need of improvement. Fumigation, cooling, and warehousing costs are amongst the highest in the world, due in part to ineffective competition between companies offering airport facility services. Facilities are highly congested and insufficient to guarantee quick shipment handling. After arrival, it often takes 3-5 hours before a shipment is made available for inspection and customs procedures. This adds unnecessary cost to businesses importing cut flowers into Japan.

The EBC applauds recent attempts to improve airport inspection procedures by extending inspection schedules and increasing the number of plant quarantine inspectors, and urges the Japanese Government to continue working in this direction. Eventually, the EBC would like to see a system of *ad random* inspection replace the current re-inspection of pre-inspected flowers at port of entry.

Finally, the EBC encourages the Japanese Government to eliminate import duties of 3.7% on greens and leaves, which further increase the cost of importing cut flowers into Japan.

For more information, contact:

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Fax 03-3403-6059

food

Europe remains under-represented in the Japanese import food market. High tariff rates, cumbersome port of entry procedures, inadequate product definition laws, and a discriminatory regulatory environment make it difficult for foreign food producers to bring their products to the Japanese market. The EBC Food Committee urges the Japanese Government to eliminate tariff and non-tariff barriers impeding access to European food imports. Ultimately, this is in the best interest of the Japanese consumer, who will benefit from increased access to quality products at competitive prices.

Key issues:



- **Tariffs** — Import quotas and high tariff rates restrict access to European food products and increases the cost of food to the Japanese consumer.

Recommendation: The EBC urges the Japanese Government to commit itself to reducing food tariff rates. This would give the Japanese consumer access to a wider variety of products at internationally competitive prices.

- **Organic food regulation** — A new law on organic food products will soon be introduced regulating the attribution of the "Japanese Organic Certificate". It is not clear, however, if the proposed law will be equivalent to European standards in place since 1992 setting out strict criteria for organic food production and labelling. The EBC is concerned that obtaining the Organic Label in Japan will be difficult for imported products.

Recommendations:

1. The EBC urges the Japanese Government to automatically allow products authorised as organic in the EU to use the new organic label in Japan without further costs or procedures.

2. Japanese labelling should be clear, strict, and legitimate, and strictly separated from production. If producers associations are allowed to deliver the label, the EBC sees great potential for abuse. The EBC is concerned that this new law will effectively discriminate against European organic food products.

3. The EBC encourages the Japanese Government to engage in constructive dialogue with European interests to ensure that this new law is implemented in an effective and non-discriminatory manner.

Background:

EBC Food Committee Member Companies

Arcane
Copenhagen Pectin Factory
Cultor Food Science
Danisco Ingredients Japan
Denmark Protein
DMV Japan
Finland House
Food From Britain
Fromageries Bel
GEO Wehry International
German Wine Information
Japan Europe Trading Co.
Marie Brizard Japan
Mirceb
MD Foods Ingredients (Japan)
Nippon ESS Food
Nippon Lever
Perrier Japan
Roquette Japan
Royal Greenland Japan
SCETI
SOPEXA
Sorinter Corporation

Overview

Food regulations in Japan lack both transparency and clarity. This makes it difficult for food importers to know which procedures need to be followed in order to gain access for their products. Japanese food production, trade, and distribution is strictly regulated by the Japanese Government through the Ministry of Agriculture, Forestry and Fisheries (food policy), the Ministry of Finance (import duties), and the Ministry of Health and Welfare (labelling, ingredients). Food industry associations also play an influential role in the formulation of food policy, often to the detriment of foreign food producers and the Japanese consumer.

Product definition and labelling

The EBC is concerned that Japanese consumers do not always know what they are buying due to misleading product definition and labelling standards. A good example is the bottling and labelling of water. In Japan even processed water products can be labelled "natural" water, even though the water is not really natural at all. In Europe there are strict laws regulating the labelling and sale of "natural" water (water that has not been reprocessed) and "mineral" water (unprocessed water with proven medicinal properties). Consumers depend on strict product definition and labelling standards to make informed decisions about the products that they are buying.

Organic food regulation

Organic foods have high growth potential in Japan. European producers are excited about this prospect, as European organic food products have a long history of high standards and quality. However, the EBC is concerned that a proposed new law regulating the application of the "Japanese Organic Certificate" will be subject to abuse by producers' associations if they are allowed to deliver the label and discriminatory against imported European products that already adhere to strict European standards stipulating growing conditions and allowable ingredients. EBC feels organic label delivery should be strictly independent from production, consistent with European practice, and applied in a transparent, non-discriminatory manner.

Genetically Modified Organisms

Genetically modified organisms (GMOs) have become more and more of an issue in Japan in recent years, with the Japanese Government taking a fairly hard line on the importation of genetically modified food products. However, this stance has been tempered by the fact that many common commodity imports (such the soybeans used to make soy sauce) have been genetically modified for many years.

The EBC feels that the Japanese Government is responsible to the Japanese public to provide adequate levels of information on GMOs, including their benefits and risks, to help consumers make informed decisions on the food products they are buying.

Port of entry procedures and the discriminatory application of food regulations

Imported food products inspected by Japanese Customs are often subject to stricter testing procedures than those used by the Ministry of Health and Welfare for testing domestic products. This practice is not only discriminatory, but also fails to protect consumers in a meaningful and consistent manner. The EBC is also concerned about inspection procedures and facilities at Japanese ports of entry. Cumbersome product inspection procedures often damage the commercial value of shipments. While facilities at Japanese airports have improved in recent years, they still remain inadequate to deal with large volumes of perishable and other items.

For more information, contact:

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〒102-0094 JAPAN
Phone 03-3261-1461
Fax 03-3261-1462

liquor

In compliance with a World Trade Organisation ruling issued in 1996, the Japanese Government has drastically reduced the tax rate on non-*shochu* liquor over the past two years. This development rewards the EBC Liquor Committee and its European counterpart Confederation Europeenne des Producteurs de Spiritueux for many years of vigorous lobbying. The EBC warmly supports the Japanese Government's commitment to improving market access, and would like to see further progress in the areas outlined below.

Key issues:



- **Product definition** — Product definition standards for alcoholic beverages are very loose in Japan. Many brands of Japanese "whiskey" and "liqueur" would never qualify for the use of such terms in Europe. This allows Japanese producers to market lower-cost products that do not meet internationally accepted product specifications, including products with geographical indications. This is misleading to Japanese consumers.

Recommendation: Product definition in Japan should conform to international specifications as defined in the EU and the US and endorsed by the International Federation of Wines and Spirits.

- **Retail licensing** — Several types of wholesale liquor licensing exist, and separate licenses are required for each sales office operated by the manufacturer or importer of liquor products. The Japanese Government has indicated a desire to deregulate the retail environment, though how and when remain unclear.

Recommendation: The EBC strongly endorses the deregulation of liquor retailing in Japan and urges the Japanese government to reduce the number of licenses required to do business and set out a transparent timeframe for reform implementation.

- **Tariffs** — Despite liquor tax reform, tariffs still remain a major obstacle to imported European liquor products.

Recommendation: The EBC urges the Japanese Government to work towards the eventual elimination of tariffs on imported liquor products, by continuing to reduce rates in a meaningful and consistent manner.

Background:

EBC Liquor Committee Member Companies

Allied Domecq Spirits and Wine (Overseas)
Arran Japan
BB & R Japan
Heineken Japan
Jardine Wines & Spirits
Kirin Seagram
Nippon Hellenika
Pernod Ricard Japan
Remy Japon

The Japanese liquor market

The Japanese spirits market is one of the largest in the world with approximately 100 million cases (900 million litres) sold per year.

Shochu accounts for almost 80% of the distilled liquor market, with whisky and brandy making up most of the difference. Despite liquor tax reform greatly reducing the tax differential between *shochu* and other spirits, there has been little change to the market share of imported spirits such as whiskey and vodka.

The Japanese wine market experienced somewhat of a boom from late 1997 into 1998. Consumption increased significantly, due in part to a series of articles in the Japanese media discussing the value of red wine as a source of protection against heart disease. To meet this rise in demand, imports for 1998 nearly tripled from the previous year. However, sales have since backed off and imports have decreased accordingly. Wine is the only liquor category in which imports command a market share in excess of 50%.

On the whole, the prospects for wine imports in Japan remain very positive. Consumer interest in wine has increased dramatically and Japanese are increasingly drinking wine with meals. On the supply side, the appearance of a wide variety of reasonably priced wines, retail deregulation, and improved quality control have all contributed to an improved market environment.

Tax Reform

Japan's liquor tax regime discriminated against imported spirits for over 50 years. GATT Panels ruled against this practice in 1987, but resulted in only minor improvements. The EU, Canada and the US referred the issues to the World Trade Organisation, which upheld the complaint in 1996. As a result, Japan has reduced the tax differential between imported brown spirits and local *shochu* from 600% to just 3% over the past two years. For white spirits such as gin and vodka, tax discrimination will disappear completely.

Liquor tax reform has significantly changed the whole face of the industry. In an attempt to win back *shochu* drinkers most companies have passed tax savings onto the consumer. As a result, the Japanese spirit market has gone from being one of the most expensive in the world to the one of the cheapest in less than 18 months.

Ironically, tax reform has not had much effect on the market share of imported spirits. Low-priced domestic whiskey is the only category growing. For imported whiskey to have a long-term future in Japan, greater efforts are required to stimulate consumer demand and exploit the unique image, character and heritage of imported whiskeys.

Product definition

One of the keys to the development of European brand image in the Japanese market is the establishment of meaningful generic definitions for the major categories of internationally traded spirits such as brandy, gin, vodka and whiskey. Currently, product definition standards for spirits are very loose in Japan. This enables Japanese companies to lower production costs by marketing products that do not conform to international product definition standards. The EBC is also concerned that Japan does not provide any recognition or protection for European liquor products with geographic indications such as Bordeaux wines, Scotch Whiskey, and Cognac. Japanese producers are allowed to market products using European geographical indications, even though the indication may be completely unrelated to the actual product being sold. Ultimately, this is misleading to the Japanese consumer and represents a significant barrier to the development of the import market for European liquor products.

Financial Services

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asset management

Access to the Japanese investment market has improved substantially for investment advisory companies over the past few years. Pension asset management restrictions have been gradually falling, and the Japanese Government is planning to introduce a defined contribution pension scheme at the beginning of next year. The EBC Asset Management Committee welcomes these developments, as unrestricted access to professional asset management services is ultimately in the consumer's best interest.

Key issues:



- **Pension reform** — The Japanese pension system is in trouble. A stagnant economy, inappropriate fund management, and an ageing population have created a growing pension liability. In order to ensure an adequate standard of living for pensioners in the future, the Japanese Government is planning to introduce a defined contribution scheme to supplement the current system. The EBC warmly supports the Japanese Government's intention to introduce a defined contribution scheme and give individuals more control over their retirement future.

Recommendation: The contribution levels for Japan's defined contribution scheme should be set high enough for individuals to save sufficiently for retirement. Furthermore, investment advisory firms should be given full access to defined contribution asset pools, including those held by the post office. This is in the consumer's best interest, as professionally managed pension funds have historically outperformed funds managed "in-house".

- **Market access** — Access to Japanese pension fund and mutual fund markets has improved substantially since 1990 when investment advisory firms were first allowed to manage pension assets in Japan. Complete deregulation of asset management, however, has not yet been achieved.

Recommendation: The EBC urges the Japanese Government to allow unrestricted access to professional asset management in Japan, as this is clearly in the consumer's best interest. Remaining restrictions to pension and mutual aid associations - including the "40%" rule restricting the delegation of mutual aid association assets to external management and the requirement for managers to obtain ministerial approval for changes to asset allocation - should be eliminated.

Background:

EBC Asset Management Committee Member Companies

Baring Asset Management (Japan)
Commerz International Capital Management (Japan)
Credit Lyonnais International
Deutsche Morgan Grenfell Asset Management (Japan)
Dresdner RCM Global Investors Japan
Indosuez Asset Management (Japan)
Jardine Fleming Investment Trust & Advisory Co.
Lazard Japan Asset Management
Mercury Asset Management Japan
NatWest Gartmore Investment Management
Paribas Asset Management (Japan)
Pictet Asset Management (Japan)
Rothschild Asset Management (Japan)
Schroders Investment Management (Japan)

Asset management in Japan

Until 1990, the management of pension assets in Japan was restricted to trust banks and life insurance companies. Gradually, asset management restrictions have been eliminated, and now investment advisory companies (IACs) enjoy relatively free access to all investment funds, including complete access to the management of Tax Qualified Pension Plans (1997) and Employee Pension Funds (1998). *In specie* transfer is also now possible following a rule change which came into effect in April 1999.

Unfortunately, investment advisory companies are still allowed only limited access to the management of funds held by Mutual Aid Associations (public sector pension plans regulated individually by their governing ministry). Only 40% of MAA assets may be delegated to external fund managers. The assets in many MAAs are further subject to a "5-3-3-2" allocation rule which severely restricts a manager's ability to make portfolio allocation decisions. Managers still require approval from the governing ministry to change asset allocation in MAA funds that do not carry this restriction.

Investment advisory companies are also not allowed to manage funds controlled by the Ministry of Posts and Telecommunications through postal savings and life insurance. Access to the management of this vast pool of savings is complicated by the fact that post office funds are used as a major source of financing for the Japanese Government's Fiscal Investment & Loan Program (FILP). FILP is used by the Japanese Government to fulfil fiscal and political objectives outside of the official budget, mostly by financing public works projects. Fulfilling these fiscal policy objectives, however, has not resulted in efficient fund management. Reforming the FILP, including the role post office funds play in financing public projects, is a politically sensitive issue and not one that will be resolved easily.

The EBC would like to stress, however, that improving market access to investment advisory companies is in the consumer's best interest, as historically professional asset management has resulted in higher returns on investment.

Pension reform

The Japanese pension system has long been characterised by inappropriate asset allocation, a complicated regulatory framework, and collusive behaviour in fund management. These structural deficiencies are becoming more and more apparent as the population ages and the Japanese economy struggles to recover from recession. The Japanese Government seems to recognise the seriousness of the situation, and has pushed pension reform to the top of the political agenda.

The Japanese Government is set to introduce legislation creating a defined contribution pension scheme to supplement the current defined benefit system. Under the proposed defined contribution scheme, individuals would take an active role in saving for their own retirement. The pension fund asset pool and the mutual fund asset pool would be fused creating new opportunities to market mutual fund products to pension-based assets. These changes are scheduled for implementation at the beginning of next year.

The EBC supports pension reform in Japan and would welcome the opportunity to share European experience. It is clear that the current system is unsustainable, and major changes are needed if the Japanese pension system is to continue providing an adequate standard of living to individuals after retirement.

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banking

The Japanese financial system is in the midst of a major transformation. The implementation of financial sector reforms is changing the very face of the industry. Financial institutions are working hard to put the past behind them and restructuring to take advantage of opportunities in the future. While the EBC Banking Committee warmly applauds the Japanese government's dedication to financial sector reform, a number of issues continue to inhibit Japan's competitiveness in the global market.

Key issues:



- **Financial sector reform** — The EBC supports the principles behind the Japanese Government's attempts to reform the financial system. An infusion of public funds to shore up the Japanese banking sector and the creation of the Financial Supervisory Agency (FSA) are steps in the right direction. While results of these reforms have generally been positive, the banking sector remains hampered by a lack of clarity and consistency in the regulatory environment.

Recommendation: For financial reforms to be effective, it is important to implement policies that balance the interests of both suppliers and consumers of financial services in a clear and consistent manner. Financial institutions must have timely access to information on the new regulatory environment in order to make the appropriate changes to their operations. This is of particular interest to integrated European banking units, who have to deal with new FSA interpretations of firewall regulations artificially separating certain banking operations.

- **Transparency in financial disclosure** — One of the most serious problems facing the Japanese financial system is the continued existence of bad debts and the opaque accounting practices that conceal them. It is imperative that the Japanese Government does all that it can to promote transparency in the financial sector, as improper disclosure and financial accounting practices undermine confidence in the financial system.

Recommendation: The EBC encourages the Japanese government to promote transparency in the financial sector. Wherever possible, accounting and disclosure practices should be consistent with accepted international standards, particularly in the disclosure of current assets and liabilities at market-value prices.

Background:

EBC Banking Committee Member Companies

ABN AMRO Bank
Banca Commerciale Italiana
Banco Santander Central Hispano
Bank Austria Creditanstalt
Bank Bruxelles Lambert
Banque Nationale de Paris
Barclays Bank
Commerzbank
Credit Lyonnais
ING Bank
MeritaNordbanken
Sanpaolo-IMI
Standard Chartered Bank
Swedbank
Westdeutsche Landesbank

Foreign presence in the Japanese banking sector

The activities of foreign banks in Japan date from the end of the Edo period. After the Second World War, they played a leading role in handling Japanese transactions with foreign countries. The majority of European banks, however, entered the Japanese market in the 1970s and early 1980s as the globalisation of financial services swept across the world. Overall, the presence of foreign banks in Japan has contributed to the internationalisation and development of Japanese financial markets.

Most European banks operating in Japan concentrate on wholesale banking and range in size from representative offices to large operations.

Financial System Reforms

In recent years, the Japanese Government has committed itself to a major overhaul of the Japanese financial system. Often termed Japan's financial "big bang", this collection of legislative changes, deregulation, and infusion of public funds has been welcome news in a sector weakened by bad debts and a sluggish economy.

One of the more positive changes has been the creation of the Financial Supervisory Agency (FSA) charged with the inspection and regulation of the financial system, formerly the responsibility of the Ministry of Finance. The FSA has proven much more efficient than was originally envisioned in forcing companies to comply with new disclosure and regulatory guidelines. Over the last year, the FSA has increased the number of inspectors it employs, which has improved inspection quality and efficiency. The EBC notes, however, that the number of inspectors employed by the FSA is still considerably less than counterparts in Europe and the United States.

Room for Improvement

The EBC is concerned about the inconsistent application of financial regulations across the banking sector. The EBC notes, for example, that Japanese regional banks are not required by Japanese authorities to follow capital ratio directives set out by the Bank of International Settlement.

Of more immediate concern to European banks doing business in Japan, however, is a lack of clarity in the new regulatory regime. It is imperative that financial institutions clearly understand what is expected of them from the new regulatory authority in order to adequately prepare for new regulatory developments. This has proven elusive in recent years, as financial institutions have been unable to procure a sufficient amount of information from the FSA to make appropriate changes to operations. The EBC would welcome the introduction of a system, something akin to the US "no-action letter", in which financial institutions could receive written comment from the FSA on issues of concern. This body of precedent could be used to supplement and clarify existing rules.

If Japan is committed to becoming a global financial centre, then the government will have to rededicate itself to the principles of the "big bang" and continue pursuing financial sector deregulation a meaningful and consistent manner. This has been the experience in Europe, where certain financial centres have been revitalised by changes promoting deregulation and competition, while others continue to suffer from a highly regulated environment. The EBC Banking Committee would welcome the opportunity to pass on the experiences of financial sector deregulation in Europe as Japan continues to implement financial sector reforms of its own.

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insurance

The Japanese insurance sector remains handicapped by a restrictive regulatory environment. Insurance companies are allowed limited scope by the Japanese authorities to introduce innovative products at competitive prices. This contradicts the spirit of the financial "Big Bang" which seeks to remove barriers within the financial sector. The EBC Insurance Committee urges the Japanese Government to replace detailed micro-level steering of insurance operations with macro-level monitoring of essential financial soundness. This would not only improve the competitive environment of the insurance sector, but also help ensure adequate levels of consumer protection.

Key issues:



- **Deregulation of product design and approval** — The restrictive product approval process in Japan stifles the introduction of innovative insurance products at competitive prices. This is not in the best interest of the consumer.

Recommendation: The EBC urges the Japanese Government to continue deregulation of policy conditions and pricing to promote genuine competition in the market. A "File and Use" notification procedure could be introduced as a first step towards the deregulation of the commercial insurance market.

- **Supervision** — It is imperative that insurance companies be in good financial shape in order to meet their obligations to policyholders. As assets and liabilities are not valued on a consistent basis, it is often difficult for consumers to determine the security behind insurance products offered for sale. Macro-level monitoring of critical financial data - for example, solvency ratios and capital adequacy - is essential in order to ensure adequate levels of consumer protection.

Recommendation: Accounting, disclosure practices, and solvency methodology should be consistent with accepted international standards. The micro-level steering favoured by the Japanese authorities should be discontinued, and supervision refocused on macro-level monitoring of critical financial data such as solvency ratios and capital adequacy.

Background:

EBC Insurance Committee Member Companies

Allianz Fire and Marine Insurance Japan
Assicurazioni Generali
AXA Non-Life
AXA Life Japan
Cologne Re Tokyo
CGU International Insurance
Eagle Star Insurance
GAN
Gerling Allgemeine
ING Life
Jardine Insurance Agency
J & H Marsh & McLennan Japan
Lloyd's Japan
Royal Exchange Insurance
Royal & Sun Alliance
SCOR
Skandia
Swiss Re
Willis Corroon Japan
Zurich Insurance Co.

The Japanese insurance market

The Japanese insurance market is the second largest in the world with annual premium revenue of over 290 billion yen. Foreign insurers account for less than 5% of this market, which is very low compared with other industrialised nations.

High levels of discretionary bureaucratic involvement, collusive industry behaviour, and protection from foreign competition have long characterised the Japanese insurance sector. Not only has the Ministry of Finance exercised a great deal of arbitrary control in regulating policy conditions and pricing, but the insurance companies themselves have also been very influential in establishing common industry practice through the use of market pools. This has resulted in a lack of product differentiation, competitive pricing, and adequate consumer protection.

Regulatory reform

The insurance sector has not escaped the Japanese Government's commitment to improving the overall competitiveness of the Japanese financial system. Insurance companies are no longer obliged to use tariff rates set by the Ratings Organisations, the "notification principle" for new product approval has been extended, companies are now allowed to do business in areas previously considered off limits, and foreign insurers are no longer treated separately under Japanese insurance law. These are commendable developments, and the EBC encourages the Japanese Government to continue working in this direction.

However, despite these reforms little has actually changed. The Ratings Organisations still exert substantial influence over policy pricing, and the regulatory authorities still maintain strict control over policy wording and approval. The EBC strongly urges the Japanese Government to deregulate the product development environment by eliminating unnecessary approval procedures and allowing companies to base rates on their own risk experience and expense data. This would result in a more competitive environment, which would ultimately benefit the Japanese consumer.

Other issues

The Japanese insurance industry has established a policy holder protection fund to protect consumers in the event an insurance company becomes unable to meet its financial obligations. In principle, the EBC feels that companies who have prudently managed their business should not be required to pay the price of another insurance company's failure, particularly if the problem could have been prevented through more adequate supervision from the regulatory authorities. The EBC believes the best way to ensure consumer protection is to move away from micro-level steering to macro-supervision of solvency ratios, capital adequacy, accounting practices, and marketing methods. This would promote good corporate governance by making individual companies accountable directly to their customers.

The EBC is also concerned about the high levels of semi-governmental involvement in the insurance industry. Typical examples are 'Postal Life Insurance' and the 'Housing Loan Corporation', which operate in the market under the comfort of government guarantee, without the constraints placed on the private sector. The EBC feels that such government involvement is unnecessary as it prevents free competition within the insurance industry.

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securities

The Japanese version of the financial "big bang" has so far had mixed results. While the EBC Securities Committee warmly supports the underlying principles of financial sector reform, a number of issues remain that continue to inhibit Japan's competitiveness in the global market.

Key issues:



- **Elimination of Article 65 (Firewalls)** — Article 65 of the Securities and Exchange Law forbids banks from conducting securities business and vice versa. The EBC feels that the existence of firewalls contradicts the spirit of the "big bang". These barriers are particularly detrimental to European securities firms, as most are part of banking groups. The EBC notes that the Glass Steagall Act of 1933 on which the Japanese article was based has recently been repealed in the US.

Recommendation: The EBC urges the Japanese Government to work towards the eventual elimination of all barriers (including article 65) within the financial system and allow the management of banking and securities as one integrated business.

- **Regulatory transparency** — A lack of financial regulatory transparency remains a major obstacle to Japanese financial reform. The lack of clarity in the regulatory regime prevents securities firms from adequately preparing for new regulatory developments and undermines consumer trust in the securities industry.

Recommendation: New regulations need to be applied in a clear and consistent manner. The EBC would welcome the establishment of a "no-action letter" type system, in which securities firms could ask for written acknowledgement of specific actions and clarification on issues of concern. This body of precedent would serve to complement and clarify existing rules.

- **Transparency in financial disclosure** — Japanese financial accounting practices remain inconsistent and obscure, and market value accounting is not adequately enforced. Improper disclosure and accounting practices undermine confidence in the Japanese financial system and inhibit international investment flows.

Recommendation: The EBC encourages the Japanese government to adopt international accounting and disclosure standards, especially in the disclosure of current assets and liabilities at market-value prices.

Background:

Foreign presence in the Japanese securities sector

Foreign securities firms have substantially increased their share of the Japanese securities market in recent years. Foreign stockbrokers, for example, have at times accounted for as much as half of the equity trading on the Tokyo Stock Exchange.

European firms operating in Japan cover most areas of the securities business, including the trading and brokering of bonds, equities and derivatives, although some tend to specialise in one or two fields such as Japanese equity brokering or derivatives trading. Many European securities firms are part of larger integrated banking units back home. This has presented new operational challenges in Japan where financial regulations prevent banks from conducting securities business and vice versa

Financial system reforms

The Japanese Government has committed itself to a major overhaul of the Japanese financial system. Often termed Japan's financial "big bang", this collection of legislative changes, deregulation, and infusion of public funds has been welcome news to the whole financial community.

One of the more positive changes has been the creation of the Financial Supervisory Agency (FSA) charged with the inspection and regulation of the financial system, formerly the responsibility of the Ministry of Finance. The FSA has significantly increased regulatory transparency in the financial sector, which the EBC feels is still badly needed.

While the EBC is very supportive of the overall intent of financial system reform, the implementation of these reforms has left much to be desired. New interpretations of opaque regulations combined with a reluctance of the regulators to give clear and binding guidance has made it extremely difficult for securities firms to meet the new requirements in terms of compliance, audit, financial reporting and procedural reorganisation.

Regulatory changes must be introduced in a clear and consistent manner. Financial institutions need to know exactly what is expected of them and what they need to do in order to comply with regulatory developments. An opaque regulatory environment only serves to undermine the security industry's credibility, and ultimately confidence in the financial sector as a whole.

The future

The EBC is excited about the proposed creation of new stock exchanges geared towards start-up firms. Historically it has been very difficult in Japan for these small companies to secure adequate sources of funding to facilitate business growth and finance operations.

However, if Japan is committed to becoming a global financial centre, then the government will have to rededicate itself to the principles of the "big bang" and continue pursuing financial sector deregulation in a meaningful and consistent manner.

This means that issues such as eliminating barriers within the financial sector, promoting regulatory transparency, and adopting international accounting and disclosure practices will need to be addressed.

EBC Securities Committee Member Companies

ABN AMRO Securities
Bank Brussels Lambert
Barclays Capital Japan
BNP Securities
HVB Capital Asia
Cazenove & Co.
Commerz Securities
Credit Lyonnais Securities
CS First Boston Securities
CCF Elysees Securities
CDC Marches
Deutsche Securities
DG Securities
Dresdner Kleinwort Benson
HSBC Securities Japan
Indosuez W.I. Carr Securities
ING Baring Securities (Japan)
Jardine Fleming Securities
Greenwich Natwest Securities
Paribas Capital Markets
Schröders Japan
Société Générale Securities
Warburg Dillon Read (Japan)
West LB Securities
Rabobank



Health Science

**Animal Health
Medical Diagnostics
Medical Equipment
Pharmaceuticals**

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animal health

Foreign producers of animal health products have played an important role in the Japanese market. However, cumbersome product approval procedures continue to restrict the access that the Japanese livestock industry, veterinarians, and companion animal owners have to innovative new products. They also add unnecessary costs to both consumers and producers. The EBC Animal Health Committee urges the Japanese Government to commit itself to deregulation and international harmonisation in line with the recommendations outlined below.

Key issues:



- **International standards harmonisation** — The international animal health industry is moving towards regulatory harmonisation through such forums as the Veterinary International Co-operation on Harmonisation (VICH). The EBC hopes this will improve the regulatory environment surrounding the product approval process in Japan, and decrease the costs involved in bringing new products to market.

Recommendation: The EBC applauds the efforts of the Japanese Government to bring Japanese practice in line with internationally accepted standards. However, the EBC encourages the Japanese Government to increase the pace of reforms, and would welcome an opportunity to discuss these issues with relevant policy makers.

- **Deregulation** — The restrictive product approval process greatly increases the time and money needed to bring a new product to market. This increases costs to both producers and consumers, and restricts timely access to innovative new animal health products.

Recommendations:

- 1. Data requirements in the new product approval process not considered relevant or in line with state-of-the-art international practices and recommendations should be eliminated.*
- 2. The scientific basis for product evaluation should be improved and outdated testing procedures such as isolated organ studies eliminated.*
- 3. 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.*

Background:

The animal health industry

The European animal health companies are industry leaders in the research, manufacture, and distribution of products that treat and prevent disease, and improve the health and overall performance of animals. These products make an important contribution to quality of life by keeping pets healthy, promoting the efficient production of livestock, and guaranteeing maximum food safety.

Animal health products are the result of intensive research and technological innovation with special emphasis on safety, quality, and product efficacy. A large amount of time, effort and money goes into the development of new products. Given this situation, it is important that the regulatory environment surrounding new product approval does not add unnecessary costs to companies trying to bring these products to market.

Downward market pressure

Gains in the small animal sector have been unable to prevent a substantial decline in the Japanese market for animal health products over the past few years. As a result, animal health companies face increased cost pressure and shrinking margins. They must, therefore, not be burdened further with costly regulatory expenses and product approval delays.

Regulatory environment

Animal health medicines are subject to the Pharmaceutical Law and are reviewed and approved by the Ministry of Agriculture, Forestry and Fisheries (MAFF). A number of regulatory and structural barriers remain that increase the time, energy and money needed to bring a new product to market. It is felt that MAFF has difficulties processing product applications in a reasonable amount of time. Outside Japan, especially in the European Union, outdated product approval processes have been streamlined. In Japan, however, it is still difficult to bring a new product to market due to approval delays and high costs associated with the approval process.

The EBC is particularly concerned about the regulatory environment surrounding the approval of minor modifications to already-approved products. Even minor modifications of approved products are now handled according to the partial amendment procedure, which is both time and energy consuming. This procedure is inconsistent with accepted international practice, which considers such changes the responsibility of the manufacturer, including all claims of liability. The approval process for minor modifications should be replaced with a system allowing manufacturers to simply notify the Japanese authorities of any minor product modifications.

Despite the continuing problems with the regulatory environment in Japan, in recent years progress has been made towards harmonising Japanese standards with international best practice. The EBC welcomes these developments and encourages the Japanese Government to continue working in this direction. In particular, the EBC would like to see increased regulatory transparency; more efficient handling of product approval applications; less bureaucratic filing procedures; and increased harmonisation with international standards.

Other issues

MAFF has been considering the simplification of the mandatory assay for vaccines and feed additives. Existing product liability laws make mandatory testing obsolete, since product safety and efficacy is ultimately the responsibility of the manufacturer. The current system should be replaced with a non-compulsory official batch release, and the EBC welcomes the quick implementation of this reform.

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medical diagnostics

Medical diagnostics play a cost-effective role in preventative medicine, disease diagnosis and treatment monitoring. As the Japanese Government continues to search for ways to reduce healthcare costs, the EBC Medical Diagnostics Committee believes that this is an appropriate time for the government to officially recognise the important contribution medical diagnostics make to the healthcare system.

Key issues:



- **Recognition** — The Ministry of Health and Welfare (MHW) does not appear to value the role medical diagnostics play in healthcare. Under Japanese law, medical diagnostics are treated as pharmaceutical products and therefore require special approval not required in other jurisdictions.

Recommendation: The EBC urges the Japanese Government to officially recognise medical diagnostics as a separate category under the Pharmaceutical Affairs Law. Ultimately, the EBC would like to see medical diagnostics removed from this law completely. This would bring Japanese classification in line with current US and EU practice.

- **Product approval** — Launch delays are common, as the MHW does not consistently meet its six month objective for processing new product approvals. This increases costs and restricts patient access to innovative new developments in the detection, prevention and monitoring of disease.

Recommendation: The EBC urges the Japanese Government to reduce the regulatory burden required in the new product approval process and respect the six-month processing period objective set out by the MHW. The EBC would welcome the introduction of a "file & inform" type approval system based on the principles of good business governance.

- **Harmonisation of international standards** — Harmonisation activities taking place under the auspices of the Global Harmonisation Task Force and the International Conference on Harmonisation do not specifically address the issue of medical diagnostics.

Recommendation: The EBC supports Japan's commitment to harmonisation and urges the government to bring medical diagnostics regulation in line with international standards.

Background:

EBC Medical Diagnostics Committee Member Companies

Bayer Medical
bioMérieux Japan
Cis Diagnostics
Dade Behring
Dako Japan
Nippon Bio-Rad Laboratories
Nippon Roche Diagnostic
Organon Teknika
Ortho-Clinical Diagnostics
Sceti

The role of medical diagnostics in the healthcare system

Medical diagnostic reagents and equipment are used to perform diagnostic tests in hospitals, private laboratories and blood transfusion centres. They are an essential component of any healthcare regime, indispensable in preventing sickness, detecting and diagnosing diseases, and monitoring treatment. The economic benefit of medical diagnostics is well documented, as techniques such as viral load testing and drug efficacy monitoring save costs by reducing hospitalisation and pharmaceutical consumption. These benefits represent a good opportunity for Japan as it searches for ways to reduce the amount it spends on healthcare.

Market for medical diagnostics in Japan

The medical diagnostics market in Japan (including both equipment and reagents) amounted to 380 billion yen in 1997, which represents about 0.7% of Japan's total health care expenditure. This figure is comparable with international averages in the industrialised world.

Health care reform

As with other parts of the healthcare system, the Japanese Government's desire to reduce health care costs has had a serious impact on the medical diagnostic community. The reimbursement price for medical diagnostics has been reduced across the board, which in turn has reduced the incentive for the medical community to use diagnostic products. The EBC feels that Japan's inappropriate reimbursement scheme distorts diagnostic usage, poorly reflects the value of specific diagnostic markers, and prevents the Japanese health care system from enjoying the benefits of appropriate testing for common diseases such as diabetes, osteoporosis, and tuberculosis.

The product approval process

Registration requirements for in-vitro diagnostics in Japan are very complex. The major problem stems from the fact that medical diagnostics are classified as pharmaceuticals under the Pharmaceutical Affairs Law, and not as a separate category. Due to this classification, medical diagnostics are subject to strict testing and approval procedures.

Since 1986 the EBC, in co-operation with the American Chamber of Commerce in Japan and the Japanese Association of Clinical Reagents Industries, has been working to reduce the regulatory burden of the new product approval process and have medical diagnostics recognised as a separate category under the Pharmaceutical Affairs Law. As a result of lobbying by the industry, some procedures in the new product approval process have been simplified.

However, the EBC feels that there is much more to be done. Cumbersome approval procedures and excessive workloads at testing agencies have resulted in lengthy product approval delays. As a result, Japanese patients do not have ready access to leading edge product developments in such areas as HIV testing, where detection techniques are improving all the time. Delays also significantly increase the cost to medical diagnostic producers, which leads to higher prices, and ultimately increases the cost to the Japanese health care system as a whole.

Conclusions

The EBC urges the Japanese Government to recognise the important contribution that medical diagnostics make to the healthcare system. If used appropriately, medical diagnostics have the potential to reduce health care costs in Japan. However, this will only occur if the issues outlined above are addressed in a timely and consistent manner.

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medical equipment

The Japanese health care system is experiencing a period of fundamental change. As the Japanese Government continues to search for ways to deal with an ageing society, rising healthcare costs and a stagnant economy, the EBC Medical Equipment Committee is working to ensure that the important role innovative medical equipment technologies play in the deliverance of health-care is recognised.

Key issues:



- **Classification** — The Ministry of Health and Welfare (MHW) is currently reviewing the classification of medical devices under the national medical insurance and reimbursement system.

Recommendation: The EBC urges the Japanese Government to quickly establish appropriate medical device classifications based on form, function, and efficacy. As a first step in this direction, the EBC would like A1 and A2 classifications clarified as soon as possible.

- **Reimbursement** — The EBC is concerned that proposed changes to the medical insurance reimbursement scheme will not adequately compensate medical equipment producers for their important contribution to Japan's health system.

Recommendation: The EBC urges the Japanese Government to recognise the important role medical equipment plays in the deliverance of high quality health care by establishing an insurance reimbursement scheme that adequately compensates producers of technologies with proven economic and clinical benefits.

- **Product approval process** — The introduction of Good Medical Practice (GMP) has seriously affected the product approval process. The prefectural authorities responsible for the implementation of GMP were not adequately prepared for the increase in administrative responsibility. This has resulted in lengthy delays, and has effectively discriminated against foreign products.

Recommendation: While the EBC supports the general principles underlying GMP, it is important that these changes do not add unnecessary burden to European medical equipment producers. The EBC urges the Japanese authorities to co-ordinate medical equipment standards with their European counterparts to avoid unnecessary duplication in the product approval process. A Mutual Recognition Agreement regarding GMP should be implemented between the EU and Japan as soon as possible.

Background:

EBC Medical Diagnostics Committee Member Companies

Aesculap Japan Co.
Afga-Gevaert Japan
Air Liquide Japan
AVL Medical Instruments
B.Braun Japan
CIS Diagnostic
Dornier Medical Systems Co.
Draeger Japan
Edap Technomed
ELA Medical Japan Co.
ELEKTA MANSSON
Japan BXI
Philips Medical Systems Corp.
Radiometer Trading
Siemens-Asahi Medical Technologies
Smiths Industries Japan
SULZER Medica Japan

The market for medical equipment in Japan

European medical equipment has a long history in Japan, based on a tradition of innovation and superior performance. Japanese companies, unencumbered by research costs, have been quick to make inexpensive copies and adaptations of imported technologies. Historically this has limited the market in Japan for foreign made equipment to technologically superior products, innovative products that are not easily copied, and those where the Japanese market is too small to make the copying of products worthwhile.

Healthcare reform

Japan is currently in the midst of a fundamental overhaul of its healthcare system brought on by a rapidly ageing society, rising health care costs, and stagnant economy. This has in turn seriously affected the medical equipment sector.

The EBC is concerned that during this reform process the Japanese Government has not recognised the important contribution medical equipment makes to the overall deliverance to health care in Japan. The high cost of advanced medical equipment has often been singled out as one of the main culprits underlying Japan's rising health care cost. The EBC would like to point out that medical equipment represents only a small percentage of Japan's total health care expenditure. The cost of this small investment is overshadowed by the enormous potential medical devices have to improve the quality of patient care and reduce the amount spent on hospitalisation and pharmaceuticals.

Insurance coverage

It is necessary in Japan for producers of medical equipment to file medical insurance coverage applications so that medical institutions using these devices can recover the product cost. The EBC is concerned that the reimbursement price set by the Japanese Government does not adequately reflect the economic and clinical benefits of individual technologies. Part of the problem stems from the classification criteria set out in the insurance system. The EBC feels that if the number of functional categories is further reduced, this will further impede the establishment of an effective reimbursement mechanism that recognises the benefits of truly innovative technologies.

Product approval process and the regulatory burden

Despite reforms aimed at improving the new product approval process, it seems that in actual fact the reverse has occurred. The situation has been further complicated by the introduction of GMP without adequate preparation by the regulatory authorities to handle the increased administrative burden. The EBC encourages the Japanese Government to review the product approval process to make it faster, more transparent, and less cumbersome for applicants. This will improve patient access to innovative new technologies and ultimately lead to improvements in the quality of patient care. The EBC also recommends regulations be harmonised with European standards to avoid duplication in product approval procedures.

Continued dialogue

The EBC has on numerous occasions been given the opportunity to voice its concerns on the current round of health care reform to the Japanese Government. The EBC appreciates this proactive dialogue, and encourages both policy makers and regulatory authorities to continue consulting the health science industry on healthcare reform. The EBC is committed to making an important contribution to Japanese health system by continuing to develop advanced medical technologies for the benefit of the Japanese patient.

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pharmaceuticals

The Japanese healthcare system is currently experiencing a period of fundamental change. The government, faced with fiscal constraints and an ageing population, continues to search for ways to reduce healthcare costs - including the price it pays for prescription medicines. During this reform process, the EBC Pharmaceuticals Committee is working to ensure that the benefits of a healthy pharmaceutical industry to the Japanese healthcare system continue to be recognised.

Key issues:



- **Pharmaceutical Pricing Reform** — The Japanese Government is currently trying to reform the drug pricing mechanism in order to contain the amount it pays out for prescription medicines through the national health insurance system.

Recommendation: The EBC urges the Japanese government to establish a new yakkasa-free pricing mechanism that rewards innovation in new drug development, recognising the important benefit that effective new drugs have in the overall deliverance of health care in Japan.

- **Market Access** — Foreign clinical trial data is now being accepted much more readily in Japan for use during the drug approval process with the introduction of ICH guidelines stipulating ethnic factors in the acceptability of foreign data.

Recommendation: The EBC encourages the Japanese government to continue implementing clinical trial reforms and reduce the time needed to navigate through the drug approval process.

- **Patent Protection** — The Tokyo Court of Appeal has denied motions filed by European and Japanese pharmaceutical firms to prevent generic drug producers from developing before patent expiry.

Recommendation: Intellectual property rights must be protected in Japan. The EBC urges the government to introduce new legislation to protect pharmaceutical patents from premature development by generic producers.

Background:

EBC Pharmaceutical Committee Member Companies

AstraZeneca
Aventis Pharma
Aventis Pasteur
Bayer Yakuin
Bracco-Eisai
Cis Diagnostic
Degussa-Hüls Japan
Fournier Group Japan
GALDERMA
Glaxo Wellcome
Guerbet
Itasco
Janssen-Kyowa
Knoll Japan
Leo Pharmaceutical Products
Merck Japan
Nihon Schering
Nihon Servier
Nippon Boehringer Ingelheim
Nippon Hexal
Nippon Organon
Nippon Roche
Novartis Pharma
Novo Nordisk Pharma
Pharmacia & Upjohn
Sanofi-Synthelabo Pharmaceuticals
Serono Japan
SmithKline Beecham Seiyaku
Solvey Seiyaku
Sulzer Medica
UCB Japan

The Japanese pharmaceutical market

With sales of over 6 trillion yen, the Japanese pharmaceutical market is the second largest in the world - larger, in fact, than the markets of France, Germany, and the UK combined. The pharmaceutical sector is one of the few high technology sectors in which Japan runs a trade deficit. Imports have outstripped exports by an average of three to one since 1975.

The market for pharmaceutical products recovered somewhat in 1999 after three years of decline. Market stagnation was due in large part to the Japanese Government's efforts to cap prescription drug prices that it covers under the national health insurance system.

The Japanese healthcare system

The government heavily subsidises health care in Japan. Until 1997, the national health care system covered all prescription medicines. Now the Japanese government asks patients to bear some of the costs of the medicines they use through a form of "co-payment". This has had a noticeable effect on the amount doctor's prescribe to patients under their care. Historically, pharmaceutical costs have accounted for a high proportion of the total Japanese healthcare budget in comparison with other industrialised nations, though this gap has narrowed in recent years.

Pharmaceutical pricing reform

The Ministry of Health and Welfare (MHW) sets the price of prescription medicines according to an official drug price schedule (*Yakka*). This is the price that the ministry reimburses the dispensing community through the national health insurance system for drugs that have been prescribed. Medical institutions often purchase pharmaceutical products from wholesalers at a discount and then apply for reimbursement from the government at the official rate. This has seriously distorted the market for pharmaceutical products in Japan.

The MHW proposed to replace the current system with a "price reference" system based loosely on an outdated German model. Under the proposal, the MHW wanted to apply a weighted-average reimbursement price to all products in a specific drug group, regardless of brand name and actual product effectiveness. Much to the relief of the European pharmaceutical community, the Japanese government abandoned these plans at the beginning of last year. The EBC supports the development of a new pricing mechanism that rewards product innovation based on market principles. The EBC also feels strongly that reform of the drug pricing system should occur within the context of overall healthcare reform, including medical fee reform, elderly healthcare reform and reform of the medical provision system.

The drug approval process

The International Conference on Harmonisation (ICH), a joint Japan/US/Europe effort to standardise the drug approval process, has made great inroads in promoting the acceptance of foreign clinical trial in Japan for use during the drug approval process. This has made it much easier for European pharmaceutical companies to have their products approved for sale. The MHW has been recruiting more reviewers, and it appears likely that the ministry will meet its target of bringing the new-drug review process period down to twelve months by next year. The EBC applauds these efforts and encourages the MHW to continue implementing reforms meaningful and consistent manner.

Industry

Aeronautics
Automotive Components
Construction
Defence
Industrial Materials
Space

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aeronautics

European aeronautics firms have recently been enjoying a certain amount of world-wide success in the field of helicopters, engines and commercial aircraft, with Airbus for the first time in history overtaking its old rival Boeing in terms of orders. The EBC is also encouraged by the beginnings of tangible, albeit modest, co-operation between European and Japanese firms in commercial aircraft development. The EBC hopes this will lead to new opportunities for European firms to compete in the Japanese market for commercial aircraft in the future.

Key issues:



- **Promoting competition** — Despite the fact that European commercial aircraft, engines, components, and navigational equipment manufacturers offer state-of-the-art technology at internationally competitive prices, the European share of the Japanese market for commercial aircraft and related equipment is considerably less than its world-wide average. Co-operation in commercial aircraft development has also been heavily biased in favour of North America.

Recommendation: Procurement decisions should be made on a competitive basis free from political influence in order that Japanese companies are able to experience the benefits of buying European products.

- **Promoting industrial co-operation** — The EBC is convinced that there are mutually beneficial opportunities for co-operation between European and Japanese firms on future projects such as the A3XX (very large transport aircraft) in areas such as airframe, propulsion and navigation systems.

Recommendation: The EBC is looking to increase Japanese industrial involvement in the development of European commercial aircraft. Given the difficult political and strategic environment surrounding industrial co-operation on large-scale projects, the EBC recommends that co-operation on a smaller scale be encouraged to further working relationships and promote mutual trust and understanding.

Background:

EBC Aeronautics, Space and Defence Committee Member Companies

Aerospatiale Matra
Airbus Industrie
Alcatel Japan
Arianespace
BAE Systems
DaimlerChrysler Aerospace Japan Co.
Eurocopter
GKN Westland Helicopters
Pechiney Japon
Rolls-Royce International
Snecma
Thomson-CSF Japan
Thomson-CSF SEXTANT

The Japanese market for commercial aircraft

The Japanese market for large commercial aircraft is one of the largest in the world. Historically, this market has been dominated by the United States. There are a number of reasons for this. First, Japan utilises large B747 aircraft fleets in a unique way — as short sector commuter transports. In the past, Airbus has not had a large capacity aircraft to compete with Boeing.

Perhaps the most important reason for Boeing's continued strength in the Japanese market centres, however, on the long-standing relationship Japanese airlines and manufacturers have had with North American companies. Japan Airlines, for example, has yet to buy an Airbus - the only major airline in the world yet to do so. As airlines start climbing out of the recession and start renewing their fleets, the EBC hopes that JAL will be given the opportunity to procure new aircraft on a competitive basis and realise the benefits Airbus has to offer.

The Japanese aeronautics industry

Since the end of World War II, the Japanese aeronautics industry has been trying to rebuild a domestic capability with support from the Japanese government. The four "heavy industries" have relied heavily on defence contracts, which still account for nearly three-quarters of their total aerospace turnover, and on partnership with Boeing for the rest. Attempts by the Japanese Government through the Ministry of International Trade and Industry (MITI) to promote Japanese independence in the field of aeronautics through national projects have not been as successful as expected and have more recently encountered resistance from Japanese industry itself.

Co-operation in commercial aircraft development

Japanese industry is demonstrating more interest in co-operating with European firms on the development of commercial aircraft. The EBC hopes to build on current successful co-operation such as the BK-117 helicopter and increase the scope of joint activities to include future projects such as the A3XX.

However, European industry is still faced with long-standing industrial relationships between North American aircraft manufacturers and Japanese industry that has in the past limited co-operation between Europe and Japan. Despite stagnant commercial opportunities in the North American market, Japanese industrial concerns have yet to enter into substantial new product development relationships with European firms.

The EBC can only speculate on the reasons for Japanese reluctance to enter into new risk-sharing agreements with European aircraft producers. A lack of effective communication channels between European and Japanese industries, reluctance on the part of Japanese industry to enter into another "Boeing" type of product development relationship and disrupt existing relationships, and perhaps even the existence of an exclusivity agreement between Boeing and Japan can partially explain the current situation.

The EBC is encouraged, however, by increasing interest on the part of Japanese industry in becoming more involved in product development with European aircraft manufacturers. European companies will work hard to solidify these new relationships and pave the way for more substantial co-operation in the future.

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automotive components

The world automobile industry is becoming increasingly internationalised as companies focus more and more on over-all competitiveness than on national content. European automotive component firms are in a good position to offer proven technical expertise at a competitive price to Japanese automobile manufacturers in this increasingly international environment.

Key issues:



- **Promoting information exchange** — Face-to-face meetings between the European Association of Automotive Suppliers and Japanese car manufacturers were established in 1995 to promote information exchange between European and Japanese companies.

Recommendation: The EBC strongly recommends and supports the continuation of "face-to-face" meetings in Europe with representatives from the Japanese automobile industry as a means to exchange information on products, platforms and important issues affecting the industry.

- **Deregulation** — The EBC supports the Ministry of Transport's commitment to harmonise standards, including efforts to sign new ECE regulations on a reciprocal basis. However, a number of regulatory issues remain in terms of licensing, standards harmonisation, and certification that the EBC feels should be addressed.

Recommendation: The EBC urges the Japanese Government to eliminate any unnecessary restrictions to market access (including the after-market) that exist in Japan and to continue working towards international standards harmonisation.

- **Internationalisation of the automobile industry** — The EBC welcomes the opportunity internationalisation presents for innovative European firms to strengthen their relationship with Japanese automobile manufacturers in terms of new product development and technical expertise.

Recommendation: The EBC urges Japan to focus on the technical, commercial and logistical aspects of automobile production. Part procurement should ultimately be based on merit, and not on political pressure or historic linkages within the industry.

Background:

The automobile industry in Japan

For a forty-year period, from the mid-1930s through to the mid-1970s, the Japanese automobile industry was largely shielded from external competition. During this time, the Japanese automobile industry flourished, and has become the second largest producer in the world after Europe.

Japanese vehicle manufacturers have relied almost exclusively on domestic parts and equipment supply, traditionally organised into associations controlled by the vehicle makers. Until the early 1990s, the exclusive nature of this system effectively barred foreign participation in domestic production.

Recently, traditional industrial grouping ties have started to weaken, as overall competitiveness in the automobile industry has become more important. However, European automotive component manufacturers continue to face difficulties in promoting European technical expertise to the Japanese automobile industry, mainly due to continued reluctance in outsourcing product development.

What European companies have to offer

The European automotive component industry's relationship with Japan started with Japanese car manufacturer's transplant operations in Europe. With the internationalisation of the world automobile industry, more and more European companies are dedicating resources to attracting business in Japan by investing in local infrastructure and improving technical competence with the goal of promoting more direct contact and closer relationships with Japanese clients.

The European automotive component producers have much to offer the Japanese car industry. European companies are not tied to specific European automobile manufacturers, and work for a variety of companies on a global basis. European car parts producers have a reputation for product innovation, technical expertise, efficiency, quality and personal attention that Japanese automobile manufacturers are demanding of their suppliers on an increasingly frequent basis.

The outsourcing of automobile component development has emerged as a clear trend in the European automobile industry. The European system offers lower risks at less cost with greater flexibility. This type of relationship, however, has not caught on in Japan. Companies are still uneasy about divulging proprietary information to outsiders, preferring as much as possible to keep production within the industrial grouping. The EBC recognises this concern, and seeks to reassure Japanese companies that European firms are committed and reliable partners in any product development relationship.

Conclusions

The EBC is working hard to improve the mutual trust and understanding between independent European automotive component producers and Japanese car manufacturers. European firms offer proven technical expertise, competitive prices and global experience to Japanese manufacturers in this increasingly international environment. The EBC looks forward to increased dialogue with Japanese companies through face-to-face meetings and design-in seminars in order to promote the merits of the European automotive components industry.

EBC Automotive Components Committee Member Companies

- A. Raymond Japan
- Bertrand Faure Japan
- BASF Japan
- BOSCH
- BEHR Japan
- Continental Teves
- Delphi Aftermarket Operations
- Freudenberg Co.
- GETRAG
- Herberts Shinto Automotive Systems
- Hoerbiger Nippon
- Johnson Matthey
- Lucas Variety
- Magneti Marelli
- Mannesmann Japan Co.
- Mannesmann VDO Japan
- Nihon Michelin Tire Co.
- Osram Japan
- Pirelli
- Seric
- Siemens
- SIKA
- Solvay Automotive Asia
- TRW Automotive Japan Co.
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construction

The Japanese construction sector is one of the most protected sectors in the Japanese economy. Collusive business practices, a highly regulated environment, and a lack of exposure to international competition are but a few of the reasons the construction sector remains inefficient and uncompetitive. The EBC Construction Committee urges the Japanese Government to do all that it can to ensure Japanese users have access to innovative products and services at competitive prices. This would encourage efficiency and lower costs to both the Japanese taxpayer and the private consumer.

Key issues:



- **Procurement policy** — Political & financial lobbying influences the awarding of public construction projects to contractors. The process lacks transparency and increases the overall cost to the taxpayer.

Recommendation: The EBC urges the Japanese Government to ensure complete transparency and adequate independent supervision of the tendering process.

- **Performance standards** — The EBC welcomes the planned introduction of performance standards to the Japanese building code in June, 2000. If implemented in a clear, consistent, and effective manner, this reform has the potential to increase Japanese access to innovative European construction technologies, materials, and products. However, there is some concern that despite these reforms, little will actually change.

Recommendation: The EBC would like the implementation of new performance-based product approval legislation monitored to ensure free access to innovative products and services regardless of national origin.

- **Standards harmonisation** — Japan lacks exposure to international best practice in both product design and service delivery.

Recommendation: The Japanese Government should move rapidly towards the recognition of and harmonisation with ISO standards, including the recognition of foreign ISO-approved testing facilities, foreign professional licensing, and international best practice.

Background:

The construction market

Japan's construction market is the largest in the world. It employs more than 10% of the workforce and accounts for nearly 15% of Japan's GDP. There are over 550,000 firms involved in the construction industry, including 70,000 general contractors, though only 6,000 are capitalised at over 100 million yen. Historically, the Japanese construction market has been closed to the outside world. European involvement amounts to a fraction of 1% of the market.

Japanese industry is not very efficient, nor internationally very competitive. Construction costs in Japan remain the highest in the world, though falling in recent years. Collusive business practices and official government support of the industry have artificially inflated the number of construction firms in Japan and prevented the more innovative and efficient companies from rising to the top.

It is widely recognised that the Japanese Government does not have enough money to continue artificially supporting the construction sector. Continued government support not only imposes a heavy burden on the Japanese economy, but also ignores the more important structural and regulatory issues facing the industry.

General construction

The government procurement process effectively eliminates competition. Under the current system, the government sets a target ratio for public works orders placed with smaller firms. Government offices and public corporations split projects into small segments so that government contracts can be spread out evenly amongst construction firms of all sizes according to ratios set annually by the cabinet. The system lacks transparency and consistency, and many government contracts remain heavily influenced by politics, lobbying, and bid rigging.

The cost of setting up local representation, obtaining licenses, registering under the *keishin* system, and bidding for projects is prohibitive for European contractors. The ability of European firms to build using innovative designs, imported materials and modern construction methods - the key to their competitive advantage - is effectively taken away by over-regulation and complicated procedures to obtain the necessary approvals.

Architecture, planning and engineering services

Consulting services to the public and private construction sectors are not as well developed in Japan as in other industrialised countries. Design and engineering are commonly included in a package with other construction costs, which makes separate bidding for these services difficult. Furthermore, it is very difficult for European professionals such as architects and structural engineers to obtain a license in Japan.

Construction materials

The Ministry of Construction has announced that all materials receiving approval on the basis of proposed performance standards legislation will be admitted to Japan. In addition, it will now be theoretically possible to test these materials in their country of origin, so long as the testing centre is approved by the Japanese Government. The EBC welcomes this development, and hopes it will lead to better access for innovative European construction technologies, materials, and techniques. However, this optimism is tempered by the fact that previous reforms such as the Construction Action Plan have done little to improve market access and improve the competitive environment of the Japanese construction industry.

EBC Construction Committee Member Companies

Atlantis Associates Co.
Clestra Hauserman
Currie & Brown (Japan)
Degremont Co.
Enterprise Co.
Forbo-Krommenie Japan
Grohe Japan
Inter Office
Kiwa
LEGRAND
Meiho Corporation
Midas International
Nihon Saint-Gobain
Nippon Fläkt
Pechiney Japon
PMC (Rocamat)
Ove Arup & Partners
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S'International Architects
Schal Bovis
Schindler Elevator
Sika
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Mr. Michel Theoval
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(President, Thomson-CSF Japan)

defence

European producers have remained largely absent from Japan's huge market for defence equipment. A number of barriers persist that have prevented the Japanese security forces and defence agencies from benefiting from state-of-the-art technologies European defence firms have to offer. The EBC Defence Sub-Committee is working to increase the presence of European companies in Japan by encouraging a more competitive product development environment and transparent procurement process.

Key issues:



- **Non-tariff barriers to trade** — Defence procurement should be based on technological, operational and cost-effective merit. In Japan, bureaucratic interference, time-honoured collusive business practices, and political influence have limited the effectiveness and scope of the defence procurement process.

Recommendation: The EBC urges the Japanese Government to increase transparency in defence procurement. European companies have much to offer in terms of inter-operability, technical expertise, and real-world operational experience. Defence equipment should be chosen on cost-effective grounds whenever politically possible.

- **Industrial co-operation** — With the exception of the US, Japan prohibits co-development involving the exchange of defence related information. Since specifications for military equipment also fall within the scope of this prohibition, it is very difficult for European companies to participate in co-operative ventures with the Japanese defence industry.

Recommendation: The EBC urges the Japanese Government to ease regulations concerning the transfer of information for European companies looking to co-operate on product development in Japan. This will give Japanese industry and governmental agencies access to new technologies and processes, including much needed real-world operational experience.

Background:

EBC Aeronautics, Space and Defence Committee Member Companies

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Airbus Industrie
Alcatel Japan
Arianespace
BAE Systems
DaimlerChrysler Aerospace Japan Co.
Eurocopter
GKN Westland Helicopters
Pechiney Japon
Rolls-Royce International
Sncma
Thomson-CSF Japan
Thomson-CSF SEXTANT

The Japanese defence market

The market for defence equipment in Japan is the second largest in the world in terms of monetary value. Japan's current five-year defence build-up plan includes an arms procurement budget of around 4.5 trillion yen, of which roughly 75% is expected to be spent on locally built and developed weapons systems. Products built under license from US manufacturers or directly imported from the US make up most of the remaining 25% of Japan's defence hardware market, with imports or licensed production originating in Europe accounting for an estimated 2%. With few exceptions, European defence sales to Japan have consisted mainly of minor equipment or components for Japanese-made weapon systems.

European involvement in Japan's defence market

As with many other sectors of the Japanese economy, the European defence industry faces a number of non-tariff barriers to trade that limit European involvement in the Japanese market. Bureaucratic and political influence have severely reduced transparency in the procurement process. This situation has been exacerbated by restrictive information transfer practices limiting the opportunity for EU/Japan industrial co-operation in the development and adaptation of defence equipment. As a result, European defence firms face an uphill battle in their efforts to both increase co-operation in product development with Japanese companies, and, when necessary, sell ready-to-use, state-of-the-art equipment to the Japanese Government.

The US-Japan security alliance has also limited the scope of Japanese defence equipment procurement. American political pressure surrounding the trade imbalance, the Foreign Military Sales program providing financial incentives to buy American products, and Japanese fears of non-interoperability have further restricted European access to the Japanese defence market.

While the EBC recognises the important role the US plays in the Japanese security structure, the EBC feels that the Japanese attitude towards interoperability is often overstated. Limiting foreign procurement to American products has not guaranteed interoperability with the US. Instead, this attitude has restricted Japanese access to innovative European solutions to inter-operational problems and limited Japan's bargaining position within the US-Japan security alliance. European companies have over 50 years of experience through NATO in dealing with the problems of interoperability and would welcome the opportunity to share this experience with the Japanese defence establishment.

Opportunity for change

Japan's current economic climate, combined with increasing tensions in the region and an expanding array of Japanese missions abroad, offers a good opportunity for the Japanese Government to re-evaluate its procurement policy to focus more on cost-effectiveness. A more competitive procurement process would increase Japanese access to off-the-shelf state-of-the-art defence equipment with proven capabilities. More importantly, by increasing the scope for product co-development, Japanese industry would gain access to much needed technologies, industrial processes, and operational experience.

In return, European companies offer world-wide market-based pricing and experience. Moreover, since there is no security alliance between Japan and Europe complicating political relations, Europe can offer full technology transfer with no political strings attached. This would be of great benefit to Japan as it searches for ways to improve interoperability, self-reliance, and military readiness in an era of fiscal constraint.

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industrial materials

High tariff rates on imported industrial material products significantly increase commodity procurement costs and seriously affect the competitiveness of Japanese industry. This simply adds to the problems faced by important Japanese industries in areas such as steel, glass and machining struggling to remain competitive on the increasingly international market. As one of the largest consumers of industrial materials in the world, Japan would greatly benefit from unrestricted access to high quality products at market based prices. The EBC Materials Committee, representing a large, important sector in European industry, urges the Japanese Government to reduce tariff rates on imported industrial materials and remove all forms of discrimination against European products.

Key issues:



- **Tariffs** — Tariffs are by far the largest barrier to trade in industrial materials with Japan. Most common industrial materials are sold worldwide under transparent prices and even the smallest tariff-induced price differential makes it difficult for European producers to compete. The Japanese consumers of industrial materials in industries such as stainless steel, electronic components, battery production, automobiles, and ceramics, face increasingly stiff international competition and would benefit from cheaper commodity procurement. Japan applies tariffs selectively with no other purpose than to support a small number of local companies. This greatly distorts competition in Japan and in export markets abroad.

Recommendation: The EBC urges the Japanese Government to eliminate all tariffs on industrial raw materials. This would give Japanese users access to high quality products at market-based prices.

- **Discriminatory treatment** — Many types of industrial raw materials are subject to discriminatory treatment under the Generalised System of Preferences (GSP) whereby imports from certain countries are exempted from paying Japanese duty while imports from other countries are not. European producers do not enjoy this exemption.

Recommendation: The EBC urges the Japanese Government to remove any barriers to trade that discriminate against European producers.

Background:

EBC Materials Committee Member Companies

Elkem Japan
Eramet Japan
Lafarge Aluminates Japan
Outokumpu Japan
Pechiney Japon
SKW East Asia
Sogem Japan
Treibacher Schleifmittel Japan
Uddeholm

Nickel

Some 65% of all processed nickel is used for producing stainless steel. The consumption of nickel world-wide is therefore closely linked to stainless steel production. It is vital that Japanese stainless steel mills be able to procure nickel at prices that are at least comparable to those of their competitors world-wide.

Japan is the single largest market in the world for nickel, consuming 180,000 metric tons annually. There are no minerals in Japan that can be used for nickel production and all raw materials have to be imported. This increases production costs dramatically. Even so, protective tariff rates ranging from 3.3% to 4.8% on various processed nickel products have allowed Japanese producers to increase production by 30% over the past ten years, and domestic production now accounts for nearly 70% of the domestic market. Faced with falling domestic demand, Japanese producers have even started to export some of their production at below-market prices, creating additional distortions in the nickel market.

Japan is the only country in the industrialised world that imposes duties on imported nickel products. This seriously affects the competitiveness of Japanese nickel users (especially stainless steel producers) who are forced to pay higher rates caused by tariff distortions.

Fused aluminium oxide

Fused aluminium oxide, also called artificial corundum, is used mainly in the abrasive industry for grinding wheels, sand paper or loose grain applications like grinding and polishing of glass and electric components. After China, Japan is the largest market for fused aluminium oxide in Asia, consuming more than 160,000 metric tons annually.

Domestic production of corundum has declined steadily since 1985 and is now limited to only certain production types. Imported corundum is subject to a 3.3% import tax. This effectively discriminates against European producers as the majority of imported corundum comes from countries enjoying tariff exemption under the Generalised System of Preferences. However, some categories that are not produced domestically cannot be purchased from tariff-exempt sources. This increases the price for imported corundum and effectively penalises the Japanese end user.

Lead oxide

Japan is the largest market in the world for lead oxide, litharge, and red lead, consuming more than 90,000 metric tons annually. Lead oxide is used mainly in the glass industry for TV-tubes, optical glass and crystal glass, in the PVC industry as a stabiliser and dryer, and in the pigment industry for anticorrosive paints.

Domestic production accounts for about one-third of total Japanese consumption and continues to fall. Countries enjoying tariff exemption under the Generalised System of Preferences supply nearly 100% of all lead oxide imports. In fact, the 4.7% import tax affects only European producers who represent less than 1% of the market. This market access barrier has also had a negative impact on the environment. Over the past decade, new production capacities have been developed in geographical areas, particularly in South East Asia, where pollution control remains far below European and Japanese standards.

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space

Government and industry in Japan and Europe maintain good working relationships in the space sector. The European Space Agency (ESA) maintains close relations with the Science and Technology Agency (STA), the National Space Development Agency (NASDA) and the Ministry of Posts and Telecommunications (MPT), and industrial co-operation is increasing between European and Japanese companies in the development of satellites and related technology. The EBC hopes that this co-operation will continue to develop, and lead to further opportunities for European businesses in Japan.

Key issues:



- **Promoting industrial co-operation** — Significant industrial co-operation in areas such as launchers, space stations, remote sensing devices, navigation, and global information infrastructure, will only be possible if promoted by the European and Japanese agencies responsible for space development.

Recommendation: The EBC supports co-operation between NASDA and European space agencies, and encourages further development of this relationship. This will ultimately lead to greater opportunities for co-operation at the industry level between Europe and Japan.

- **Empowering the private sector** — The Japanese Government agencies responsible for Japan's space program still exercise a great deal of control over manufacturers in the space sector. For example, Japanese Government contracts are often split up between many different companies without designating an overall prime contractor. This makes discussion at the industry level very difficult and hinders long term co-operation between European and Japanese businesses.

Recommendation: The EBC encourages the Japanese Government to give more independence and flexibility to Japanese manufacturers to pursue co-operative ventures with European businesses. European standards should also be accepted without restriction in the co-operative development of space technologies.

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Japan and the space sector

Japan is among the leading nations in the field of space. The development of the H-II rocket has given Japan an independent access to space. Japan has also been building and launching state-of-the-art satellites at the rate of approximately one experimental spacecraft per year.

However, the Japanese space industry now relies almost exclusively on orders from government agencies such as NASDA and the Institute of Space and Astronautical Sciences (ISAS), after American political pressure forced the opening of the commercial satellite market to international competition in 1990.

The three Japanese satellite manufacturers have been unable to compete in the international satellite market due to low domestic volumes. As a result, the commercial side of the Japanese space industry tends to concentrate on ground stations and satellite components. Japanese firms have successfully supplied American and European satellite manufacturers as well.

Commercial satellites

The existence of a bilateral agreement between the US and Japan requiring the international tendering of all commercial satellite projects in Japan has resulted in a relatively free and open commercial satellite market. Despite this situation, European satellite producers have yet to sell a commercial satellite in Japan.

Co-operation in satellite development also remains heavily biased towards the US, particularly for national security concerns. Political influence and pressure have had an adverse effect on the commercial development of both the Japanese space industry and the European space industry in Japan.

The EBC is encouraged, however, by Japan's apparent willingness to pursue opportunities outside traditional relationships, including increased co-operation with Europe. NASDA has invited the European Space Agency to put sensors on its ADEOS satellites, and discussions continue between EGNOS and MSAS regarding satellite navigation.

Europe has much to offer in terms of proven, innovative technologies - with few political strings attached and no particular export restrictions to Japan. The key will be to encourage European and Japanese space agencies to increase co-operative development and empower the private sector to increase industrial co-operation.

Launchers

The Ariane launcher has been very successful in the sale of commercial launch services to Japanese satellite operators. At the same time, Japan has been keen on entering the commercial satellite launch market. Despite recent setbacks to its rocket program, Japan has the technological capability to build advanced launchers.

There is some concern, however, that Japanese companies will internally subsidise their recurring costs in order to be competitive. This has the potential to produce unhealthy competition, especially considering the fact that space represents no more than at most two percent of total turnover for the companies concerned.

Transportation & Communications

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civil aviation

Efficient air transport is vital to the economic life of Japan. It is in Japan's best interest to improve the competitive environment of the civil aviation industry by lowering costs, improving distribution channels, and introducing market driven mechanisms for managing the country's international airports based on international best practice. This would allow airlines to offer a wider range of services at lower prices, and ultimately improve the overall competitiveness of the Japanese economy.

Key issues:



- **Cost of doing business** — The costs levied on civil aviation in Japan are the highest in the world. This restricts an airline's ability to offer increased services at lower prices.

Recommendation: The EBC urges the Japanese Government to reduce civil aviation costs in Japan by 50% by promoting competition in the operation of airport facilities and reducing the prohibitive landing, navigation, and common user fees charged by airport authorities.

- **Distribution** — The distribution, pricing and settlement of airfares is highly regulated in Japan. Airlines are restricted in how they can sell tickets to consumers and at what fare level. Airlines are precluded from selling air and hotel packages directly to customers, who must purchase such tour products from Licensed Travel Agents. This has restricted the ability of airlines to sell air tickets and other travel related products to consumers and is contrary to practice in most other countries.

Recommendation: The EBC urges the Japanese Government to deregulate the distribution, pricing, and settlement of airfares in Japan. This would promote fairer competition by enabling carriers to offer net fares directly to the consumer.

- **Landing shortages and slot allocation** — Current restrictions on hourly flight movement limits the number of slots available to European airlines at major international airports such as Narita and Kansai.

Recommendation: Flight movement per hour should be increased to allow for more efficient use of existing facilities.

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Swiss Air Transport Co.
Virgin Atlantic Airways

The cost of civil aviation in Japan

Airlines doing business in Japan are required to pay prohibitive landing fees, navigation charges, airport terminal rents, airport terminal common user charges, and cargo handling fees that make the cost of civil aviation in Japan the highest in the world.

As a result, airlines are no longer queuing up for access to Japanese airports. High costs, combined with continued downward pressure on ticket prices, have reduced Japan's attractiveness to international airlines. Every international airport in Japan has seen services cancelled within the last year. At least ten airlines have withdrawn completely from Kansai airport since it opened. Many airlines are wondering how long they can continue operating the services that remain.

Airlines are not the only ones affected by high cost of operating aviation services in Japan. High air transport costs also adversely affect the Japanese economy by reducing the ability of airlines to offer a wider choice of services at lower prices.

The distribution mechanism

The Ministry of Transport requires all airlines to apply official IATA fares, or in the case of group travel, lower rates set by the ministry. The present system restricts carriers from offering ticket discounts and package deals directly to consumers. Instead, net fares must be funnelled through licensed travel agents, who ultimately set the market price. This places foreign carriers at a disadvantage as national carriers have sufficient economies of scale to set up their own *de facto* direct distribution channels through captive agencies and affiliated travel offices. Fairer competition could be promoted by allowing airlines to offer discounted net fares and package deals directly to the consumer.

The official settlement and clearing system for ticket sales between airlines and IATA travel agencies does not allow the agencies to directly transfer net remittances on all market fares to the airlines. Airlines have incurred extra costs to set up a secondary settlement procedure that is complicated, unnecessary, and time consuming.

Landing shortages and slot allocation

Until last year, Narita did not comply with the universally accepted practice of requiring airlines to return unused slots to the airport administration for reassignment. This has changed, and Narita now employs a "use it or lose it" formula in line with international practice. The EBC is encouraged by this development, and welcomes additional reforms to increase the transparency of the slot allocation process.

The EBC is more concerned, however, that Narita Airport continues to restrict flight movements to 30 per hour, and 79 for any consecutive three-hour period. Other major airports with only one runway, such as Gatwick, allow many more movements per hour than Narita Airport. The EBC feels hourly flight movements could be substantially increased at Narita Airport within internationally recognised noise limits and without compromising safety.

Landing shortages caused by under utilisation of runway capacity and slot allocation restrictions have resulted in significant economic wastage. The EBC feels this is unacceptable at a major, slot-congested airport such as Narita.

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shipping

Managed competition on the waterfront is seriously affecting the competitiveness of Japanese ports. Contractors have little incentive to modernise outdated practices and cut costs. The EBC Shipping Committee urges the Japanese Government to promote real competition on the Japanese waterfront by allowing shipping lines the freedom to choose facilities and contractors. This would lower costs, improve productivity, and increase the overall attractiveness of the Japanese market.

Key issues:



- **Reducing costs through deregulation** — Japanese port charges are among the highest in the world. This disadvantages not only shipping companies, but also the Japanese economy as a whole. Operational costs will not come down until the Japanese Government commits itself to deregulation on the Japanese waterfront. Recent attempts to reform licensing and tariff approval regulations have done little to promote competition and improve efficiency at Japanese ports.

Recommendations: The EBC urges the Japanese Government to eliminate all barriers to effective competition on the waterfront in order to reduce costs and increase port efficiency. Shipping companies should be able to procure port services on a competitive basis, free from undue influence from industry associations and a restrictive regulatory environment. This will require a concerted effort on the part of the Japanese Government to reform applicable laws and actively enforce competition in line with the recommendations listed on the next page.

- **Regulatory transparency** — The Japanese Harbour Transportation Association (JHTA) wields enormous discretionary power in determining how the Japanese waterfront is run. Shipping lines wishing to make changes to their operations require approval from the JHTA. However, the process lacks transparency and effectively prevents shipping lines from seeking competitive bids for waterfront services.

Recommendation: The EBC urges the Japanese Government to establish a regulatory approval process that is transparent, efficient, and fair.

Background:

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Member Companies**

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Maersk
P&O Nedlloyd (Japan)

Overview

The major problems faced by European and other foreign shipping lines are in most cases the same as those faced by the Japanese shipping industry. These include restrictive waterfront working practices, lack of competition amongst waterfront industries and associations, lack of operational flexibility, and very high costs. The EBC Shipping Committee works in co-operation with the American Chamber of Commerce in Japan through the Japan Foreign Steamship Association to encourage effective competition on the Japanese waterfront.

Controlling the waterfront

The major player on the Japanese waterfront is the Japan Harbour Transportation Association, which is comprised of all major waterfront businesses, except shipping lines. All changes that might reduce employment or adversely affect working conditions require approval from the JHTA. Through a process called "Prior Consultation", the JHTA reviews applications for changes to shipping line operations, and, after consulting with labour unions and other relevant parties, hands down a decision that shipping lines are effectively bound to accept. Issues that require JHTA approval through this process range from extremely minor ones such as substitution of vessels, to more significant ones such as terminal and other operational changes resulting from the formation of new shipping line groups. The system lacks transparency and effectively prevents shipping lines from seeking competitive bids for waterfront services.

The role of the Ministry of Transport in promoting deregulation

The Ministry of Transport is responsible for the regulation of the Japanese waterfront, but defers much of this authority to the commercial sector through the JHTA. In order to promote effective competition in the provision of port services, the EBC feels the Japanese Government must take a more proactive stance in promoting deregulation. In particular, the EBC would like to see the Japanese Government:

- Eliminate the licensing and permission system associated with waterfront operations
- Allow carriers to operate their own facilities
- Allow subcontracting with multiple stevedore companies
- Allow competitive bidding, without interference, for port services
- Allow contracting with confidential rates
- Allow shipping lines to own their own gantry cranes
- Allow the inland transportation of 45' containers on classified routes
- Reform the Prior Consultation system to promote transparency and effectiveness
- Eliminate several elements of the port and harbour transport business law, including supply-demand adjustment tests, mandated commercial relationships, tariff registration and approval, and the filing of business plans
- Eliminate the proposed requirement to raise minimum employment levels to 1.5 times the current level

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telecommunications

The Japanese telecommunications market is undergoing a period of fundamental change. Foreign investment and market access restrictions have been removed, and the dominant carrier has been split into smaller entities. The EBC Telecommunications Committee welcomes the Japanese Government's commitment to telecommunications liberalisation and hopes to see more progress in the regulatory areas outlined below.

Key issues:



- **Interconnection rates** — Interconnection rates in Japan are amongst the highest in the world, significantly increasing the cost for new market entrants and making it difficult to compete against the dominant carrier. This limits benefits to consumers, and contradicts the spirit of liberalisation.

Recommendation: The EBC would like interconnection rates to move without delay to a long-run incremental costing system in line with international practice. The Case B model proposed by MPT should be implemented in 2000 without a phase-in period and adjusted annually to reflect current market conditions. Mobile interconnection rates should also be reviewed.

- **Dominant carrier regulation** — The continued dominance of NTT-affiliated companies prevents new market entrants from effectively competing in the Japanese market.

Recommendation: Reinforcing competition in the telecommunications sector is necessary to ensure that the benefits of liberalisation are passed on to the Japanese consumer. Regulation should focus on companies with dominance, not on Type I vs. Type II distinctions. Filing requirements for non-dominant carriers should be reduced, and dominant carrier legislation including full accounting transparency introduced to counter potential market abuse through such means as unfair pricing and cross-subsidisation.

- **Regulatory oversight** — It is important to maintain efficient proactive regulatory oversight to ensure that reforms are implemented in an effective, transparent, and non-discriminatory manner.

Recommendation: The EBC urges the Japanese Government to establish an independent regulatory authority with a pro-competitive mandate to ensure transparency and efficiency in the regulatory process.

Background:

Regulatory environment

The regulatory environment surrounding the Japanese telecommunications market has changed substantially in recent years. Reforms implemented in 1998 have more or less fully liberalised the telecommunications market, including the removal of foreign restrictions on investment and other market access barriers.

The process of deregulation has generated a number of issues that the EBC feels still need to be addressed through effective regulatory supervision, re-regulation focusing on the continued dominance of NTT-affiliated companies, and continued vigilance in bringing regulatory standards in line with international best practice. Many European countries have undergone similar regulatory transformations, and the EBC welcomes every opportunity to exchange views with Japanese policy makers.

Interconnection rates

Interconnection rates (the rates that companies pay to incumbent operators to connect to their networks) in Japan are amongst the highest in the world. Interconnection charges represent the largest cost to telecommunications firms in Japan. Up to 30-40% of all revenues generated by competing carriers go to NTT to connect to their mobile and fixed line networks. Unlike many industrialised nations, Japan has yet to adopt a long-run incremental costing (LRIC) system to determine interconnection rates for fixed line networks, and there are no apparent plans to do so for mobile networks. As a result, Japanese interconnection rates remain substantially more expensive than best practice in Europe. This stifles competition by making it difficult for new entrants to compete with the dominant carrier.

Dominant carrier regulation

Despite NTT's recent restructuring, NTT-affiliated companies still dominate the Japanese telecommunications market. The EBC feels that the Japanese Government should move to prevent possible anti-competitive practices such as predatory pricing, cross-subsidies from monopolies to market-based activities, and misuse of customer information by establishing an independent regulatory authority to police such market abuse. NTT-affiliated companies should be made to deal with each other in a transparent manner and not discriminate against outside firms. Reinforcing competition in the telecommunications sector is necessary to ensure that the benefits of liberalisation are passed on to the Japanese consumer.

Rights of way

The EBC recommends local loop unbundling, as there is virtually no competition in the local loop. Regulation should focus on those organisations with dominant positions, and on bottleneck situations such as bridges and tunnels, and other scarce resources. In addition, telecommunication carriers should have the right to access multi-tenant buildings in order to provide services to occupants. The ongoing MOFA review of rights of way should be accelerated.

Licensing and product approval regulation

Licensing and product approval procedures remain inconsistent with international best practice. The EBC recommends that the current licensing system be replaced with a single system of licensing, with class licensing for service providers, and individual licenses for operators with facilities. Filing requirements should also be reduced. Again, regulation should focus on companies with dominance, not on Type I vs. Type II distinctions.

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- Arianespace
- Barco Co.
- BT Japan
- Bull
- Cable & Wireless IDC
- DaimlerChrysler Technology Japan
- Deutsche Telekom
- Egis
- Eurotechnology Japan
- France Telecom Japan Co.
- Great Northern Telegraph Co.
- Marconi (Japan)
- ICL Japan
- L&H Japan
- Mannesmann Japan
- Nippon Ericsson
- Nokia Mobile Phones (Japan)
- Pirelli
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- Siemens
- Telecom Italia
- Thomson CSF Japan
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Appendices

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EBC Committees
National Chamber Presidents
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