



EBC

Challenges to Growth and Investment
The EBC Report on the Japanese Business Environment
2002

The
European Business Community
In Japan

The European Business Community in Japan

Sanbancho POULA Bldg. 2Fl., 6-7 Sanbancho, Chiyoda-ku, Tokyo 102-0075 Japan
Tel: 03-3263-6222 Fax: 03-3263-6223
E-mail: ebc@gol.com Web: <http://www.ebc-jp.com>

Challenges to Growth and Investment:
The EBC Report on the Japanese Business Environment
2002

The
European Business Community
in Japan

European Business Community In Japan

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
Italian Chamber of Commerce in Japan
The Netherlands Chamber of Commerce in Japan
Norwegian Business Forum
Spanish Institute of Foreign Trade
Swedish Chamber of Commerce and Industry in Japan
Swiss Chamber of Commerce and Industry in Japan

Executive Operating Board

Chairman:

Richard Collasse

Vice-Chairmen:

Michael Otter (Austria)
Duco Delgorge (Belgium/Luxembourg)
Patrick Carroll (Britain)
Torben Henriksen (Denmark)
Erik Ullner (Finland)
Hubert de Mestier (France)
Dieter Pfeiffer (Germany)
Carlo Zambotto (Italy)
Wolter Veenhoven (Netherlands)
Jan Vilhelm Koren (Norway)
Lave Lindberg (Sweden)
Andre Zimmermann (Switzerland)

Executive Director:

Alison Murray

Policy Director:

Casey Sedgman

Communications Manager:

Yoko Hijikuro

Assistant to the Executive Director:

Hiroko Suzuki

Communications Assistant:

Femke Janssen

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 doing business 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:

Sanbancho POULA Bldg. 2 Fl.
6-7 Sanbancho, Chiyoda-ku, Tokyo 102-0075
Tel: 03-3263-6222 Fax: 03-3263-6223
E-mail: ebc@gol.com
Web: <http://www.ebc-jp.com>

Challenges to Growth and Investment: The EBC Report on the Japanese Business Environment 2002

Editor and Principal Author: Casey Sedgman

Copyright © 2002 by the European Business Community in Japan

All rights reserved

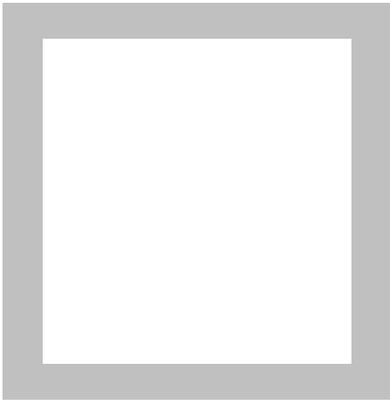
Published by the European Business Community in Japan

Sanbancho POULA Bldg. 2 Fl., 6-7 Sanbancho, Chiyoda-ku, Tokyo 102-0075
Tel: 03-3263-6222 Fax: 03-3263-6223
E-mail: ebc@gol.com Web: <http://www.ebc-jp.com>

contents

Message from the Chairman	4
Message from the Executive Director	5
Introduction.....	8
Business Fundamentals	
E-Commerce.....	12
Human Resources.....	14
Intellectual Property.....	16
Legal Services.....	18
Tax.....	20
Consumer Goods	
Cosmetics.....	24
Cut Flowers.....	26
Food.....	28
Liquor.....	30
Financial Services	
Asset Management.....	34
Banking.....	36
Insurance.....	38
Securities.....	40
Health Science	
Animal Health.....	44
In-Vitro Diagnostics.....	46
Medical Equipment.....	48
Pharmaceuticals	50
Industry	
Aeronautics.....	54
Automobiles	56
Automotive Components.....	58
Construction	60
Defence.....	62
Environmental Technology	64
Materials.....	66
Space	68
Transportation and Communications	
Airlines.....	72
Shipping.....	74
Telecommunications	76
Telecommunications Equipment	78
Appendices	
Blue Star Sponsors.....	82
Special Sponsors	88
Sponsors	89
Executive Operating Board.....	90
Committees.....	91
National Chambers	93





Message from the Chairman

It gives me great pleasure to present the *EBC Report on the Japanese Business Environment 2002*, an up-to-date assessment of the business environment in Japan from a European perspective.

These are trying times in Japan. The stock market is at its lowest point in almost two decades, public debt has skyrocketed, unemployment is on the rise, deflation has set in, and near-term prospects for the Japanese economy as a whole do not look good.

Despite the gloomy economic situation, the EBC remains positive about the prospects for European firms doing business in Japan. The Japanese business environment has changed remarkably over the past decade, in part as a result of efforts on the part of the Japanese Government to improve trade and investment opportunities through reform efforts designed to strengthen market mechanisms and shore up underlying structural weaknesses. There has also been a definite shift in attitude towards the role of foreign trade and investment in Japan. Japanese customers are seeking out innovative European products and services, Japanese cities and towns are actively promoting European investment, and Japanese companies are increasingly looking to European firms for financial and technical support.



European firms have been responding to these opportunities in ever increasing numbers. In fact, Europe is now the largest source of foreign investment in the Japanese economy, a fact that has not gone unnoticed by the Japanese Government. The EBC values the close relationship that has developed between the Japanese Government and the European business community over the past three years, and will continue to work hard to build trust in the Japanese market.

The Japanese Government can help by further strengthening its commitment to meaningful reform in the Japanese economy. *The EBC Report on the Japanese Business Environment 2002* provides a straightforward assessment of the key issues affecting European businesses in Japan and offers a number of practical solutions to the problems identified. Further reforms in these areas would improve the trade and investment environment, and increase the incentive for European firms to do business in Japan.

I would like to thank the EBC members for their ongoing contribution of time and effort to support the EBC's sector-based committees. Without the valuable insight drawn from their industry experience, this publication could not have been produced. I would also like to thank the Delegation of the European Commission in Japan and the European national embassies in Tokyo for their expertise and support of EBC activities.

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 Sponsors section at the end of this publication.

Richard Collasse,
Chairman,
European Business Community.
(President, Chanel K.K.)



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.

The EBC was formally established in 1983, but its roots go back even further. In 1972 the various European National Chambers of Commerce in Japan formed a joint steering committee to coordinate common activities related to market access and information exchange with the Japanese Government. Today, the EBC represents over 3,000 firms who are members of the EBC through their respective National Chamber on trade and investment issues affecting European firms active in the Japanese market. Over 350 of these companies participate directly in one or more of the EBC's 27 sector committees.

With the expansion of European business activity in Japan, the EBC is starting to play a major role in the Japanese trade and investment policy environment. The EBC has established strong ties with the European Commission through their Delegation in Tokyo, with the national embassies of the European countries represented by Chambers in the EBC, with the Japanese Government through its various Ministries and Commissions, and with other business organisations through forums such as the EU-Japan Business Dialogue Roundtable.



Given the ever increasing demands on the EBC and its work, the EBC is extremely fortunate to be led by Chairman Richard Collasse, President of Chanel K.K., whose depth of insight and understanding acquired from extensive Japanese business and cultural experience has contributed greatly to the development of the EBC as an organisation and its on-going efforts to promote European business interests in Japan.

The EBC is equally fortunate to have 27 sector committee chairmen and over 350 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 *The EBC Report on the Japanese Business Environment 2002*.

The task of completing a project of this magnitude is overwhelming. The EBC's Policy Director, Casey Sedgman, deserves special recognition for the way in which he met the multiple challenges of compiling the material, writing/editing the text, and designing the layout for this publication. His valuable work has ensured that this publication will serve as an important reference document addressing the key issues affecting European businesses in Japan.

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.

Introduction



For more information, contact:

Mr. Casey Sedgman
Policy Director,
European Business Community in Japan.

Sanbancho POULA Bldg. 2Fl.
6-7 Sanbancho, Chiyoda-ku,
Tokyo 〒102-0075
JAPAN
Phone 03-3263-6222
Fax 03-3263-6223

introduction

The attitude in Japan towards foreign firms and investment has changed remarkably over the past few years, and European firms have been responding to new opportunities in ever increasing numbers. European firms remain cautiously optimistic about their future in Japan, despite the current economic situation. Further investment will depend on the Japanese Government's determination to address structural weaknesses and promote economic growth.

Key issues:



Encouraging growth

The state of the Japanese economy continues to weigh heavily on the minds of European firms doing business in Japan. European investment will not increase significantly until concrete measures are implemented to halt deflationary pressures and put the Japanese economy back squarely on the path of economic growth. The EBC remains supportive of the current Government's apparent commitment to structural reform, and urges immediate action to clean up bad-debts, re-capitalise the Japanese banking system, ease the money supply, reduce effective tax rates, and redirect government spending into more productive areas of the economy.

Promoting efficiency, clarity, and consistency in the regulatory regime

Regulatory reform initiatives have resulted in noticeable improvements to the business environment in many areas of the Japanese economy, including high-profile areas such as insurance and telecommunications. Having said this, a persistent lack of transparency and clarity in the Japanese regulatory environment continues to make it difficult for firms to accurately predict the consequences of business decisions in Japan. This has an adverse effect on the investment environment, as firms hesitate to restructure their operations or pursue opportunities in new areas for fear of potentially adverse legal consequences. The EBC urges continued vigilance on the part of supervisory authorities to promote regulatory transparency and consistent application of the rules across industry sectors. The EBC also encourages further harmonisation of Japanese standards and conformance assessment practices with those in use throughout the rest of the industrialised world. Further reform in these areas would help reduce costs associated with introducing new products into the Japanese market, removing a major barrier to business expansion.

Strengthening the legal and tax environment

The EBC has long advocated rule changes that would facilitate cross-border M&A activity and an expansion of foreign investment in Japan. Foreign firms, for example, are currently not allowed to use their own shares when making an acquisition in Japan, which is a major barrier to large-scale investment. The EBC urges the Japanese Government to follow through immediately on a proposal by the Ministry of Economy, Trade and Industry (METI) to allow share-for-share transfers between Japanese and foreign firms and to take advantage of tax deferral mechanisms currently only available in wholly Japanese reorganisations.

At the same time, Japan must develop a stronger legal system to support corporate activity and the further globalisation of its economy. European firms interested in pursuing opportunities in the Japanese market are continually frustrated by a Japanese legal system that does not meet the demands of the modern business world. The EBC urges swift implementation of Judicial Reform Council proposals calling for, amongst other things, a more efficient civil trial process, improved disclosure laws, a drastic increase in the number of lawyers and judges, and strengthening of judicial competence.

The EBC also renews its long-standing request that barriers within the legal profession be removed to make it easier for firms to obtain the integrated legal services required to do business in an increasingly international environment.

Tax reform, for its part, should first and foremost support corporate restructuring efforts, and not subject firms to an additional tax burden, especially for new ventures. The EBC urges the Japanese Government to abandon a Ministry of Home Affairs proposal to introduce factor-based criteria for the Corporate Enterprise Tax, and instead concentrate on reducing effective tax rates through improvements to the consolidated tax system, targeted tax breaks for research and development, and an extension of the period for the carry-forward of tax losses.



Outsourcing to the private sector

The Japanese Government can create a powerful new incentive for investment in Japan by increasing the use of Private Finance Initiatives (PFI) and Public Private Partnerships (PPP). European firms have historically been very strong in providing outsourced solutions in fields such as infrastructure development, healthcare, education, water treatment and waste management – areas traditionally funded, constructed, managed and operated by public entities.

There is much potential in Japan for alternative procurement methodologies given increasing levels of public sector debt. The EBC urges the Japanese Government to step up the use of PFI and PPP by central and local government organisations and encourages more cooperation with Europe in this area.

Alleviating sectoral concerns

What follows is a complete overview of the key issues European businesses are facing in Japan in 29 different industry sectors and areas. For more information on the ideas presented in this publication, please contact any one of the individual committee chairmen, or the EBC Secretariat. Many European countries have undergone economic transformations similar to Japan's in recent years, and the EBC welcomes every opportunity to share this experience.

Business Fundamentals

**E-Commerce
Human Resources
Intellectual Property
Legal Services
Tax**

For more information, contact:

Ms. Pascale Sinnaeve
Chair, E-Commerce Committee
(Marketing & Communications Manager,
Coface Japan)

C/O Coface Japan
Koicho Bldg. 3Fl.
3-12 Kioicho, Chiyoda-ku, Tokyo
〒102-0094
JAPAN
Phone 03-3556-6545
Fax 03-3556-6255

e-commerce

The use of the Internet for commercial transactions is starting to come of age in Japan. Unbridled enthusiasm for the Internet’s potential has been replaced in recent years by a more pragmatic focus on viable opportunities. The Japanese Government, through its national IT Strategy, has made the development of the IT field one of its major goals, and the EBC feels that this will have a positive effect on the development of e-commerce in the future.

Key issues:



- Promoting user trust** The development of an environment in which corporations and individuals feel comfortable using the Internet for commercial transactions is paramount to the further development of e-commerce in Japan. A high level of distrust in the security of Internet and electronic transactions persists, as seen in the shy development of online transactions through open e-marketplaces as well as through adverse public reaction to initiatives such as the recent introduction of the “*Juki-Net*” electronic national residency database.

Recommendation: The EBC urges the Government of Japan to continue to promote confidence in the usage of the Internet to do business in Japan through initiatives such “e-Japan” and the effective implementation of a comprehensive regulatory framework designed to assuage fears over transaction security and legal standing. In this regard, the EBC welcomes measures taken recently to clarify ISP liability, promote the use of electronic signatures and independent authentication procedures, and clarify interpretations of laws particularly relevant to e-commerce transactions. At the same time, the EBC would like to stress the importance of regulating the acquisition, custody, and use of personal information without inhibiting business development and practices.

- Internet sales regulations** A number of legal and regulatory hurdles continue to hamper the development of sales over the Internet in certain sectors.

Recommendation: The EBC urges the Japanese Government to continue deregulating the use of the Internet for sales activities in sectors such as insurance and international air transport. The EBC also urges the Japanese Government to continue working with the international community in developing a global approach to authentication and the recognition of electronic signatures, and to cooperate further in other areas affecting Internet sales such as taxation.

Background:

EBC E-Commerce Committee Member Companies

Adcore Japan
Barclay Capital Japan
BT Japan
Cable & Wireless IDC
Coface Japan
France Telecom Japan
Haarmann, Hemmelrath & Partner
OneWorld
Skandinaviska Enskilda Bank
STMicroelectronics

Overview of the e-commerce market in Japan

The market for e-commerce continues to grow despite the bursting of the so-called "Internet Bubble". According to the Electronic Commerce Promotion Council of Japan (ECom), the market for business-to-business electronic commerce (B2B EC) transactions topped 34 trillion yen in 2001, representing a year-on-year growth of 60%, and is expected to grow to 125.4 trillion over the next 4 years. The business-to-consumer market (B2C EC) has also been experiencing phenomenal growth, nearly doubling to 1.5 trillion yen in 2001 from the year previous. The market for B2C EC is expected to grow to 16 trillion yen in 2005, of which 3 trillion is expected to be in the form of mobile commerce activity (e-commerce through mobile phones, etc.).

The e-commerce market in Japan has benefited enormously from a concerted effort on the part of businesses and government to promote the use of the Internet in everyday life. Recent developments include:

- The development and implementation of an ambitious "e-Japan" strategy, the goal of which is to make Japan a powerhouse in the IT field by the year 2005. By that time, the government is aiming, amongst other things, for 30 million people to have high-speed access to the Internet, and for the majority of government functions to be performed on-line.
- The development of new regulations governing the use of electronic signatures and authentication services, electronic confirmation notices, domain-name squatting, contracts, and Internet Service Provider (ISP) liability.
- A dramatic improvement in access to low-cost high-speed Internet services in Japan. As a result of increased competition in the ISP field, Japan has gone from being one of the highest-cost environments in the world to one of the lowest in the space of less than three years. This is truly a remarkable achievement.

Outstanding issues

It is important that regulations governing business models and commercial transactions continue to keep pace with the rapid development of information and communication technologies and foster entrepreneurial spirit and the introduction of new ideas into the marketplace. Businesses that want to make use of e-commerce to increase operational efficiency, improve convenience, and provide new services to customers should not be prevented from doing so because of outdated rules and regulations governing activities in their business field. While there have been a number of notable improvements in the regulatory environment governing electronic transactions over the past few years, the EBC is disheartened at the high level of opposition from various Agencies and Ministries concerning the use of the Internet for activities within their regulatory jurisdictions, especially in the financial and international air transport sectors.

The EBC feels strongly that the use of the Internet for business-to-business transactions in Japan, especially through open e-marketplaces, is not fulfilling its potential. E-marketplaces offer clear opportunities for enhanced efficiency and business expansion for all companies, large as well as small. Conservative attitudes towards procurement, low-levels of IT literacy amongst those in management positions, and concerns over credit settlement and authentication continue to inhibit the development of e-commerce in this area. The Japanese Government appears to recognise these concerns, and the EBC looks forward to further policy initiatives supporting the development of e-marketplaces, with a special focus on addressing the needs of SMEs. The EBC encourages close cooperation with firms from Europe and other important trading partners, as policies enacted on the local level concerning issues such as authentication and encryption are likely to influence trade on a much wider scale.

For more information, contact:

Mr. Richard Mason
Chair, Human Resources Committee
(Division Manager, JAC Japan)

C/O JAC Japan
Tanbaya Bldg. 4Fl.
3-2-4 Kojimachi, Chiyoda-ku, Tokyo
〒102-0083 JAPAN
Phone 03-3262-8184
Fax 03-3265-0590

human resources

Employment practices are evolving in Japan as a result of global economic pressures, new attitudes towards work, and changes to the Japanese business environment. It is important that the regulatory environment keeps pace with changes in labour practices for the benefit of the Japanese economy and society as a whole.

Key issues:



- **Corporate restructuring and labour mobility** Companies have been operating in a challenging economic environment in Japan for most of the past decade. In the past, employment traditions and Japanese labour law made it difficult for companies to effectively manage their human resources to deal with new competitive pressures through restructuring or downsizing. The EBC welcomes modest steps taken recently designed to improve labour mobility, facilitate corporate restructurings, and strengthen corporate pension systems, and looks forward to further progress in the areas outlined below.

Recommendations:

1. *Regulations governing employee dismissals should be further clarified to enhance management flexibility and operational efficiency. Specific rules defining acceptable grounds for dismissal for economic reasons should be introduced.*
2. *The recently introduced defined-contribution pension scheme should be improved by increasing tax-exempt contribution levels, allowing matching contributions, and allowing plan-holders to borrow against their pension reserves.*
3. *Regulations governing job-categories that can be handled by temporary workers agencies should be further relaxed.*

- **Skill development** In many ways it has become easier for European firms to attract talented staff due to changing attitudes in Japan towards working at foreign firms. However, gaining and retaining quality staff remains a challenge due to a general shortage of workers with appropriate skills and experience in areas such as foreign languages, IT, financial accounting, legal services, and biotechnology.

Recommendation: The EBC urges the Japanese Government to continue pursuing educational and other reforms designed to improve the technical skill base of the Japanese population. Opportunities for skill development should be further promoted within the working-aged population, including workers and their spouses currently overseas.

Background:

Human resource management

Global economic pressures and changing circumstances in the Japanese business environment are forcing companies to re-evaluate their human resource management practices, with more focus on improving labour quality and management efficiency. The ability of companies to manage their human resources in an efficient and cost-effective manner will ultimately affect the health of the Japanese economy.

Modest steps have been taken recently to help companies restructure their operations, including the establishment of the Labour Contracts Transfer Act, which has given firms greater flexibility in managing human resources within related companies. The EBC urges continued reforms along this line, including the development of guidelines that clearly state the rights and responsibilities of employers and their employees in restructuring and dismissal situations. The current situation is highly complex. Japan does not have a specific dismissal law and instead relies on the interpretation of other labour laws and labour management customs to establish understanding of acceptable dismissal practice. Court rulings lack consistency, in part because there are few courts in Japan that specialise in labour issues, but mostly because rulings are based on the subjective interpretation of vaguely defined legal doctrines such as the abuse of rights doctrine, the reasonableness criteria and the unavoidableness criteria. This legal uncertainty makes it difficult for firms to respond rapidly to the changing circumstances of the Japanese business environment. This also has an adverse effect on the investment environment, as firms hesitate to restructure their operations for fear of potentially adverse legal consequences.

The EBC is disappointed that “follow-on” guidelines released by the MHLW have restricted flexibility provided in the new Labour Contracts Transfer Act, which in many respects defeat the original purpose of this reform. Future reforms – be they through the introduction of a new dismissal law, revisions to the existing Labour Standards Law, or through the publication of administrative guidance – should focus on improving management flexibility and operational efficiency.

Finding the right people

One of the greatest difficulties European firms continue to face doing business in Japan is securing internationally qualified Japanese employees for their Japanese operations. Unfortunately, Japan’s education and certification system does not effectively address the widening gap between competency levels and the needs of employers in today’s increasingly global economy, especially for skills in areas such as legal services, biotechnology, financial accounting, and IT. Moreover, the market for mid-career professionals is still underdeveloped, which inhibits the expansion of European businesses in Japan, as most firms still rely heavily on mid-career hires to fulfil their employment needs.

The EBC supports Ministry of Education initiatives to increase IT and language training, promote extra-curricular job-experience activities through internships and other means, and encourage entrepreneurial spirit in the school-aged population. More emphasis should be placed on upgrading the skills of those already in the labour market, including Japanese workers and their spouses currently overseas. The EBC sees great potential in the development of a labour market for “returnees”, but only if these workers and their spouses are given the right incentives, including easy access to skill development while overseas and the ability to have these skills easily certified upon return to Japan. The EBC also supports an increase in academic and other links between the EU and Japan through exchanges, “twinnings”, internships and other means, as proposed in the EU-Japan Action Plan adopted at the EU-Japan Summit in 2001.

EBC Human Resources Committee Member Companies

- ABN AMRO Securities (Japan)
- Baring Asset Management (Japan)
- Bayer
- Cazenove & Co. (Japan)
- Chanel
- Credit Suisse Life Insurance
- DaimlerChrysler Japan
- Danfoss
- Philippe Debroux, Soka University
- Equant
- France Telecom Japan
- Gartmore Japan
- JAC Japan
- Andreas Kaiser, GJB
- Nokia Japan
- Oak Associates
- Pechiney Japon
- Philips Japan
- Radiometer
- Roche Diagnostics
- SAS
- Siemens-Asahi Medical Technologies
- Swaziland Citrus Sales
- Swiss Re Services
- UBS Global Asset Management
- White&Case
- Zurich Insurance

For more information, contact:

Mr. Laurent Dubois
Chair, Patent/Trademark/Licence Committee
(Representative, Union des Fabricants)

C/O Laurent Dubois Foreign Law Office
37 Mori Bldg. 8Fl.
3-5-1 Toranomom, Minato-ku, Tokyo
〒105-0001 JAPAN
Phone 03-5472-2372
Fax 03-5472-2375

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 is making an effort to improve rights procurement and enforce applicable laws. The EBC is encouraged by these developments and urges the Japanese Government to continue to address the issues outlined below.

Key issues:



- **Border control** Japanese Customs has the sole authority to seize goods imported into Japan. Unlike in Europe, neither rights owners nor defendants have any input in principle into Customs decisions. Decisions are not subject to a judicial process, which makes it difficult for rights holders to procure information or trace counterfeiters outside of Japan.

Recommendation: Procedures for seizing suspected counterfeit goods at the Japanese border should be subject to a more transparent judicial process. In order to alleviate Customs liability and workload, the burden of proof should be shared between the importer and the rights holder. Customs Officials should also make more use of their authority to send cases to the prosecutor. At the same time, rights holders should be given the opportunity to make more use of civil proceedings to protect their intellectual property through increased information disclosure on the part of Customs Officials.

- **Parallel imports** Unlike in Europe, parallel imports are authorized in Japan. Because parallel imports are by their very nature insecure, foreign suppliers and Japanese importers often use this "open door" to flood the market with dubious products. This is not only detrimental to the image of the product but also to consumers who are regularly abused.

Recommendation: The EBC urges the Japanese Government to re-evaluate its policy on the parallel import of branded items into Japan in consideration of consumers' interests and the protection of fair trade practices.

Background:

Government policy

The protection of intellectual property has become a key issue in the reform agenda of the current Government. The newly established Intellectual Property Strategy Council has been tasked with developing government strategy on this issue, including policies designed to deal with threats to Japanese IPR holders from China and other developing markets. The EBC supports this process and urges the Japanese Government to consider the issues outlined below.

Fake goods on the Internet

The Internet has become very popular for buying and selling new and used brand-named products through auction and other sites. Unfortunately, the Internet has also become an easy way to dispose of fake goods in Japan, a problem that continues to grow. Internet Service Providers (ISPs) are now in a better position to respond to requests from rights holders to take-down products suspected of rights violations from their web sites as a result of legislation introduced earlier this year clarifying ISP liability in this area. Unfortunately, ISPs are still potentially liable for providing personal information on particular listings, which has made it difficult for rights holders to trace suspected violations. Recourse to judicial means is not always practical considering the numbers involved. It is also extremely time consuming for rights holders to continually monitor web sites for suspected violations. Unfortunately, no common policy has been developed amongst ISPs to help deal with this problem, a situation that the EBC finds deeply troubling.

Interpretation of design and unfair competition laws

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. Even minor changes prevent counterfeit goods from being accepted as dead copies. Criteria used by the courts to define copyrights are also too restrictive to deal with unfair imitations that are not protected by trademark or design law. Effective protection from counterfeiting will not be achieved until the general attitude of the judiciary towards the interpretation of design, trademark, and unfair competition changes.

Disclosure rules

In the past, inadequate disclosure laws and procedures for collecting evidence have made it extremely difficult for rights holders to both identify and prove infringements. In recognition of this problem, the Japanese Government implemented measures in January 2000 designed to facilitate proof of infringement, such as expanding the order to produce documents and establishing a new special provision for active denial (*sekkyoku hinin*). Despite these changes, it is still difficult for a right holder to prove there has been an infringement. The Judicial Reform Council has specifically pointed out the necessity of further improvement in the procedure for collecting evidence, to which the EBC lends its wholehearted support.

Damage awards

Awards for damages in intellectual property right claims should adequately reflect the economic impact of the infringement. This has not always been the case in Japan, where small awards for damage rarely reflect the economic impact a violation has had on the rights holder. Fortunately, this situation is gradually starting to improve in part as a result of changes to the Patent Law in January 1999. Damage awards have shifted from a royalties based system to a profit based system and an expert witness system has been established whereby an impartial third party (an expert on damage calculation) reviews documents necessary for the calculation of damages and reports the items necessary for the calculation of damages to the court.

legal services

Since its inception in December 2001 the Office for Promotion of Justice System Reform ("Reform Office"), with assistance from the Study Group on Internationalisation ("Study Group"), has been examining Japan's legal infrastructure and has been consulting the business community on the need for further liberalisation and deregulation to ensure that legal service in Japan meets the best international standards. The EBC Legal Services Committee urges the Japanese Government to respond to the needs and concerns which Japanese and international businesses have expressed to the Study Group. The new legislation to be introduced to the Diet in early 2003 should be forward looking and should address the key issues raised below.

Key issues:



- **Freedom of association** The increasing number of Japanese lawyers (*bengoshi*) and foreign-admitted registered lawyers in Japan (*gaiben*) working together in special joint ventures (*tokutei kyodo jigyo*) clearly demonstrates the increasing need of Japanese and international clients for integrated and well managed advice from both *bengoshi* and foreign lawyers. The new law should recognise and support this process and allow full partnership between *bengoshi* and foreign lawyers.

Views expressed by Japanese and other international users of legal services to the Study Group overwhelmingly supported the lifting of restrictions on the freedom of association between *bengoshi* and foreign lawyers. These views should be duly considered and should shape the new legislation.

Recommendation: Bengoshi and foreign lawyers who choose to work together to better serve their clients should be able to organise and manage their business without unnecessary restrictions. The tokutei kyodo jigyo system should be replaced by a system allowing for full partnership between bengoshi and foreign lawyers.

- **Equal treatment** *Bengoshi* are at liberty to employ foreign lawyers but foreign lawyers are not similarly able to employ *bengoshi*.

Recommendation: In the interests of users of legal services, foreign lawyers and bengoshi should be able to employ lawyers (wherever qualified, and including bengoshi) on an equal and fair footing provided the interests of clients are served and protected.

Legal services issues continued:

EBC Legal Services Committee Member Firms

Allen & Overy
Ashurst Morris Crisp
Clifford Chance
Freshfields
Haarmann, Hemmelrath & Partner
Herbert Smith
Janssen & Associates Foreign Law Office
Lovells
Loyens & Loeff
Sonderhoff & Einsele
Tokyo Aoyama Law Office

- **Incorporated law firms** Recent legislation has been introduced which enables *bengoshi*, but not foreign lawyers, to incorporate their law offices (the "*Bengoshi Hojin*" law). This facilitates, amongst other things, better tax planning and allows the opening of branch offices. It is striking that the benefits of this law are only available to *bengoshi* and not to foreign lawyers.

Recommendations: The Bengoshi Hojin law is beneficial for lawyers practising in Japan and finally allows bengoshi firms to establish branch offices. The benefits of this legislation should be available equally to both bengoshi and foreign lawyers.

The new legislation should not be used to limit the freedom of bengoshi and foreign lawyers in choosing the name or firm style under which they choose to operate an integrated legal service.

- **The "three years experience" requirement** The requirement for a *gaiben* to have a minimum of three years' experience, where there is no similar post qualification limitation in relation to practising *bengoshi*, is not justified by the interests of clients. Furthermore, current restrictions on the jurisdiction in which a foreign lawyer's post-qualification experience should be obtained seem anachronistic.

Recommendations: The three years post-qualification practice requirement to becoming a gaiben cannot fairly be justified.

Any post-qualification experience for a particular jurisdiction should count wherever the experience is gained.

- **Cross-border legal advice** The law currently imposes more restrictions on foreign lawyers than on *bengoshi* when giving cross-border legal advice to clients in Japan. The interests of clients do not justify requiring foreign lawyers to comply with cumbersome procedures in relaying advice from lawyers in other jurisdictions where such restrictions do not apply to *bengoshi*.

Recommendation: The current requirements stipulating how foreign lawyers should relay to their clients in Japan advice received from lawyers outside Japan should be removed so the position as between foreign lawyers and bengoshi is the same.

- **Qualifying as a *gaiben*** The procedure for applying for *gaiben* status is lengthy and time consuming and unnecessarily delays foreign lawyers in being admitted as *gaiben*.

Recommendation: The procedure for becoming a gaiben should be streamlined and should more readily reflect a mutual recognition of legal qualifications gained in different jurisdictions.

tax

Tax reform has taken centre stage in the agenda of the current Koizumi Government. A consolidated tax system has been introduced, and a number of other measures have been proposed to widen the tax base and provide incentives for corporate research and development. The EBC supports further tax reform in Japan and urges further progress in the areas outlined below.

Key issues:



- **Transparency** A lack of clear and binding guidance regarding specific tax situations continues to be a persistent problem for European firms doing business in Japan. Firms report numerous cases of arbitrary and inconsistent treatment from tax authorities in Japan. It is still uncommon for clarifications on specific transactions to be issued in writing. With the exception of responses issued under the formal *Kaito Bunsho* system, no record of any specific guidance is made available to the public. This makes business planning difficult and inhibits firms from seeking effective redress when there is a dispute with a particular ruling.

Recommendation: The NTA should provide all rulings and clarifications in writing as a matter of standard practice, and not only for requests received under the formal Kaito Bunsho system. This should include requests for prior clearance for specific transactions. These rulings should be made available to the public in an anonymous format on a regular basis to establish a written body of precedent.

- **Consolidated taxation** The EBC welcomes the recent introduction of a consolidated tax system in Japan. This has been an issue of long standing concern, and the EBC is pleased that the political will was finally found to make this reform a reality. The system, however, is likely to be under-utilised by the business community until the following issues are addressed.

Recommendations:

- 1. The 2% surtax levied on companies electing to use the consolidated tax system should be eliminated immediately. No such tax exists in Europe.*
- 2. The general 100% ownership rule is too restrictive and should be replaced by a 50% threshold.*
- 3. The expiry of pre-consolidation period losses of companies when they enter the consolidated group should be eliminated.*

Tax issues continued:

4. *The obligatory taxable revaluation of assets of companies entering the consolidated group should be eliminated.*

5. *The obligatory integration of all 100% subsidiaries if a group wishes a consolidation should be eliminated.*

6. *Local taxes should be included in the consolidation. Specifically, the Corporate Inhabitant Tax (hojin-jyumin-zei) and the Corporate Enterprise Tax (hojin-jigyo-zei) should be based on consolidated corporate taxes and consolidated taxable income respectively.*

- **Loss carry forward** Companies in Japan have been operating in a challenging economic environment for much of the last decade. The EBC encourages the Japanese Government to do all it can to improve the Japanese business and investment environment by helping companies obtain full relief for all losses.

Recommendations: Tax losses should be made available for carry forward indefinitely, instead of the current five-year limit.

- **Corporate reorganisation** The implementation of the reorganisation rules introduced in April 2001 should be improved as follows.

Recommendations:

1. *Laws and rules should be clarified in order to avoid giving unlimited discretion to authorities in defining key concepts. Various key terms (e.g. “business” and the “business continuity test”) need to be defined more precisely.*

2. *Taxpayers should be able to obtain formal advance clearance on whether or not an intended reorganisation complies with the conditions for qualified reorganisations.*

3. *In order to be consistent with tax regimes in other jurisdictions, corporate reorganisations and share-for-share exchanges involving foreign shares should be permitted under the Japanese Commercial Code.*

- **Transfer pricing** The tax authorities continue to make transfer pricing assessments based on secret comparables about which the taxpayer has difficulties in confirming product or functional similarities. Moreover, the use of secret comparables for audit assessments is inconsistent with the transfer pricing methodology of Advance Pricing Agreements, where company-level profitability of public companies is commonly used. This inconsistency in application of transfer pricing methodologies increases the difficulties faced by taxpayers.

The Japanese tax authorities focus heavily on the gross profit margins of individual products or groups of products. This focus penalises companies with ratios to sales of Selling, General & Administration costs (SG&A) that are lower than the ratios of comparable companies. These differences arise either from differences in intensity of function, or from differences in the actual functions and risks between the taxpayer and the comparable companies. Such differences should be recognised in making any transfer pricing adjustments.

The tax examiners continue to place too much weight on the belief that the Japanese market has special characteristics and barriers to entry, with the result that marketing intangibles of Japanese entities are given greater value than is actually deserved.

EBC Tax Committee Member Companies

Aventis Pharma
BASF Japan
Bayer
DaimlerChrysler Japan Holding
GCCIJ
Haarmann, Hemmelrath & Partner
Henkel Japan
KPMG Peat Marwick
Loyens & Volkmaars
Mazars Japon
Mitsubishi Motors Corporation
Nippon Boehringer Ingelheim
Novartis Pharma
Dalpayrat Foreign Law Office
Philips Japan
PricewaterhouseCoopers
Sonderhoff & Einsel
White & Case

Tax issues continued:

Recommendations:

- 1. Transfer pricing assessments should not be based on the use of secret comparable information, nor on any information to which the taxpayer does not have access.*
- 2. There should be consistency between the transfer pricing methodology for audit assessments, and that used for Advance Pricing Agreements.*
- 3. In order to account for the effect of the SG&A expenses to sales ratio on gross margin levels there should be greater flexibility in the use of SG&A adjustments, whether from actual functions and risks, or from intensity of the functions performed.*
- 4. Less weight should be placed on special characteristics of the Japanese market.*

- **Factor-based taxes** The EBC strongly opposes the introduction of any further taxes wherein factors such as sales, capital, or personnel cost form the basis of the levy of tax. Such taxes discourage investment and defy global trends moving away from the use of such criteria.

Recommendation: A Ministry of Home Affairs proposal to introduce a factor-based tax for the Corporate Enterprise Tax should be abandoned.

- **Benefit taxation** Stock-option income is now taxed at favourable rates in Japan, but does not apply to stock-option plans involving the stock of foreign companies. Foreigners and their employers face further burdens due to a lack of tax relief on contributions made to foreign pension plans, both private and public, as well as limited refunds upon departure for mandatory contributions made to the public pension system in Japan.

Recommendations:

- 1. Stock-option tax benefits should be extended to all stocks, irrespective of where issued.*
- 2. Social security agreements should be concluded with all major trading partners as soon as possible. Until such time, contributions to the Japanese public pension system should be remitted in full to departing expatriates and their employers.*
- 3. Foreign-based pension plans should be regarded as equivalent to Japanese pension plans and treated accordingly, provided such plans meet certain basic requirements.*

- **Taxpayer protection** The EBC views any "leaking" of information protected by taxpayer confidentiality laws with extreme concern. The right to taxpayer confidentiality is explicitly affirmed by the OECD and Japanese laws. Notwithstanding this, disputes between taxpayers and the Japanese tax authorities continue to be published in the media.

Recommendation: Existing legislation protecting taxpayer confidentiality must be strictly enforced.



Consumer Goods

Cosmetics
Cut Flowers
Food
Liquor

For more information, contact:

Mr. Lionel Requillart

Chair, Cosmetics Committee

(Vice President and Representative Director,
Pierre Fabre Japon K.K.)

C/O Pierre Fabre Japon K.K.

6-8-8 Akasaka, Minato-ku,

Tokyo 〒151-8573

JAPAN

Phone 03-3589-3631

Fax 03-3589-3820

cosmetics

The Japanese cosmetics regulatory environment has undergone a fundamental change that will provide all manufacturers with a greater opportunity to develop innovative products for the demanding Japanese market. While the EBC warmly supports the principles underlying this reform, much work remains to be done in order to harmonise regulations with international standards and expand the scope of deregulation to the Quasi-Drug category.

Key issues:



- **Regulatory reform: Quasi-Drugs** The EBC is disappointed that recent cosmetics reform efforts did not extend to the Quasi-Drug category. Classification criteria remain obscure, the number of ingredients that may be used for each product category is extremely limited, and it is difficult to get new ingredients approved.

Recommendations: The EBC strongly urges the MHLW to:

1. Increase transparency for accepted ingredients, publish a nomenclature list, specifications, doses, product category, and related claims;
2. Ease restrictions on the registration of new actives and allow the use of new cosmetics ingredients; and
3. Move to full labelling in the same spirit as recent regulatory reform for cosmetics.

- **Regulatory reform: Cosmetics** The EBC very much welcomes reforms implemented in April 2001, which, amongst other things, deregulated the use of ingredients and shifted responsibility for product safety to manufacturers and importers.

Recommendations:

1. The MHLW should liaise with EC regulators and their scientific advisory committee (SCCNFP) in order to harmonise the new Positive and Negative Lists.
2. The MHLW should join with its European counterparts to establish mutually acceptable safety standards for the acceptance of new ingredients both to the Positive Lists and to Quasi-drug categories.
3. Permissible product marketing claims should be further liberalised to support product innovation allowed under the new law and harmonised with current European standards.
4. The laws should be implemented and enforced in a consistent manner for all parties involved and should not provide loopholes for non-law abiding importers.
5. As for recycling marks, the same effort of harmonisation is asked of METI when meeting with its European and American counterparts.

Background:

EBC Cosmetics Committee Member Companies

Beaute Prestige International Japon
Chanel
Clarins
Elle International
Estee Lauder
LVMH group
Nihon L'Oreal
Nippon Lever
Nivea Kao
Parfums Nina Ricci Japon
Pierre Fabre Japon
Schwarzkopf
Wella Japon

A new regulatory environment for cosmetics

In April 2001, new laws came into effect introducing a regulatory framework for cosmetics similar to that currently employed in Europe. The use of ingredients has been deregulated, product safety has become the responsibility of manufacturers/importers, a limited positive and negative list system has been established, and full ingredient labelling in Japanese is now required on all product containers. The EBC fully supports the spirit of these reforms and feels the new regulatory environment will provide all manufacturers with a greater opportunity to develop innovative products for the demanding Japanese market.

The EBC is nevertheless disappointed by the poor harmonisation between European and Japanese regulations. Even though the categories of the three Positive Lists covered are the same (preservatives, sun-filters and coal/tar pigments), their contents differ substantially between Japan and Europe. As a result, European cosmetics producers must continue reformulating products simply to comply with Japanese regulations, not necessarily corresponding to consumer needs. New ingredients, widely used in Europe, are not easily approved. Again, the EBC encourages EU/Japan cooperation to develop mutually acceptable safety standards for the approval of new ingredients so that the contents of these Lists may be harmonised as soon as possible.

Allowable marketing claims, though expanded to 55 under the new laws, are too general and therefore restrictive and non-compatible with the product innovations allowed under the law, resulting in low product differentiation. The EBC feels that product-marketing claims should be the responsibility of individual manufacturers based on product efficacy substantiation data as is the case in EU countries, and urges further liberalisation in this area.

The EBC is also concerned that a poor implementation of the reforms may provide non-law-abiding importers with a loophole for illegal activities. The reforms must be implemented in a consistent and transparent manner. All parties should know what is expected of them under the new regime. The EBC also recommends that a transparent audit system should be established, to ensure that all importers respect the laws, with results published on the Internet.

An upcoming new Pharmaceuticals Affairs Law (PAL) will reinforce safety measures asked of each manufacturer/importer. It will be effective in 2005.

Quasi-Drug reform: stalled process

The EBC is also very much concerned that the spirit of cosmetics reform has not extended to the Quasi-Drug category, an area of increasing importance due to growing health concerns of the Japanese public. The Quasi-Drug category consists of a wide range of products including body deodorants, hair growers, depilatories, hair dyes, bath preparations, medicated cosmetics (such as whitenings), medicated dentifrice, and mouth refreshers, in addition to non-cosmetic items such as insecticides, anti-rodents, sanitary napkins, and over-the-counter health drinks.

Unfortunately, many products 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. This represents a major barrier to bringing new technology to Japanese consumers. The number of ingredients that may be used in each QD category is extremely limited and the logic in determining why certain active ingredients and additives qualify a product as a Quasi-Drug remains obscure. Furthermore, it has proven extremely costly and time-consuming to obtain approval for new ingredients in this category. Some ingredients, now allowed for cosmetics, fall under severe scrutiny when used for Quasi-Drugs.

For more information, contact:

Mr. Jos van der Valk
Chair, Cut Flower Committee
(Managing Director, Greenwings Japan)

C/O Greenwings Japan Inc.
Ena Azabudai Bldg.
1-9-19 Azabudai, Minato-ku, Tokyo
〒106-0041 JAPAN
Phone 03-3560-7413
Fax 03-3560-7416

cut flowers

The EBC feels that there is great potential in the Japanese cut flower market. However, imports will not increase until fundamental improvements are made to the plant quarantine system. Japan still applies zero tolerance, even for organisms that are widespread in Japan.

Key issues:



- **Plant quarantine regulations** Whereas other countries have brought their plant quarantine regulations in line with the letter (or at least the spirit) of the GATT's SPS chapter, Japan remains an exception. International negotiations have dragged on for years without any tangible results. Japan is using plant quarantine regulations to limit imports of cut flowers.

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 and to accelerate the process to abolish zero tolerance for all organisms common in Japan.

- **Fumigation costs** A JFTC investigation concluded in August 2001 that fumigation and warehouse service providers at Narita Airport colluded to set prices and distribute work in contravention of Section 3 of the Antimonopoly Act (unreasonable restraint of trade). One of the affected parties has challenged this decision, and the process is now stalled in JFTC hearings.

Recommendation: The EBC urges prompt action on the part of the JFTC to fully implement recommendations contained in its original ruling. Further competition in the provision of fumigation services should be encouraged.

- **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, a request that the EBC originally made 4 years ago.

Background:

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 but has been stagnating over the past few years, in part as a result of persistent non-tariff barriers to trade in the sector. 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 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.

Main barriers to trade

Restrictive Japanese plant quarantine regulations are by far the largest barrier to trade in cut flowers. 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 practical distinction between harmful and non-harmful organisms. Insects such as thrips, mites and aphids, for example, are not mentioned on the new list of non-quarantine pests, even though they are widespread in Japan. The Japanese Government has been studying for several years now EU requests to increase the number of non-quarantine pests, but decisions have been delayed over and over again. Only recently has the Japanese Government indicated that tolerance levels for some organisms may be introduced. The EBC requests that tolerance levels be introduced as soon as possible and no later than the first half of 2003.

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. The EBC awaits the outcomes of JFTC hearings over alleged collusion between fumigation service providers at Narita airport, and hopes that this will eventually lead to lower port-of-entry costs for cut flower imports.

In addition to the high cost of port services, the facilities themselves are highly congested and insufficient to guarantee quick shipment handling. It takes too long for shipments to be made available for inspection and customs procedures after arrival and it takes too long for the shipment to be distributed after clearance. 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. This has been requested several years ago but no action has been taken yet.

Other issues

Under Japanese law, perishables have to be inspected at the first point of entry. By using sealed containers perishables can be transported by plane to another airport where plant quarantine inspection is carried out. Transporting sealed containers by road, however, is not permitted. This should be made possible. Finally, the EBC encourages the Japanese Government to eliminate import duties of 3.0% on greens and leaves, which further increase the cost of importing cut flowers into Japan.

For more information, contact:

Mr. Andrew Mankiewicz
Chair, Food Committee
(President, Tozai Group Ltd.)

C/O Tozai Group Ltd.
Harajuku 101 Bldg. #301
4-23-12 Jingumae,
Shibuya-ku, Tokyo
〒150-0001 JAPAN
Phone 03-5772-7487
Fax 03-5772-7489

food

European food producers take great pride in the quality of their products. Demand for European food continues to grow in Japan as this reputation is increasingly recognised by the Japanese consumer. Unfortunately, it is difficult for European food producers to fully satisfy Japanese consumer demand for quality European products due to a number of barriers in the Japanese market.

Key issues:



- **Food additives** A number of recent scandals involving the use of food additives has revealed major problems in the way food additives are approved for use in Japan. Many substances in common use around the world and recognized as being safe by international food safety bodies such as the Joint FAO/WHO Expert Committee on Food Additives (JECFA) are not allowed in Japan. On the other hand, numerous substances have been approved in Japan that have not been reviewed and approved by the international scientific community.

Recommendation: The EBC urges the Japanese Government to modernize Japan's food additives list in line with international standards.

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

Recommendation: The EBC urges the Japanese Government to commit itself to reducing food tariff rates, especially for raw materials used by Japanese food manufacturers such as couverture chocolate, bread improvers, mixes, icings, and glazes.

- **Organic food regulation** Demand for high-quality organic food continues to grow in Japan. While European producers are very strong in this field, only a small number of European organic food certification and testing bodies have received accreditation in Japan.

Recommendation: All remaining applications from European organic food certification and testing bodies for accreditation in Japan should be processed as quickly as possible. The EBC welcomes plans to extend existing Japanese organic food regulation to include organic livestock products and urges negotiations on the granting of equivalency to European regulations to start at an early stage. All European organic food certification and testing bodies accredited in Japan should automatically be authorised to certify organic livestock products as well.

Background:

EBC Food Committee Member Companies

Arcane
Arla Foods Ingredients (Japan)
CMA
Danisco Japan
Japan Europe Trading Company
PURAC Japan
Puratos Japan
Roquette Japan
Stobbe Trading International
Sweden Food & Forestry
Tozai Group

Regulatory environment

The Japanese food market has been stunned by numerous scandals recently involving the improper labelling of products, the use of illegal food additives, and poor quality control management. The Japanese consumer has been left wondering: how safe is the food in Japan? The EBC takes these concerns very seriously. European food producers take great pride in the quality of their products, and recognize the importance and value of maintaining a safe food supply.

The EBC feels strongly that the key to promoting consumer confidence lies in the ability of the Japanese Government to modernize the regulatory environment governing the production and import of food in Japan. The current situation is highly complex. Japanese food production, trade, and distribution is 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, Labour 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. Regulations lack clarity and are often enforced inconsistently. The EBC hopes that this situation will improve with the planned establishment of an independent food safety administration under the Cabinet Office separate from the producer-oriented policy making functions of MAFF and MHLW in 2003.

Food additives

One of the first tasks of this new food safety administration will be to review Japan's food additive policy. Of the 828 additives authorized in Japan, only 294 are accepted by JECFA. Over 600 other substances accepted by JECFA as being safe are not allowed in Japan, including many additives in common use around the world. A highly-publicised scandal involving a Japanese firm that was producing additives using solvents not allowed in Japan despite their wide-spread use in Europe and the US has forced the MHLW to re-evaluate its food additive policy, including for the first time approving substances accepted by JECFA without waiting for companies to apply for approval. Ferro-cyanide (an anti-caking agent) was approved in July, and the Ministry is in the process of identifying substances for priority consideration. In principle, the EBC feels that the Ministry should take a more comprehensive approach to modernising the Japanese food additives list to conform completely with accepted international standards. The following substances should be reviewed as soon as possible:

SSL	Sodium Aluminium Phosphate (SALP)	Polysorbate 20	Polysorbate 60	Polysorbate 65
Polysorbate 80	Hydroxypropylmethylcellulose	Isopropanol	Acetaldehyde	Calcium Silicate
Sorbic acid	Benzoic Acid	Natamicyn	Beta apo 8' carotenal	Iodized salt
Synthetic taurine	Glucuronolactone	Nicotinamide adenine dinucleotide (NADH)	Azorubine	Ammonium phosphatides
Calcium propionate	Hydroxypropyl cellulose	Carboxymethylcellulose	Calcium carbonate	
Magnesium oxide	Potassium aluminium silicate	Potassium sorbate	Glutaraldehyde	

Port of entry procedures

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. While facilities at Japanese airports have improved in recent years, they still remain inadequate to deal with large volumes of perishable and other items. Finally, the EBC urges more consistent treatment between different ports of entry. Documentation used for initial customs clearance at Narita Airport should be freely accepted by port authorities for subsequent shipments by sea.

For more information, contact:

Mr. Michael Sainsbury
Chair, Liquor Committee
(President, Maxxium Japan K.K.)

C/O Maxxium Japan K.K.
40 Mori Bldg., 3 Fl.
5-13-1 Toranomom, Minato-ku, Tokyo
〒105-0001 JAPAN
Phone 03-5401-6260
Fax 03-5472-0511

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 four 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 "whisky" and "liqueur" would not 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.

- **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 commenced deregulating the retail environment through the elimination of minimum distance requirements between retail licensees, which took effect January 1, 2001.

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 an obstacle to importing European liquor products.

Recommendation: The EBC urges the Japanese Government to continue to work towards the elimination of tariffs on imported liquor products.

Background:

EBC Liquor Committee Member Companies

Allied Domecq Spirits & Wine
e.s. Japan
Heineken Japan
Jardine Wines & Spirits
Maxxium Japan
Pernod Ricard Japan
Whisk-e

The Japanese liquor market

The Japanese market for Western style spirits and wine 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 (not including liqueurs), with whisky and brandy making up most of the difference. However, 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 whisky and vodka.

Wine is the only liquor category in which imports command a market share in excess of 50% and 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 will contribute to an improved market environment for imported wine. The only caveat is that in the current deflationary environment there is strong downward pressure on the shelf price of wines with most demand increasingly coming in the under 1,000 Yen per bottle range.

Tax Reform

Japan's liquor tax regime discriminated against imported spirits for over 50 years. GATT Panels ruled against this practice in 1987, but this 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% since this ruling. For white spirits such as gin and vodka, tax discrimination has disappeared completely.

Liquor tax reform has significantly changed the whole face of the industry. In an attempt to win back market share from *shochu*, most companies have passed the tax savings onto the consumer. As a result, over the past five years the Japanese spirit market has gone from being one of the most expensive in the world to one of the least expensive.

Ironically, tax reform has not had much effect on the market share of imported spirits. Low-priced domestic whisky, white spirits, liqueurs and RTD's ("ready-to-drink") are the only categories growing. For imported whisky and brandy (cognac) 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 these spirit categories.

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 (cognac), gin, vodka and whisky. 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 Whisky, and Cognac. Japanese producers are allowed to market products using European geographical indications, even though the indication may be 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

**Asset Management
Banking
Insurance
Securities**

For more information, contact:

Mr. Richard Mountford
Chair, Asset Management Committee
(Managing Director, Schroder Investment
Management (Japan) Ltd.)

C/O Schroder Investment Management
(Japan) Limited
1-11-1 Marunouchi, Chiyoda-ku, Tokyo
〒100-6224
JAPAN
Phone 03-5293-1500
Fax 03-5293-1550

asset management

Professional investment management makes an important contribution to people's savings, security, and quality of later life. It is important that the regulatory environment facilitates access to professional asset management services, as this is ultimately in the best interest of consumers.

Key issues:



- **Access to Yucho/Kampo funds** The custodian for postal life insurance (*Kampo*) and postal savings (*Yucho*) funds is still prohibited by law from using professional investment advisors to help maximise investment returns.
Recommendation: All barriers preventing funds held by the post office from being managed by licensed investment advisors should be eliminated.
- **Offshore funds** Regulations governing the sales, marketing, and service of offshore funds make it difficult for asset management firms to promote the products of offshore affiliates to investors in Japan.
Recommendation: The EBC urges reforms to the side-business license system governing the promotion of offshore products in Japan to make it easier for asset managers to promote and distribute products managed by group affiliates to professional institutional investors in Japan. Japan Investment Trust Association rules should also be amended to allow onshore feeder funds to invest wholly in a single offshore vehicle.
- **Single regulator** Even though the management of investment trusts and that of investment advisory services does not differ much in substance, each business is regulated by a separate law with separate licensing, filing, and customer disclosure requirements – an effective duplication of administrative procedures.
Recommendation: Rules and regulations governing the asset management business should be harmonised as soon as possible. This would encourage the two existing industry associations to merge, which would further promote consistency and efficiency in the market.
- **NAV calculations** All investment trust Net Asset Values (NAV) are calculated twice in Japan. The duplication of NAV calculations represents a significant additional cost to fund managers in Japan, a cost that is eventually passed on to consumers.
Recommendation: NAVs should be calculated independently of the asset management company for consumer protection purposes.

Background:

EBC Asset Management Committee Member Companies

ABN AMRO Asset Management
Baring Asset Management
BNP Paribas Asset Management
Commerz International Capital Management
Credit Agricole Asset Management
Credit Lyonnais International Asset Management
Credit Suisse Asset Management
Dexia Asset Management
Gartmore
HSBC Asset Management
ING Mutual Funds Management
JP Morgan Trust Bank
Meiji Dresdner Asset Management
Pictet Asset Management
PCA Asset Management
Schroder Investment Management
UBS Global Asset Management
West LB Asset Management

Market access

The last major investment pool in Japan that is prohibited by law from employing the full professional expertise of investment advisory companies (IACs) is the post office's *Yucho* and *Kampo* funds. It is unclear how the current debate regarding the future of the Japanese postal system is going to affect plans to reform these rules in 2003 announced previously by the MPHPT, and the EBC asks that this issue be clarified as soon as possible.

Regulatory environment

The EBC supports a more macro-level approach to regulatory oversight of the asset management sector in Japan based on consumer-oriented disclosure guidelines that support the clear and meaningful disclosure of risk, risk-tolerance, investment results, historic returns, liquidity, fees, and related party transactions. More emphasis should be placed on the concept of "investor sophistication". In this way, the FSA would be able to devote more of its limited resources to those in real need of protection, while at the same time expanding investment options (including alternative investments such as hedge funds) available to sophisticated institutional investors such as banks, insurance companies, and pension funds.

The EBC notes ongoing measures being taken in other jurisdictions to promote the wider pooling of similar assets for different investors. This has had many beneficial effects: significant increases in funds under management; a reduction of costs for end investors; the promotion of equal and fair treatment for all investors; significant growth in the number of providers and consequent increase in competition and choice for savers. Unfortunately, a number of regulations exist in Japan that discourage efficient management of pooled assets, such as the prohibition on asset managers from placing orders to buy or sell on behalf of group affiliates in the Japanese market. The FSA has stated orally that firms need to take out a securities license in Japan if they wish to deal on behalf of group affiliates. This regulation does not contribute to the efficient management of Japanese assets, which in the end is detrimental to consumers.

Asset management firms licensed to provide investment advisory services and/or manage investment trusts in Japan are currently required to take out a side-business license to support the sale, marketing, and service of offshore funds managed by group affiliates. These licenses are generally limited in scope to the provision of marketing support to the group head office, the provision of document translation and delivery services, and, in some cases, the introduction of potential clients to group affiliates. The EBC feels that in principle the marketing of products managed by overseas affiliates constitutes a part of an asset manager's core business and that the side-licensing system for offshore services should eventually be abolished. In the meantime, the scope of side-business licenses for offshore services should be expanded to explicitly allow firms to hunt mandates, relay questions and answers between group affiliates and existing/prospective clients and distributors, and provide reporting services for group affiliates. At the very least, the scope of side-business licenses should be clearly defined and applicable equally to all.

Investment trust managers and trust banks holding investment trust assets have long felt obligated to calculate a fund's net asset value separately. This duplication of work represents a significant additional cost to fund managers in Japan, a cost that is eventually passed on to consumers. The EBC believes that global best practice is for the net asset value of an investment trust to be calculated independently of the asset management company for consumer protection purposes, and urges the FSA to support efforts by industry to seek commercial solutions to the dual-NAV problem.

For more information, contact:

Mr. Pierre Finas
Chairman, Banking Committee
(General Manager for Japan, Credit
Lyonnais, Tokyo Branch)

C/O Credit Lyonnais, Tokyo Branch
Hibiya Kokusai Bldg. 5F
2-2-3 Uchisaiwai-cho, Chiyoda-ku,
Tokyo
〒100-0011 JAPAN
Phone 03-5512-5600
Fax 03-5512-5606

banking

The revitalisation of financial industry remains at the top of the Government's agenda, with the problem of outstanding bad loans weighing heavily on the Japanese economy as a whole. The EBC Banking Committee would welcome determined action to tackle with this issue, as well as measures to realise an open, fair and efficient financial market.

Key issues:



- **Financial sector reform** The issue of bad debts and non-performing loans is at the top of the political agenda. The EBC regards highly the FSA's efforts in the past years to revitalise the financial sector and encourages further determined action without retreating from the underlying principles of these reforms.

Recommendation: The EBC strongly believes that the Japanese Government should implement in concrete fashion its policy to revitalise the financial sector and to enhance the transparency of the industry's balance sheets. The EBC supports the recent move by the Bank of Japan to buy shares held by Japanese banks as a catalytic measure hopefully leading to the injection of public funds, which could contribute to the reinstatement of confidence in the Japanese financial system.

- **Elimination of firewalls** Although some measures have been taken to relax firewall regulations between banks and securities companies, they are not aimed at full liberalisation of Japanese financial markets, as has been requested by the EBC.

Recommendation: The Japanese Government should abolish Article 65 of the Securities and Exchange Law in order to realise the full liberalisation of the Japanese financial market. Foreign banks should also be authorized to operate trustee business without having to create a trust subsidiary.

- **Regulatory clarity** The EBC welcomes the introduction of the "no-action letter" system in 2001, which followed the introduction of the public comments system in 1998. The EBC wishes to encourage further efforts by the FSA to secure the fairness in the application of laws and regulations.

Recommendation: The EBC recommends that the FSA increase the comment period for the collection of opinions under the public comment system and shorten period for replying to "no-action letters".

Background:

EBC Banking Committee Member Companies

ABN AMRO Bank
Barclays Bank
BNP Paribas
Commerzbank
Credit Lyonnais
HSBC
ING Bank
IntesaBci
Sanpaolo-IMI
Standard Chartered Bank
Swedbank

Revitalisation of the financial sector

The EBC feels that the revitalisation of the financial sector is one of the most important issues that the Japanese Government currently faces, as the existence of reliable and competent financial intermediaries is vital to the whole economy. The basis of a financial institution's strength lies in its trustworthiness. As such, a recovery of confidence towards financial institutions and the financial system as a whole, through the clean up of balance sheets, is indispensable in achieving the Government's goal.

The EBC had expected that the introduction of International Accounting Standards, including marked-to-market asset valuation, and the lifting of the ban on the so-called "pay-off" blanket deposit guarantee were a clear sign of the Government's determination to pursue reforms in this direction.

However, recent events have raised a number of doubts about this determination. Firstly, according to an FSA announcement, non-performing loans held by all banks as of March 2002 rose 9.6 trillion to 43.2 trillion yen from a year earlier. Although the FSA stated that this increase was partly due to the stricter application of classification criteria for restructured loans, doubts remain that the criteria have not been, and still may not be, very objective.

Secondly, recent arguments to postpone the introduction of the full "pay-off" system (including demand deposits, which are currently exempt from the pay-off rules) give the impression that, in spite of the Government's repeated statement that the bail-out of bad debts held by Japanese banks has peaked out, the Government itself is not convinced about the health of these banks.

Firewall regulations

As a result of reforms enacted recently, banks and securities companies are now allowed to share common retail space and a number of other firewall regulations have been relaxed in order to promote the sales of securities products to retail investors. The EBC is disappointed, however, that these reforms did not do more to rationalise existing regulations that impose artificial barriers between banks and securities firms and renews its request that Article 65, which prohibits banks from conducting securities business and vice-versa, be abolished.

In addition, an amendment to the law concerning trustee services provided by financial institutions has enabled major Japanese banks to operate trustee business as of last February but foreign banks are still excluded from this business. The EBC considers this treatment discriminatory and without justification.

Regulatory clarity

Since the establishment of the Financial Supervisory Agency in 1998, a Public Comment system has been in effect to collect opinions from interested parties. While supportive of this review process in principle, the EBC wonders if sufficient time is being given to interested parties to make comments under this system (comment periods currently vary in length from one week to about one month), in order to fairly evaluate policy proposals from a wider perspective.

As regards to the "no-action letter" system, according to the FSA's website it appears that only three issues have been raised and replied to by FSA since the system was introduced one year ago. The small number of issues being addressed by the system may indicate that it is not being effectively implemented, possibly due to the long time that it has taken to receive a reply (on average two months).

For more information, contact:

Mr. Christian Wrede
Chair, Insurance Committee
(Executive Director and CFO, AXA
Life Insurance Co. Ltd.)

C/O AXA Life Insurance Co. Ltd.
1-2-19 Higashi, Shibuya-ku,
Tokyo
〒150-8020
JAPAN
Phone 03-5774-2024
Fax 03-5774-3884

insurance

Regulatory reform continues to improve the business environment for European firms active in the Japanese insurance sector. The product design and approval process is gradually being deregulated, and modest steps have been taken to improve the supervision of critical financial data, including solvency ratios and capital adequacy. The EBC Insurance Committee welcomes this reform-minded attitude, and hopes to see more progress in the areas outlined below.

Key issues:



- Product approval** The EBC stresses that there is no need for the regulator to be involved in the approval of new products, as this only serves to stifle the introduction of innovative insurance products at competitive prices. While the development in 1999 and subsequent enhancements of a notification system for certain commercial lines were definitely steps in the right direction, the need for comprehensive deregulation of pricing and policies remains.

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

- Macro-supervision** It is imperative that insurance companies be in good financial shape in order to meet obligations to policyholders. Unfortunately, the methodologies used in Japan to calculate solvency ratios do not conform to international practice and it is often difficult for customers to determine the security of products offered for sale.

Recommendation: Accounting, disclosure practices, and solvency methodology should be brought in line with accepted international standards. In particular, the reference to sums insured for catastrophe provision should be removed. Ultimately, 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.

- Distribution** The EBC welcomes recent reforms allowing sales through banks and other financial institutions of certain product classes including variable annuities.

Recommendation: All remaining restrictions on the sale of insurance products through financial institutions should be abolished.

Background:

EBC Insurance Committee Member Companies

Allianz
Aoba Life
Aon
AXA Direct
AXA Life
Coface
GeneralCologne Re
Credit Suisse Life
Gerling
Hartford Life
ING Life
Jardine Lloyd Thompson
Lloyd's
Manulife
Marsh
PCA Life
SCOR
Skandia Life
Swiss Re
Watson Wyatt
Willis
Zurich

Regulatory reform

The EBC supports the Japanese Government's long-term goal as set out in its regulatory reform program to continue moving away from the micro supervision of policies and pricing to macro-level supervision of solvency ratios, capital adequacy, and appropriate, modern accounting practices. This will only be possible if the Japanese Government adopts an open regime that clearly defines what is and is not allowed and enables all participants the freedom to innovate without the uncertainty of possible adverse interpretation.

Distribution

The EBC feels that there should be no restrictions on the sale of insurance products through financial institutions (such as banks and securities firms) and independent agencies. Financial institutions should be allowed to distribute all product classes, not only those currently allowed following reforms liberalising bank sales in April 2001 and October 2002. Independent agencies should have the freedom to distribute for multiple insurance companies, without interference from incumbent suppliers. In addition, the EBC urges the Japanese Government to eliminate the so-called *kosei-in* rule limiting products that can be sold by agencies in-house; eliminate the need for insurance firms to maintain the addresses of agents of incorporated agencies; and apply consistent rules for commission payments for both life and non-life products (the so-called *jiko-tokutei-keiyaku* restriction).

Yield reductions

The EBC does not support a proposal that would allow insurance companies to reduce guaranteed yields to help firms cope with the depressed investment environment. While the EBC understands the desire to pre-empt further failures in the Japanese life insurance industry, we also feel that allowing firms to reduce guaranteed yields could set a very dangerous precedent that may further erode confidence in the sector. However, if the Japanese Government continues to pursue this course of action, the reform should be implemented in a completely neutral way so that it does not disadvantage foreign firms operating in the Japanese life insurance market.

Policyholder protection fund

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. The EBC feels that the best way to ensure consumer protection is to promote more prudent macro-level supervision. The EBC urges the Japanese Government to explore ways to alleviate the huge financial burden associated with pre-funding existing policyholder protection corporations in the life and non-life sectors. The current system has the potential of becoming a vicious circle whereby weaker firms are forced into bankruptcy as a result of obligations to pay into the fund.

Postal insurance

The EBC supports the privatisation of the post office's *Kampo* life insurance system. At the very least, *Kampo* should be subject to the same capital, solvency margin and industry funding requirements as private insurers in order to create a level playing field in the life-insurance market.

For more information, contact:

Mr. Jean-Francois Minier
Chair, Securities Committee
(MD and Tokyo Branch Manager, Dresdner
Kleinwort Wasserstein (Japan) Ltd.)

C/O DrKW (Japan) Ltd.
Toranomom 4-chome MT Building
4-1-8, Toranomom, Minato-ku,
Tokyo 〒105-0001 JAPAN
Phone 03-5403-9898
Fax 03-5403-9075

securities

The EBC sees a mixed review for 2002. While the Financial Services Agency (FSA) has published a good medium-term vision for the future, it has in practice been largely preoccupied with actions against short-sales violations. The EBC fully supports regulatory compliance and enforcement as long as the framework is appropriate and that the spirit of the regulation takes priority over form. Equal energy should be spent on deregulation in order to fulfil the FSA's stated vision, which includes areas such as firewall regulations.

Key issues:



- **Regulatory framework** The regulatory framework has shown all its strength and weaknesses during actions taken recently by the authorities on short-selling violations. While some positive developments have been noted, especially on the consultation side, the questions over consistency and transparency of rules interpretation by the FSA/SESC remain a major concern.

Recommendation: The EBC encourages the Japanese Government to continue steadfastly pursuing its mid-term vision for financial markets, which is essential for the revival of the Japanese economy. The EBC also supports the Japanese Government's push to make markets more trustworthy for all investors through the implementation of regulation – provided this is done within an appropriate framework and provided the targeting of violations is broadly-based.

- **Firewalls** Firewalls continue to inhibit the ability of European securities firms from managing their business on a global, integrated basis in Japan. Firewalls in the Japanese financial services sector are inspired by the United States' Glass-Steagall Act, which was initially enacted to protect individuals following the crash of 1929, but has since been repealed. Firewalls still exist in Japan, and in fact are now stronger for wholesale than for retail activities following the FSA's recent liberalisation of certain regulations concerning space sharing for retail banks and brokers. This defies common sense and the law's original purpose – and penalises universal banks in particular.

Recommendation: The EBC urges the Japanese Government to work without delay towards the eventual elimination of all artificial barriers between the banking and securities industries, allowing the operations of true universal banks, at least for wholesale activities.

Background:

EBC Securities Committee Member Companies

ABN AMRO Securities
Barclays Capital
BNP Paribas
Cazenove & Co.
Commerz Securities
Credit Lyonnais Securities
CDC Ixis Capital Markets
Deutsche Securities
Dresdner Kleinwort Wasserstein
HSBC Securities
Credit Agricole Indosuez Securities
ING Securities
Société Générale Securities
UBS Warburg
West LB Securities Pacific
White & Case

Regulatory Framework

Without entering the political debate related to short-sales actions taken recently by the authorities, the EBC would like to make recommendations regarding the regulatory framework to ensure that it will truly help making markets safer and fairer for all investors.

First and foremost, there should be consistency in the application of rules for violations affecting the price formation ability of markets. A tougher stance on stock manipulation schemes (so called “shite”) and insider trading would make the short-sale actions more credible. The FSA and SESC should publicly clarify existing rules to avoid multiple private interpretations during inspections of securities firm. Finally, market infrastructure – including stock exchange technology – should be taken into account when implementing new laws or tightening old ones.

On the positive side, we note improved dialogue between the regulator and industry associations representing various interests of the securities industry (JSDA, IBA, ACCJ and EBC). Further dialogue should be encouraged. The system of public comments also needs to be reinforced and extended to the drafting phase of laws/ordinances, and the “no action letter” system should be promoted further.

Finally, regarding specific reforms, the EBC welcomes a new METI proposal to revise rules on equity swaps for acquisitions in Japan by foreign companies. This goes to show that where there is a real will to do so, quick and practical solutions can be agreed between various parts of the Japanese administration to reform large pieces of regulation.

The EBC also welcomes the relaxing of rules on loss compensation. Approval for non-relaxed cases should be accelerated from the current 6 months, which is impractical, to about 1 month.

Firewall regulations – Article 65 should be abolished

Firewall regulations artificially prevent an integrated financial industry in Japan. These barriers have been particularly detrimental to European securities firms, as most are part of universal banking groups. Article 65 of the Securities and Exchange Law, for example, forbids banks from conducting securities business and vice versa. These barriers are out of step with the rest of the world and detrimental to Japanese consumers and institutions who cannot benefit from effective competitiveness in creating truly innovative solutions for their financial needs.

The FSA has recently eased regulations on space sharing between banks and brokers for retail customers. These investors were the real targets of protection through the Glass-Steagall Act (from which Article 65 is inspired) after the crash of 1929. The Japanese government should, in full respect of the spirit of the Big Bang, liberalise all barriers separating banking, securities, asset management, and insurance industries. It can do so while still ensuring an appropriate product regulation and approval framework, protection of client information, and a renewed emphasis on fiduciary duties of intermediaries. Only through such liberalisation will Japan’s financial services industry be able to restore its position in the world market and ultimately provide a fully competitive array of financing alternatives to Japanese industry and commerce.

Health Science

**Animal Health
In-Vitro Diagnostics
Medical Equipment
Pharmaceuticals**

For more information, contact:

Dr. Gerhard Roth
Chair, Animal Health Committee
(Representative of Intervet International)

C/O Mitaka Pharmaceutical Co. Ltd.
4-16-39 Shimorenjaku,
Mitaka City, Tokyo
〒181-0013
JAPAN
Phone 0422-46-9191
Fax 0422-46-9139

animal health

The approval process for animal health products in Japan continues to inhibit the introduction of innovative products for use by the Japanese livestock industry, veterinarians, and pet owners. The EBC Animal Health Committee continues to urge the Japanese Government to commit itself to regulatory reform and international harmonisation in line with the recommendations outlined below.

Key issues:



- **National assays** The Japanese Government continues to rely heavily on the use of a national assay to test the production quality of biological products despite the introduction of Good Manufacturing Practice (GMP) and an increasing global trend towards the use of self-declaration regulatory mechanisms for product conformance and quality assurance. The national assay invariably adds to the cost and time needed to bring products to the market in Japan, costs that are eventually passed on to the consumer in the form of higher prices and restricted choice.

1. Vaccines – In Japan, every production batch must be submitted to the National Veterinary Assay Laboratory for release testing, a process that can last up to 100 days for some vaccines. Most European countries do not require manufacturers to submit control reports, nor samples for examination for most vaccines, and thus consider the quality control laboratory of the manufacturer as an approved laboratory. A similar system should be introduced in Japan as well.

2. In-vitro diagnostics – The national assay requirement for veterinary in-vitro diagnostics should be eliminated immediately. This requirement does not exist for in-vitro diagnostics intended for human use in Japan, even for those used to diagnose major infectious diseases such as Hepatitis and AIDS.

3. Antibiotic feed additives – The national assay for manufactured/imported feed additives should be abolished after the introduction of GMP on an industry-wide basis. In the mean time, producers that already employ GMP should be given an exemption from the national assay requirement. Sampling procedures should also be rationalised (e.g. by using attached samples) to eliminate the waste associated with the current practices.

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 delay and costs to the introduction of such innovative products to the market.

Regulatory environment

It is difficult to bring new products to market in Japan due to approval delays and high costs associated with the approval process. Despite recent trends to streamline procedures in other parts of the world (including Europe), dossiers for new product applications still have to be amended with additional Japan-specific data. Additional trials for products that are approved in the EU, US, and other parts of the world should be reduced to a minimum and duplications avoided. Applications for human pharmaceuticals that are already widely used by veterinarians and for which efficacy is well documented in the veterinary literature should be possible with a minimal program of local clinical trials.

Withdrawal periods

Most countries evaluate withdrawal periods based on previously established Maximum Residue Levels (MRL) at the time of new drug application. Japan, however, still adheres to a zero-tolerance policy for all but a handful of substances. As a result, if an MRL is set after a new drug is approved, the manufacturer must redo residue trials to determine the new withdrawal period. Reduplication of effort should be avoided. Maximum Residue Levels and the required withdrawal period should be established at the time of New Animal Drug Application (NADA), with all residue studies based on internationally accepted risk-based standards. This would bring Japan more in line with international best practice and facilitate the harmonisation of animal drug reviews currently being pursued under the auspices of the VICH (International Cooperation on Harmonisation of Technical Requirements for Registration of Veterinary Products).

Filing procedures for new animal drug applications

The GoJ requires all reports submitted for NADA and Animal Drug Importation Application to be written in Japanese. For human drugs, on the other hand, it is now possible to submit reports written in the original language, accompanied with a summary written in Japanese. Having to translate all original documents written in English based on overseas data obtained during pre-clinical and clinical tests represents a significant cost that could easily be avoided.

Use of outdated animal studies

Each batch of mycelial (feed grade) product sold in Japan needs to pass an acute toxicity animal test to prove the safety of the product. This test is obsolete. Modern analytical methods applied during the fermentation process as part of in-process controls are able to trace any toxic by-products. The acute toxicity test also runs contrary to the global movement to reduce the number of animal tests in the product development process. Japan is the only country where a toxicity test on mycelial feed additives is still required, despite the fact that such products are used worldwide. This test should be eliminated immediately.

Brand specific listing for antimicrobial and other feed additives

The EU has introduced brand specific (as opposed to compound) listing for antimicrobial and other feed additives, and the EBC urges the Japanese Government to do the same. This would help recognize the significant expense, time, and sophisticated intellectual property involved in the development of these products.

For more information, contact:

Mr. Hiroshi Uchida
Chair, Medical Diagnostics Committee
(Chairman, Dade Behring Ltd.)

C/O Dade Behring Ltd.
Nakanosakaue Sunbright Twin 11F
2-46-1 Honcho, Nakano-ku, Tokyo
〒164-8603 JAPAN
Phone 03-5365-8212
Fax 03-5365-8230

in-vitro diagnostics

In-vitro diagnostics play a valuable role in preventing sickness, diagnosing diseases, and monitoring treatment. Unlike in the US or in Europe, in-vitro diagnostics are treated as pharmaceuticals in Japan and must navigate a costly, time-consuming approval process particular to this categorisation. Many years of industry lobbying efforts backing a more global approach to approvals in Japan are starting to show results – last year the Ministry of Health Labour and Welfare (MHLW) has announced that it will revise the Pharmaceutical Affairs Law and introduce a new product approval process based on risk classifications. At the same time, new regulations are expected to place new emphasis on quality control based on GMP, which the EBC hopes will not create new barriers to entry in this market.

Key issues:



- Product approval process** As a result of recent EBC lobbying efforts through the Office of the Trade Ombudsman (OTO), the MHLW has worked hard to reduce the amount of time that it takes to have IVDs approved for sale in Japan. The goal set by the Ministry in 1985 of processing product applications within 6 months is now being met 87% of the time, as compared with only 12% prior to the EBC’s OTO intervention. The EBC is also encouraged by plans unveiled by the MHLW to introduce a product approval process for IVDs based on risk classifications: High Risk (ministry approval), Low Risk (3rd party approval) and Low Risk Standard Substances (self-notification). Unfortunately, a number of regulations that are unique to Japan such as the 3 lot / 3 time test data requirement still inhibit the introduction of foreign IVDs in a timely and cost-effective manner. The EBC is also concerned that follow-on regulations designed to ensure product quality will partially negate potential benefits to be gained from reforms to the Pharmaceutical Affairs Law creating the new risk-classification system.

Recommendation: The EBC urges the Japanese Government to introduce risk categories for IVD approvals that are compatible with international practice. Any new regulations governing quality systems should also be based on global standards.

Background:

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, ascertaining the side-effect of drug therapy, and monitoring treatment. The economic benefit of medical diagnostics is well documented, as techniques such as microbiology testing, viral load testing, and drug efficacy monitoring save costs and improve patient quality of life by reducing nosocomial infection, days of hospitalisation, and pharmaceutical consumption.

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 type of medical device as is common practice throughout the rest of the industrialized world. Due to this classification and its full application, medical diagnostics are subject to strict testing and approval procedures that apply only to pharmaceutical products.

Medical diagnostics producers have for a number of years been lobbying for the introduction of a product approval system based on risk classifications, with lower risk products subject to a simple notification procedure. The Office of the Trade Ombudsman issued a decision in 1995 and then again in 2001 calling on the MHLW to “study what types of medical diagnostic products do not need approval and establish a notification system for such products as soon as possible”. Last year, the MHLW made the very welcomed decision to revise the Pharmaceutical Affairs Law (PAL) and introduce an approval system for IVDs based on risk classifications.

The EBC urges the Japanese Government to develop implementation ordinances to follow-up these legislative reforms that are compatible with international systems and that result in a meaningful deregulation of the product approval process for in-vitro diagnostics in Japan.

Harmonisation

The Japanese Government has shown an increasing amount of support in recent years for harmonising domestic regulations with international standards. A good example of this is the recently signed Mutual Recognition Agreement with the EU in selected sectors. The EBC encourages the Japanese Government to extend their stated commitment to harmonisation to include the in-vitro diagnostics field as well. The EBC notes with regret that in-vitro diagnostics are not part of the agenda for activities taking place under the auspices of Global Harmonisation Task Force and the International Conference on Harmonisation.

Health care reform

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

For more information, contact:

Mr. Peter Schano
Chair, Medical Equipment Committee
(President, Radiometer K.K.)

C/O Radiometer K.K.
3-16-11Nishi-Shimbashi,
Minato-ku, Tokyo
〒105-0003 JAPAN
Phone 03-5777-3500
Fax 03-5777-3501

medical equipment

European producers of innovative medical equipment make an important contribution to the Japanese healthcare system. Unfortunately, drastic cuts in reimbursement prices and *ad hoc* policy responses to rising health care costs are making it increasingly difficult for firms to contribute to their full potential.

Key issues:



- Healthcare reform** Healthcare reform continues unabated in Japan. Unfortunately, policy responses to rising health care costs and a rapidly aging society seem to be based less on clear long-term healthcare goals, and more on short-term measures designed to reduce costs by any means available. Insurance coverage for numerous types of patient treatments has been considerably reduced, which has eliminated the main incentive for companies to develop innovative new treatments to help keep pace with the healthcare demands of the 21st century.
Recommendation: The EBC is willing to cooperate, advise, and support Japanese healthcare authorities on meaningful and reasonable solutions for patient care based on European experience.
- Mutual recognition** The EBC is disappointed that a Mutual Recognition Agreement (MRA) recently signed between the EU and Japan did not include medical devices.
Recommendation: The EBC urges the Japanese authorities to coordinate medical equipment standards with their European counterparts to avoid unnecessary duplication in the product approval process. A MRA for medical devices should be implemented between the EU and Japan as soon as possible.
- Product approvals** Changes to the Pharmaceutical Affairs Law (PAL) passed by the Diet in July of this year will likely have a profound effect on the way medical treatments are approved and monitored in Japan. While supportive of the principles underlying these reforms, the EBC is worried that new regulations associated with these reforms will not contribute to improve procedural efficiency.
Recommendations: It is important that new regulatory requirements do not effectively shut foreign products out of the market in Japan. Implementation should focus on rationalising approval and monitoring procedures, and an effective balance achieved between procedural efficiency and conformance assessment.

Background:

EBC Medical Equipment Committee Member Companies

Aesculap Japan
Agfa-Gevaert Japan
Dornier MedTech Japan
Draeger Japan
Edap Technomed
ELA Medical Japan
Elekta
Fresenius Medical Care Japan
Gambro
Japan Medico
Jostra Bentley
Laerdal Medical Japan
Maquet-Geringe
Nippon BXI
Philips Medical Systems
Porges
Radiometer
Sata Corporation
Siemens-Asahi Medical Technologies
Sorin Biomedica
SULZERmedica 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 aging society, rising health care costs, and a stagnant economy. Unfortunately, the high cost of advanced medical equipment has often been singled out as one of the main culprits underlying Japan's rising health care costs. 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 treatment cost. The EBC is very concerned that the reimbursement price set by the Japanese Government does not adequately reflect the economic and clinical benefits of individual treatments. 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 continues to be reduced, this will further impede the establishment of an effective reimbursement mechanism that recognises the benefits of truly innovative technologies. The main problem, however, is a short-sighted desire to reduce costs by drastically reducing reimbursement prices. Foreign treatments have been particularly hard-hit as a result of foreign reference pricing.

Regulatory environment

The EBC has long advocated reforms to the approval and monitoring process for medical treatments in Japan with the goal of reducing the time and costs associated with introducing innovative new treatments to the Japanese health care system. Outstanding issues include:

- Vague classification criteria for many functional categories (e.g. for the A1 and A2 categories);
- Discrepancies between functional categories prescribed by the laws and the actual price determined by investigating officers at local inspection offices;
- The time needed to have a new treatment approved for sale.

A number of improvements were made to the application process as a result of reforms implemented in 2000. Unfortunately, it is too early to tell if revisions to the PAL recently enacted by the Diet will do more to address these long-standing concerns. While measures such as the introduction of third-party testing procedures and the deregulation of sub-contracted manufacturing are definitely welcomed in principle, it remains to be seen if the implementation guidelines will actually lead to a reduction in the costs associated with introducing innovative new treatments to the Japanese healthcare market. The EBC urges the Japanese Government to clarify this situation as soon as possible.

For more information, contact:

Mr. Martin Wright
Chair, EFPIA Japan
(President, AstraZeneca K.K.)

C/O AstraZeneca K.K.
Tower East, Umeda Sky Bldg.
1-1-88 Ohyonaka, Kita-ku, Osaka
〒531-0076 JAPAN
Phone 03-6453-7700
Fax 03-6440-2566

pharmaceuticals

Healthcare reform continues unabated in Japan. An aging population and fiscal constraints have forced the Japanese Government to re-evaluate the medical system completely, including prices paid out for prescription medicines. EFPIA Japan applauds and supports the Ministry of Health, Labour and Welfare’s (MHLW) new Vision for the Pharmaceutical Industry and requests involvement during the implementation phase. EFPIA Japan would again like to state the need to implement this Vision as a whole and avoid the temptation to pick and choose amongst counter proposals and to ensure that it is fairly applied across the industry.

Key issues:



- Pharmaceutical pricing reform** From April 1st this year, there was a price cut of an average of 6.3 % on all pharmaceuticals in Japan. At the same time, a new pricing system was introduced, which provided for higher premiums for innovation. Price listing has taken place twice since the introduction of the new system and so far there has been no evidence of any reward for innovation. Additionally, the application of the pricing rules continues to be inconsistent and the method used often remains unclear. These observations suggest that decisions have been made to set prices as low as possible.

Recommendation: The hurdles for receiving the innovation premium appear to be getting higher. EFPIA Japan urges the Japanese government to make decision making on pricing more transparent and to be more committed to its decision to give significant price premiums on innovative new drugs.

- Product evaluation and approval process** The Pharmaceutical Affairs Law was revised in June of this year. The revision calls for the consolidation of the Drug Organization and the Evaluation Centre into an independent administrative agency, which is expected to accelerate the introduction of innovative new drugs to the market. EFPIA Japan supports this move provided that there is 1) a consistent approach to revisions in development and regulations related to technical issues and 2) a centralised safety information handling system within the new agency.

Recommendation: EFPIA Japan anticipates that the new agency will streamline the drug evaluation and approval process, increase the quality of the review system, and provide improved service reflecting the fees that will be requested of pharmaceutical companies.

Background:

EFPIA Japan Member Companies

Actelion Pharmaceuticals
AstraZeneca
Aventis Behring
Aventis Pasteur
Aventis Pharma
Bayer Yakuhin
Bracco-Eisai
Degussa Japan
Fournier Japan
Fresenius Medical Care Japan
GALDERMA
GlaxoSmithKline
Guerbet
Janssen Pharmaceutical
Leo Pharmaceutical Products
Lundbeck Japan
Merck Japan
Nihon Schering
Nihon Servier
Nippon Boehringer Ingelheim
Nippon Organon
Chugai
Novartis Pharma
Novo Nordisk Pharma
Sanofi-Synthelabo
SCHWARZ
Serono Japan
Solvay Seiyaku
UCB Japan

Pharmaceutical Affairs Law Revision

In addition to the unification of the Drug Organization and the Evaluation Centre, the recent Pharmaceutical Affairs Law revision also involves changes in the pharmaceutical licensing system. Under the revised law, marketing license holders are not required to have their own manufacturing facility. EFPIA Japan welcomes this change and believes that it will lead to greater global standardisation of marketing approval. The revision also includes the introduction of drug master files and streamlining the registration rules for revised, supplementary New Drug Applications (NDAs). Under the new rules, the MHLW accepts minor change applications without any review.

Furthermore, under the revised Law, the MHLW intends to strengthen safety measures for biological and/or biologically derived products. This revision requires pharmaceutical companies to have their own safety monitoring system and a system that can trace products to patients. EFPIA Japan supports these revisions and will recommend that the government ensure effective implementation of the new system.

ICH E5 Guidelines

EFPIA Japan is concerned about inconsistent implementation of the ICH E5 Guidelines and scientifically unacceptable arguments made by some of the Drug Organization officials, particularly since several years have passed since the introduction of the ICH E5 Guidelines were introduced and there have been several successful examples of the use of bridging studies. We are committed to increasing the amount of discussion on bridging studies with the authorities and contributing to the development of these Guidelines to ensure that Japan can be part of the global development of new chemical entities.

Intellectual Property Protection

Intellectual property rights such as pharmaceutical patents should be protected and respected in Japan. EFPIA Japan is disappointed that generic drug producers are still allowed to start developing products before patent expiry. Respect for intellectual property rights and brand names should be extended to the pricing mechanism as well.

It has been a year since the Freedom of Information Disclosure Law became effective in April 2001. The disclosure or non-disclosure of documents in the government's possession, including new drug applications, directly affects pharmaceutical companies' competitive position. EFPIA Japan therefore encourages the Japanese government to take appropriate action in this regard. We will continue to monitor the MHLW's activities carefully.

The cost of developing new and innovative drugs and obtaining approval is substantial. Pharmaceutical companies spend on average 10 years and several billion yen to bring a new drug to market. Data submitted along with new drug applications to the MHLW are therefore valuable intellectual property. The TRIPs Agreement, an international agreement on intellectual property protection, requires the signatory state to provide protection to such data.

EFPIA Japan therefore urges that legislation be enacted in Japan to provide a level of protection for new drug application data equal to the level of protection currently provided for in Europe.

Industry

Aeronautics
Automobiles
Automotive Components
Construction
Defence
Environmental Technology
Materials
Space

For more information, contact:

Mr. Ramon Terrones
Chair, Committee of
Aeronautics, Space & Defence
(Vice President, Airbus Japan KK)

C/O Airbus Japan KK
Tokyo Kaijo Bldg., ShinKan 5F
Marunouchi 1-2-1, Chiyoda Ku
Tokyo 100-0005
JAPAN
Phone 03-5220-0241
Fax 03-5220-0253

aeronautics

European aeronautics firms have recently further consolidated their worldwide success in the field of helicopters, engines and commercial aircraft. Airbus is now the world leader in orders and deliveries for commercial aeroplanes. Eurocopter is the bestseller of commercial helicopters in Japan. The EBC is also encouraged by the beginning 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 commercial aircraft market.

Key issues:



- **Promoting competition** Despite the fact that European manufacturers of commercial aircraft, engines, components, and navigational equipment offer state-of-the-art technology at internationally competitive prices, the European share of the Japanese market for commercial aircraft and related equipment is still considerably less than its worldwide average.

Recommendation: Procurement decisions should be made on a competitive basis free from political influence. The EBC would like to encourage Japanese firms to diversify their sources of supply and consider the advantages of European products in this area.

- **Promoting industrial co-operation** Co-operation in commercial aircraft development has also been heavily biased in favour of North America. The EBC is convinced that there are mutually beneficial opportunities for co-operation between European and Japanese firms on projects such as the A380, and in areas such as airframe, propulsion, components, air traffic management, 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 also be encouraged to further working relationships and promote mutual trust and understanding.

Background:

EBC Committee of Aeronautics, Space and Defence Member Companies

AgustaWestland
Airbus Japan
Alcatel Space
Arianespace
Astrium
BAE Systems International
Eurocopter Service Japan
Rolls-Royce International
Snecma
Thales Avionics Japan
Thales International Japan
Turboomeca Japan

The Japanese market for commercial aircraft

The Japanese market for large commercial aircraft and helicopters is one of the largest in the world. Historically, this market has been dominated by the United States. Japan Airlines (JAL), for example, has found itself with an extensive commercial aircraft fleet from a single source supplier. Its merger with Japan Air System (JAS) will certainly bring challenges, but also excellent opportunities to rationalise its fleet around the world's best available aircraft.

The EBC would like to encourage JAL and other airlines and companies in a similar situation to secure double sources for the benefit of their customers, shareholders, and public in general.

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 five "heavy industries" have relied heavily on defence contracts, which still account for the majority of their total aerospace turnover, and on partnerships with Boeing for the rest.

Attempts by the Japanese Government through the Ministry of Economy, Trade and Industry (METI) to promote Japanese independence in the field of aeronautics through national projects have not been as successful as expected. A renewed effort would be welcomed by the EBC.

Co-operation in commercial aircraft development

Japanese industry is now 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, the modest collaboration on the A380 and its derivatives, and to increase the scope of joint activities to include future projects of larger magnitude.

However, Japanese industrial concerns have yet to enter into substantial new product development relationship with European firms, despite clearly stagnant and unrealistic commercial opportunities presented in the North American market.

Pro-active collaboration with successful European companies would certainly enable Japanese companies to strengthen their position in commercial aeronautics. By participating in a wider range of projects, Japanese firms would be able to expand their business opportunities and further develop their technological base. Japan would also benefit from co-operation on the quickly evolving fields of air traffic management and ground-based products that will certainly help to enhance the safety of Japanese airspace.

The EBC is encouraged, however, by the 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.

automobiles

European brands dominate the Japanese market for automobile imports. The principal obstacle to an increase in European automobile sales is the weakness of the domestic market. Sales remain well below the peak reached at the height of the bubble. European companies will continue to offer a wide range of attractive new models to stimulate consumer demand.

Key issues:



- Harmonisation of Technical Standards** Japan's regulatory regime has changed markedly in response to the globalisation of the automobile industry. Japan's membership of the UN/ECE 1958 Agreement on the Mutual Recognition of Type Approval for Vehicles etc. has accelerated the harmonization of her technical standards with international norms. But there are still some areas where Japan has unique national technical requirements.

Recommendation: The EBC encourages the Japanese Government to speed up the adoption of UN-ECE Regulations and to consult closely with other UN-ECE members before introducing new requirements.

- Environmental Legislation** European importers share the concern of the Japanese Government to reduce the impact of the automobile on the environment. The EBC hopes, however, that fuel efficiency targets, more stringent emission regulations, and legislation for the disposal of end-of-life vehicles will be implemented in such a manner that these policies do not put a disproportionate burden on importers.

Recommendation: The EBC urges the Japanese government to take full account of the views of automobile importers in formulating its environmental policies.

Background:

EBC Automobile Committee Members

ACEA
Audi Japan
BMW Japan
Citroen Japon
DaimlerChrysler Japan
Fiat Auto Japan
Ford Japan
General Motors Asia Pacific (Japan)
Jaguar Japan
Land Rover Japan
Nicole Automobiles: Alpina
Peugeot Japan
Porsche Japan
Renault Japon
Volkswagen Group Japan
Volvo Cars Japan
Volvo Nippon

Overview

Japan is the by far the largest market in Asia for European car exports. Imports of foreign branded vehicles rose strongly in the early 1990's to reach 311,000 units in 1996. Since then, imports have declined along with the market as a whole. At 255,000 units in 2001, imports were still well below the peak. This represents about 6% of the total passenger car market, including mini cars ("kei" cars). European brands have a share of more than 85% of the import car market (excluding cars exported to Japan from the overseas transplants of domestic manufacturers).

The European participation in the Japanese car market is not restricted to direct sales. Several European companies have taken equity stakes in Japanese automakers to work together not only in Japan, but in other markets, especially in Asia. Other European companies have formed alliances with their Japanese counterparts to share R and D or product development.

Global Harmonisation

The globalisation of the automobile industry has given European and Japanese automakers a common interest in the international harmonisation of technical standards. While competing fiercely in the market place, the two industries cooperate to reduce the regulatory burden on the industry.

In 1998 Japan became the first country in Asia to accede to the UN/ECE 1958 Agreement on the Mutual Recognition of Type Approval for Vehicles etc., which provides that vehicle devices that have received type approval according to ECE Regulations in one contracting party are exempt from testing in any other signatory country where those regulations have been adopted. Japan has pledged to adopt 30 ECE Regulations by the end of Fiscal Year 2003: so far 22 regulations have been adopted.

Environmental Policies

Diesel technology plays an essential part in reducing CO2 emissions in the EU. In Japan, emission standards have been set at levels which have the effect of banning the sale of diesel passenger cars in Japan for the foreseeable future.

Deregulation

The EBC Automobile Committee works closely with the European Automobile Manufacturers Association (ACEA) and the Japan Automobile Importers Association (JAIA) to devise common positions on regulatory issues that affect the interests of European importers. JAIA represents the importers on the various government consultative bodies that discuss policy towards the automobile industry. But the EBC Automobile Committee maintains its own direct links with government officials who are regularly invited to attend informal meetings with committee members.

For more information, contact:

Mr. Nikolaus Boltze
Chair, Automotive Components Committee
(Representative Director, Behr Japan K.K.)

C/O Behr Japan K.K.
5-2-1 Togoshi, Shinagawa-ku,
Tokyo 〒142-0041
JAPAN
Phone 03-5782-8700
Fax 03-5782-8730

automotive components

The EBC Automotive Components Committee is working hard to improve mutual trust and understanding between independent European automotive component producers and Japanese car manufacturers. European firms offer proven and innovative technical expertise, competitive prices, and global experience to Japanese manufacturers in this increasingly competitive 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.

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. These meetings have proven to be an extremely effective venue to discuss issues of mutual concern relating to products, platforms, and other important issues affecting the industry.

Recommendation: The EBC strongly supports the continuation of face-to-face meetings in Europe with representatives from the Japanese automobile industry. The EBC feels that these meetings have led to a greater understanding between European component manufacturers and Japanese carmakers, and hopes that the scope of these meetings will be expanded in the future to include Japanese venues as well.

- **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 developing new products and sharing technical expertise.

Recommendation: The EBC urges the Japanese car industry to build on recent globalisation trends by focusing on the technical, commercial and logistical aspects of automobile production. Part procurement should ultimately be based on merit.

Background:

**EBC
Automotive Components Committee
Member Companies**

- A. Raymond Japan
- Behr Japan
- Benteler Automotive
- BOSCH Automotive Systems
- Delphi Aftermarket Operations - Japan
- Faurecia Japon
- Freudenberg
- Getrag Getriebe
- Herberts Shinto Automotive Systems
- HP Pelzer Japan
- Johnson Matthey Japan
- Nihon Michelin Tire
- Osram Japan
- Sachs Automotive Japan
- Seric
- Siemens VDO Automotive
- Sika

New opportunities in the Japanese market

More and more European automotive components firms 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. Opportunities in Japan are increasing as a result of changes taking place within the traditional group structures of the Japanese auto industry, as well as competitive pressures to place more emphasis on global procurement strategies and cost-effective product development. At the same time, the European automotive component industry's relationship with Japan has intensified as a result of the development of Japanese car manufacturers' transplant operations in Europe. In the long run, the EBC sees the globalisation of the Japanese car industry as a very positive development – one that will likely lead to increased opportunities for European firms in the future.

Inhibiting factors

Unfortunately, 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 on a global basis. Japanese firms are still uneasy about divulging proprietary information to outsiders, continuing to favour traditional suppliers for product design and production. It is also still often necessary to provide “Japanese solutions” to customers in order to adhere to company-specific specifications, which defies the global trend towards single platform development and volume production.

Encouraging further outsourcing of product development

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 and the EBC hopes that this system will be adopted more fully in Japan in the future. This would lead to a more competitive structure that would promote lower costs and more innovation.

What European firms have to offer

The EBC seeks to reassure Japanese companies that European firms are committed and reliable partners in any product development relationship. European automotive component producers have much to offer the Japanese car industry. European firms are not tied to specific European automobile manufacturers, and have established a global network of clients. European car parts producers have a reputation for product innovation, technical expertise, efficiency, quality and personal attention that Japanese automobile manufacturers have come to expect from their suppliers.

Promoting mutual understanding

The EBC hopes that annual meetings between the European car parts industry and Japanese carmakers will continue, and that one-day these meetings take place in Japan to broaden European understanding of Japanese manufacturer expectations.

For its part, the European automotive components industry will also work hard to increase mutual understanding with Japanese firms, with the goal of increasing product development and manufacturing relationships with Japanese operations in both Europe and Japan.

For more information, contact:

Mr. Arthur Hawtin
Chair, Construction Committee
(Director, Currie & Brown (Japan) Ltd.)

C/O Currie & Brown (Japan) Ltd.
TM Hiroo Bldg. 7F
1-9-20 Hiroo, Shibuya-ku, Tokyo
〒150-0012 JAPAN
Phone 03-3442-6642
Fax 03-3442-1958

construction

The Japanese construction industry has been particularly hard-hit by over a decade of economic stagnation in Japan. Published forecasts indicate almost no increase in demand for another decade. Despite official Government policy supporting competition and regulatory reform, European firms face hurdles in bidding for projects, receiving approval for new products, and obtaining the necessary licenses and approvals to do business in Japan.

Key issues:



- **Structural reform** Opportunities for European firms to participate in the construction market in Japan will not increase until the economic situation improves and a serious attempt is made to address the numerous structural deficiencies in the Japanese construction industry.

Recommendation: The EBC urges the Japanese Government to promote structural reform in the Japanese construction sector through further deregulation, industry consolidation, financial restructuring and encouragement of competitive bidding and private finance initiatives.

- **Private Finance Initiatives** The current high level of government debt increases the need for private investment in public projects and the use of alternative procurement methods for public service delivery in Japan. European firms have historically been very strong in providing outsourced solutions in fields such as infrastructure development, healthcare, education, water treatment and waste management – areas traditionally funded, constructed, managed, and operated by public entities. The EBC is eager to share this experience in the Japanese market.

Recommendation: The EBC urges the Japanese Government to step up the use of Private Finance Initiatives (PFI) and Public-Private Partnerships (PPP) by central and local government organisations. The EBC encourages more Japanese - European cooperation in the development of Japan's PFI strategy to draw on the wealth of European experience gained over the past two decades in alternative procurement methodologies.

Background:

EBC Construction Committee Member Companies

Clestra Hauserman
Currie & Brown (Japan)
Forbo Linoleum
IKEA Japan
Kiwa
Midas International
Nihon Saint-Gobain
Ove Arup & Partners Japan
Schal Bovis
Schindler Elevator
S'International Architects

Tough times

The Japanese construction market is becoming increasingly unattractive to European firms involved in the sector. The numerous obstacles European firms have traditionally faced doing business in Japan have simply been compounded by continued economic stagnation and problems that continue to plague the industry in general.

There are too many firms chasing too little work in Japan. Investment in construction has decreased by almost 30% since the peak in 1990, but the number of firms has increased. Of the approximately 570,000 firms involved in the sector, including 70,000 general contractors, only 6,000 are capitalised at over 100 million yen. The construction sector employs over 10% of the Japanese workforce – about 10% more than in 1990 and an unusually high percentage by OECD standards.

Government regulations and inefficiencies in the structure and management of the construction sector prevent the creation of a market environment based solely on cost-effective merit. Productivity is in decline. All firms, even ones that are well-run, have suffered as a result.

This has not gone unnoticed by the Japanese Government. The Ministry of Land, Infrastructure and Transport (MLIT) has been actively encouraging consolidation within the industry and has started to impose stricter qualification criteria on general contractors bidding for public works projects. Facing fiscal constraints itself, the Government has become increasingly interested in the cost effectiveness of the projects that it funds. In the case of public works, however, the official policy of sharing work among the many small and medium sized contractors and “political intervention” continue, holding back changes and improvements to productivity.

Procurement practices

One of the areas that the EBC feels is in particular need of further reform is the procurement process for public works projects. European firms have traditionally found it much easier to supply innovative materials, designs, and techniques to the private sector than to the public sector construction market in Japan. Reasons for this include difficulties procuring information on tender offers from commissioning entities, fragmented qualifying procedures, close ties between commissioning entities and incumbent firms, selectively disclosed specifications, and lack of process transparency – from securing bid qualifications through to the evaluation and awarding of contracts. The EBC does not realistically expect this situation to change substantially until the symbiotic relationship between politicians, bureaucrats, and the construction industry erodes.

Regulatory burden

The cost of setting up local representation, obtaining licenses, registering under the *keishin* system, and bidding for projects remains 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.

Although changes to the Building Code in June 2000 allow materials receiving approval on the basis of performance standards to be admitted to Japan and although it is now theoretically possible to test these materials in their country of origin (provided the testing centre is approved by the Japanese Government), there is little evidence of increased use of innovative materials and components from overseas. The EBC feels that this is largely due to bureaucratic resistance to innovation or change and, in the case of public works, the fear of sanctions by the Board of Audit, as even the smallest change from established practice is subjected to question and close examination. The EBC urges the Japanese Government to work towards encouraging the use of innovative construction technologies, materials, and techniques and to further promote efficiency in the product approval process.

For more information, contact:

C/O Airbus Japan KK
Tokyo Kaijo Bldg., ShinKan 5F
Marunouchi 1-2-1, Chiyoda Ku
Tokyo 100-0005
JAPAN
Phone 03-5220-0241
Fax 03-5220-0253

Mr. Ramon Terrones

Chair, Committee of
Aeronautics, Space & Defence
(Vice President, Airbus Japan KK)

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 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 a critical voluntary lack of knowledge about European equipment 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** Japan prohibits co-development involving the exchange of defence related information with all countries except the US. 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 Committee of Aeronautics, Space and Defence Member Companies

AgustaWestland
Airbus Japan
Alcatel Space
Arianespace
Astrium
BAE Systems International
Eurocopter Service Japan
Rolls-Royce International
Snecma
Thales Avionics Japan
Thales International Japan
Turbomeca Japan

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. The Japanese defence establishment is reluctant to receive information on European equipment. This voluntary lack of exposure leads to narrow views. 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.

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 dealing with the problems of interoperability in near combat or real combat situations 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. As important, 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 worldwide competitive pricing and combat-proven equipment. 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.

For more information, contact:

Mr. Holger Wittich
Chair, Environmental Technology Committee
(President, JBS Inc.)

C/O JBS Inc.
Higashinakano 1-51-3-501.
Nakano-ku, Tokyo
〒164-0003 JAPAN
Phone 03-3363-7581
Fax 03-3363-7582

environmental technology

European firms have a long history of developing innovative new technologies and processes for solving environmental problems in Europe and around the world. Unfortunately, the application of European expertise to environmental problems in Japan is inhibited by uncertainties in the regulatory environment and general attitudes towards environmental remediation.

Key issues:



- **Attitudes towards environmental remediation** In Japan, environmental problems such as the illegal dumping of waste, high levels of soil contamination, low levels of plastic recycling, and an aging waste management infrastructure abound. Environmental remediation should not be thought of as an expense – the development of new technologies to deal with these problems also generates important economic benefits, and these should be emphasised.

Recommendation: The EBC urges the Japanese Government to improve education on environmental remediation concerns in Japan and promote the development of new technologies to help deal with these problems.

- **Regulatory structure** The environmental technology sector in Europe is regulatory driven. Unfortunately, the regulatory regime governing the environment and environment-related businesses is not as highly developed in Japan as it is in Europe. One can compare the present situation in Japan with the situation that existed twenty years ago in certain countries in Europe.

Recommendation: The regulatory regime governing the environment and environmental business should be further strengthened, with special emphasis on consistent application and enforcement of the rules.

- **Government procurement** Private Finance Initiatives (PFI) and Public Private Partnerships (PPP) are gaining popularity in Japan. These means have long been applied in Europe for the funding of entities traditionally funded, managed, and operated by public authorities. European firms specialising in this field would like to enter the Japanese market, but conservative attitudes towards alternative service delivery obstruct these initiatives.

Recommendation: The use of PFI/PPP should be further encouraged in Japan. The EBC urges more Japanese/European cooperation in the development of Japan's PFI strategy to draw on the wealth of European experience in this area.

Background:

The environmental technology sector in Japan

While many expected a boom in the environmental technology field in Japan, in reality the market has not lived up to this promise. Part of the problem lies in the lack of a comprehensive strategy to deal with the numerous environmental issues that Japan currently faces in areas such as soil remediation, waste management, and water treatment. Private and public sector entities also remain hesitant to divulge the extent of the environmental problems they are facing. Until this attitude changes, the market potential in Japan for environmental technologies is likely to remain unfulfilled.

Soil remediation

Having said this, the EBC is encouraged by a number of recent developments that bode well for the future of the sector. The new Soil Contamination Measures Law, for example, creates a strict new environment for the remediation of contaminated soil sites, which will likely result in increased interest in soil remediation technologies in the immediate future. However, the long-term impact of this reform will depend to a large extent on the ability of the regulatory authorities to effectively implement these new guidelines. The EBC also remains concerned about the regulatory environment governing the soil remediation practices themselves. The Japanese Government has yet to develop clear guidelines regarding site characterisation standards, sampling and testing procedures, risk-based decision models for determining remediation urgency, and a comprehensive timeframe for cataloguing and cleaning up polluted sites. Many testing methodologies differ substantially from accepted international practice, and testing costs are much higher than they are in Europe. The EBC feels that increased competition in site assessment and testing services would benefit the environment and help society by reducing the costs associated with remediation.

Waste management

Recent changes to Japanese waste management regulations have included amendments to the Waste Management Law in 1991, 1997, and 2000; the introduction of the Containers and Packaging Law in 1995; the introduction of a new home appliance recycling law in 1998; introduction of the laws for the promotion of a recycling society, construction recycling, food recycling and green purchasing in 2000; and new dioxin emission standards that will take effect in December of this year. Despite the strong legal structure governing the waste management sector in Japan, a number of important questions remain: What will happen to the large number of industrial waste incinerators that are not compliant with new dioxin standards? How will Japan fight illegal dumping given that the new legal environment may in fact encourage more use of this “disposal” method? Will the Japanese Government develop financial support systems to promote recycling of substances such as plastics, which historically has been low in Japan? These and other uncertainties in the application of waste management regulations need to be addressed before European investors are confident about the future of the waste management business in Japan.

PFI

The EBC is encouraged by official government support for the development of Private Finance Initiatives and Public Private Partnerships in Japan. European firms have historically been very strong in alternative service delivery in fields such as water treatment and waste management, and the EBC hopes that this experience will lead to new opportunities in the Japanese market. The EBC urges the Japanese Government to continue promoting the use of PFI/PPP by actively supporting local government PFI initiatives.

For more information, contact:

C/O Pechiney Japon (SA)
Shinjuku Mitsui Bldg, 29Fl.
2-1-1 Nishi-Shinjuku, Shinjuku-ku, Tokyo
〒163-0429 JAPAN
Phone 03-3349-6660
Fax 03-3349-6770

Mr. Masaru Kobayashi

Chair, Materials Committee
(Senior Vice President, Pechiney Japon)

materials

High tariff rates on imported industrial materials significantly increase commodity procurement costs and seriously affect the competitiveness of Japanese industry. This adds to the problems Japanese firms continue to face in important sectors such as steel, glass and machining, which are struggling to remain competitive in an 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. 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), where by 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 ASA Materials
Eramet Japan
Falconbridge (Japan)
Lafarge Aluminates Japan
Pechiney Japon
SKW East Asia
Treibacher Schleifmittel Japan
Umicore Marketing Services Japan

Reducing tariffs

High tariff rates remain the key factor inhibiting European access to the Japanese market for industrial materials. Japan has demonstrated a reluctance to further reduce tariff rates on these and other products on a unilateral basis before formal negotiations start on tariff reductions under the auspices of the new round of the WTO. This is unfortunate. The EBC feels that it would be in Japan's interest to take immediate, unilateral action to reduce tariffs on all remaining industrial materials considering the fact that these products represent vital inputs for Japanese industry.

Nickel

Japan is the only developed country in the world to apply duties on processed nickel products such as ferro-nickel (primarily used in the stainless steel industry) and nickel hydrides (used in batteries for cell phones and hybrid cars). This significantly increases procurement costs for Japanese consumers at a time when many Japanese companies in sectors such as stainless steel production are struggling for survival. Tariff-induced price incentives have seriously distorted the structure of nickel production in Japan and failed in their original aim to secure domestic nickel supplies. Japanese nickel producers have increased production to cover fixed costs despite stagnant domestic demand and production costs that are acknowledged to be the highest in the world. This has led to a situation where Japanese nickel producers now export 32% of their production. This makes little economic sense as Japan is in effect subsidising foreign consumption. This is also unfair to European producers who are forced to compete with Japanese producers who are protected at home. Since Europe does not impose import duties on processed nickel products, for some products such as nickel hydrides, Japanese producers freely sell their products to battery producers in Europe, while European producers are forced to pay a duty for products sold to battery producers in Japan. Regardless of the economic costs involved, high tariff rates on processed nickel products have long been justified by Japan as a means to secure stable nickel supplies. The EBC feels that these fears are unfounded. Most nations are in fact reducing their strategic stockpiles given the abundance of supply available over the medium term. Japan is in fact putting itself at risk by imposing high tariff rates on processed nickel products, as it does not have any nickel ore supplies of its own.

Fused aluminium oxide

Fused aluminium oxide, also called artificial corundum, is used in the abrasive industry for grinding wheels, sand paper, or loose grain applications like grinding and polishing of glass and electric components. Imported corundum is subject to a 3.3% tariff, though most imports come 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.

Tariff classifications

Arbitrary tariff classifications and revisions also continue to make things difficult for European suppliers of industrial materials in Japan. Customs Offices do not apply classification rules on a consistent basis and there is no appeal mechanism available with which to challenge a classification ruling. This is a problem not only for products entering the market for the first time, but also well-established products subjected to sudden classification reviews. The EBC urges the Japanese Government to rationalise its tariff classification regime and develop a comprehensive strategy to improve consistency between Customs Offices on classification rulings, improve transparency of classification methodology and test results, and strengthen dispute resolution mechanisms.

For more information, contact:

Mr. Ramon Terrones
Chair, Committee of
Aeronautics, Space & Defence
(Vice President, Airbus Japan KK)

C/O Airbus Japan KK
Tokyo Kaijo Bldg., ShinKan 5F
Marunouchi 1-2-1, Chiyoda Ku
Tokyo 100-0005
JAPAN
Phone 03-5220-0241
Fax 03-5220-0253

space

Good working relationships already exist between the respective governments and industries of Japan and Europe in the space sector. The European Space Agency (ESA) and Europe's major national space agencies maintain close relations with Japan's space authorities, and co-operation is slowly increasing between European and Japanese companies. The EBC hopes that this will continue to develop and lead to further opportunities, both in Japan and worldwide, for European and Japanese industry.

Key issues:



- **Satellites and ground segment** Close relations have long been maintained between NASDA and Europe's space agencies, but significant co-operation in satellite and ground station development has remained very limited. Significant industrial co-operation in new application areas is only possible when promoted by the space agencies, but NASDA is often reluctant to discuss plans before its programs are fully and rigidly budgeted, leaving no room for co-operation with Europe.

Recommendation: The EBC supports the ongoing co-operation, and encourages further development of the relationships between NASDA and Europe's space agencies. In particular we encourage agencies to discuss their respective plans in new application areas from the earliest stage possible, to enable the introduction of Europe-Japan co-operation before it is too late.

- **Launchers** Europe and Japan are the only major space powers with the problem of maintaining an independent access to space without a sizeable government market. To help solve this problem, Japan decided to transfer the main responsibility for the new H-IIA launcher to the private sector. The launch services market, however, is overcrowded and cannot provide much support. Government missions remain the essential foundation to maintain an independent and reliable access to space.

Recommendation: The EBC welcomes the privatisation of the H-IIA launcher but hopes that the Japanese Government will co-operate with Europe's governments and space agencies to help alleviate their common problem of independent access to space without further weakening the already small, fragile, and difficult commercial launch market.

Background:

EBC Committee of Aeronautics, Space and Defence Member Companies

Agusta Westland Helicopters
Airbus Japan
Alcatel Japan
Arianespace
Astrium
BAE Systems International
Eurocopter Service Japan
Rolls-Royce International
Snecma
Thales Avionics Japan
Thales International Japan
Turbomeca Japan

Japan and the space sector

Japan is one of the leading nations in the field of space. Its own heavy-lift launchers give it an independent access to space. It builds state-of-the-art technological satellites at the rate of one or two per year.

However, Japan's space industry lags in the international market due to low domestic volumes. The satellite industry relies almost exclusively on scarce government orders after American political pressure forced the opening to international competition of much of the government market in 1990. Much of the responsibility for the H-IIA launcher, on the other hand, is being handed to the private sector in the midst of a severe market depression.

These circumstances are made even worse by the increasingly stringent budgetary constraints, which have forced the merger of NASDA, ISAS and NAL, and a broad review of the country's goals in space.

The commercial side of the Japanese space industry tends to concentrate on ground stations and satellite components. Japanese firms have successfully supplied parts and components to American and European satellite manufacturers as well.

Satellite systems

A US-Japan agreement requiring the international tendering of all commercial satellites in Japan has resulted in a relatively open commercial satellite market. European satellite makers have not yet sold satellites in Japan, but Japanese customers are showing increasing interest because of the high quality of European satellites and unreliable US export control policies.

Japan often uses international co-operation to reach technological and industrial excellence through contacts with advanced partners. However, co-operation in satellite development remains heavily biased towards the US, particularly for programs close to national security such as the IGS. 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.

A recent improvement, however, is that Japanese Government contracts often have an overall prime contractor with industrial responsibilities including the choice of subcontractors. This may allow Japanese companies to pursue more co-operation opportunities with European companies. Europe has much to offer in terms of proven and innovative technologies, with few political strings attached and no particular export restrictions to Japan.

Launchers

The Ariane launcher has been very successful with Japan's commercial satellite operators, and trustful relations have also been established with Japan's industry and space authorities.

Over the years Japan also nurtured a high technological ability to develop, build, maintain, and operate advanced launchers. In order to maintain independent access to space in the face of severe budgetary constraints and a very limited government satellite market, the Japanese Government recently decided to transfer the main responsibility of its new H-IIA launcher to the private sector. But the global economic situation and a telecommunications market trough have created the worst possible circumstances to introduce yet another launcher into an already overcrowded and fragile commercial launch market. The home government satellite launch market will remain essential for the foreseeable future.

Space activities often suffer from a low recognition of the value of such activities among the Japanese public. This public, on the other hand, supports international co-operation if it is for the common good and in a peaceful context. Europe is best placed to be Japan's partner in this respect because of its extensive experience with civilian launches.

Transportation & Communications

Airlines
Shipping
Telecommunications
Telecommunications Equipment

For more information, contact:

C/O Lufthansa
3-1-13 Shiba-koen, Minato-ku, Tokyo
〒105-0011
JAPAN
Phone 03-5402-5201
Fax 03-5402-5209

Mr. Gregor Wende
Chair, Airline Committee
(General Manager, Lufthansa Japan)

airlines

International air transport plays a vital role in the Japanese economy. Unfortunately, restrictive pricing and distribution mechanisms, high operating costs, and underdeveloped infrastructure unnecessarily inhibit the ability of the airline industry to operate efficiently in the Japanese market. The EBC urges the Government of Japan to continue addressing these issues, in line with the recommendations outlined below.

Key issues:



- Pricing and distribution** The distribution, pricing, and settlement of airfares remain highly regulated in Japan. Official published fares are much higher than average market level. As a consequence, most airline business is done through “negotiated” fares given to travel agents and wholesalers, without any control of the final consumer price. The consumer pays the mark-up generated by a complex system of retailing instead of the regular commission (7% in most markets). This has also restricted the ability of airlines to publish and sell air tickets and other airline related products directly to consumers in an efficient manner, including over the Internet. This is contrary to practice in nearly all countries worldwide and is detrimental to the consumer.

Recommendation: The distribution, pricing, and settlement of airfares in Japan should be deregulated so that carriers can offer competitive net fares in a transparent fashion directly to the consumer, including over the Internet.

- High cost structure** Costs levied on the air transport sector in Japan are the highest in the world.

Recommendation: The GoJ should strive to reduce the costs associated with air transport provision in Japan by 50%. Prohibitive landing, navigation, and common user fees charged by airport authorities should be substantially reduced. Competition in the operation of airport facilities should be promoted.

- Airport infrastructure** Despite the much anticipated opening of the 2nd runway at Narita airport earlier this year, a lack of adequate air transport facilities continues to unduly restrict the provision of air transport services in the Kanto region.

Recommendation: Total international capacity should be further expanded to satisfy demand in the Kanto region. In the meantime, existing facilities should be used more efficiently. Flight movement per hour at Narita should be increased, slots from the two runways at Narita should be pooled, and Haneda should be opened to regular international traffic.



Background:

EBC Airline Committee Member Companies

Air France
Alitalia
Austrian Airlines
British Airways
Finnair
KLM
Lufthansa
SAS Scandinavian Airlines System
Swiss International Air Lines

The business environment: an overview

The airline industry continues to suffer from the ill effects of events unfolding on the world stage. Passenger levels are still down, and airlines are working hard to improve operating efficiency. Given this situation, the EBC urges the Japanese Government to do all that it can to modernise air transport facilities and regulatory infrastructure to help combat this business downturn for the benefit of both the users and suppliers of air transport services in Japan.

Deregulating the pricing and distribution mechanism

The pricing and distribution mechanism for air travel in Japan is extremely inefficient. Airlines have limited means to sell their products and services directly to consumers, including over the Internet, as has become common throughout the rest of the industrialised world. In Japan, airlines are only allowed to advertise and sell fares for international travel to and from Japan at rates officially approved by the IATA, or in the case of group travel, lower rates set by the Ministry. As the rates set by the IATA do not accurately reflect current market conditions, most individual fares sold in Japan are repackaged group discount fares sold through licensed travel agents. This places European carriers at a distinct disadvantage, as they do not have the economics of scale to set up their own de facto direct distribution channels through captive agencies and affiliated travel offices. While the Japanese Government has taken welcomed steps to deregulate the direct sale of advanced-purchase fares for international travel recently, numerous restrictions continue to inhibit the development of direct sales to consumers. The EBC urges the Japanese Government to completely deregulate the pricing and distribution mechanism for international air travel in Japan through the introduction of a simple file-and-use system. In addition, restrictions on the direct transfer of net-remittances on market fares sold through IATA travel agents should be eliminated.

Reducing the cost of doing business

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 air transport in Japan the highest in the world. This ultimately has an adverse effect on the Japanese economy, as these costs are eventually passed on to the consumer through higher prices and reduced service. The EBC welcomes recent moves to offer discounts for office rents in Narita and the usage of large aircraft at Kansai, and urges the Japanese Government, in cooperation with airport authorities, to continue reducing fees charged to airlines even further. The Government should also avoid cross-subsidising measures between profitable and non-profitable airports as underlined by the IATA.

Airport infrastructure, landing shortages, and slot allocation

The EBC welcomes the opening of the 2nd runway at Narita Airport. Having said this, the EBC remains concerned about the overall quality of the infrastructure that underpins the air transport sector in the high-volume Kanto region. The facilities at Narita are not commensurate with its supposed role as the main international gateway to Japan. Haneda remains off-limits for scheduled international flights, and Narita continues to use existing facilities inefficiently (for example, by restricting flight movements per hour and by allocating slots for the two runways separately). The EBC feels that resources currently being used to upgrade infrastructure in the Kansai region should be reallocated to the Kanto region where they are needed the most. In addition, the EBC recommends slot allocation methodology employed at Narita be reviewed with the goal of improving efficiency, while respecting the increasing level of bilateral economic exchange between Europe and Japan and achieving more equal treatment regarding slot allocation between American and European airlines.

For more information, contact: C/O P&O Nedlloyd (Japan)
 Omori Bellport D-Wing 13Fl.
 6-26-3, Minami-Ohi, Shinagawa-ku, Tokyo
Mr. Jorgen Holck 〒140-8554 JAPAN
 Chair, Shipping Committee Phone 03-5764-0351
 (President, P&O Nedlloyd Japan) Fax 03-5764-0399

shipping

Managed competition on the waterfront continues to have an adverse effect on the competitiveness of Japanese ports. Under the current system, 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. This would lower costs, improve productivity, and increase the overall attractiveness of the Japanese market.

Key issues:



- **High port costs** Port charges in Japan remain amongst the highest in the world. These costs are eventually passed on to the end-user in the form of higher freight-rates to and from Japan, which has a negative impact on the Japanese economy as a whole. Operational costs will not come down until the Japanese Government commits itself to promoting meaningful competition on the Japanese waterfront. Ultimately, shipping companies should be able to procure port services on a competitive basis, free from undue influence from organisations such as the Japan Harbour Transportation Association (JHTA).

Recommendations:

1. *The Japanese Government should support the establishment of new, competitive terminal operations, including those owned by shipping lines themselves. While the licensing system has been replaced by a “permission system” and a commitment from the Ministry of Land, Infrastructure and Transport (MLIT) to process applications within two months of receipt, requirements such as minimum employment levels (set at 1.5 times that of existing operators) continue to hamper the development of a competitive market for port services in Japan. This requirement should be abolished.*
2. *Competitive bidding through open tenders should be supported. While new changes to the Harbour Transport Law implemented in November 2000 do not specifically prevent subcontracting with multiple stevedore firms under confidential rates, in reality the concept of independent, competitive bidding has yet to catch on in Japan.*
3. *The supervision of Japanese port operations should be transparent, efficient, and fair. The JHTA still 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. The process lacks transparency and effectively prevents shipping lines from seeking competitive bids for waterfront services.*

Background:

Overview

The global shipping sector is a vital component of Japan’s business infrastructure. The costs associated with shipping goods around the world have an immediate impact on the competitiveness of other important parts of the Japanese economy.

The EBC is disappointed that reforms aimed at improving Japan’s business infrastructure have not done more to liberalise waterfront working practices, improve competition amongst waterfront industries and associations, and promote operational flexibility. The costs associated with the provision of shipping services in Japan are widely acknowledged as being amongst the highest in the world.

These costs are eventually passed on to the end-user in the form of higher freight rates to and from Japan. High costs also undermine the competitive position of Japanese ports in the Asian region, for example in the provision of trans-shipping services. Low margins may eventually result in capacity moving offshore.

This situation has been exacerbated by the current downturn in the global economy. The amount of goods being shipped overseas has dropped significantly over the past year, and most shipping lines are struggling to regain profitability. Given this situation, it is imperative that the Japanese Government implement measures designed to reduce the costs associated with the provision of shipping services by promoting more competition on the waterfront.

Promoting competition on the Japanese waterfront

One long-standing concern that was not addressed in the 2000 Harbour Transportation Law amendments concerns the powerful influence of the Japan Harbour Transportation Association (JHTA). The JHTA 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.

While the EBC is pleased to note that shipping lines have not reported any major trouble recently with the prior consultation process involving a number of both major and minor issues, the real test will come when a carrier contests a JHTA ruling to the MLIT under the so-called “Three Party Agreement” established in 1997.

The main concern is the fact that the whole prior consultation system lacks transparency, and effectively gives the JHTA and its members a tool that inhibits shipping lines from seeking competitive bids for waterfront services.

Other issues

The EBC repeats its previous request that the inland transportation of forty-five foot containers be permitted on designated routes in Japan. The use of such containers remains prohibited, despite widespread use throughout Asia and most global shipping markets.

For more information, contact:

Ms. Lisa Suits
Chair, Telecommunications Carriers
Committee
(Vice-President, C&W IDC Inc.)

C/O C&W IDC Inc.
CS Tower Bldg., 18F.
5-20-8 Asakusabashi, Taito-ku, Tokyo
〒111-8061
JAPAN
Phone 03-5820-5010
Fax 03-5820-5510

telecommunications

One of the highlights of the 2001-2002 period is the success of broadband deployment in Japan. Users responded in overwhelming numbers, prompted by attractive pricing and packages. This is an outstanding national achievement. The EBC Telecommunications Carriers Committee wishes to see renewed focus on the balance between the liberalisation that has made such progress possible, and the proper safeguards necessary to ensure free and fair competition.

Key issues:



- De-tariffing** In June 2002 the Ministry of Public Management, Home Affairs, Posts and Telecommunications (MPHPT) published a report outlining a new framework for regulation and competition in the new communications era, including recommendations to abolish the obligation to publish user tariffs. Certainly smaller carriers with no market influence will welcome increased pricing flexibility. However, several dangers arise with respect to carriers with market power. It will mean price discrimination as carriers compete for the most highly valued customers who will get the best deals and potentially higher rates where demand is less elastic. There could also be a price squeeze on carriers who purchase inputs from Type I Carriers who lower their rates for retail, but not wholesale services. As retail rates decline, carriers' rates and interconnection rates must shift downward in parallel. The EBC also notes the potential for cross-subsidisation between affiliated companies as price discrimination could be used to groups' advantage.

Recommendation: The EBC urges the Japanese Government to declare NTT East, NTT West and NTT DoCoMo dominant on all telecommunications services they provide both to the public and to third party providers. As each service becomes more competitive and attracts new entrants, these designated carriers can be selectively declared non-dominant and allowed retail price freedom in that service only.

- Type I-Type II licensing categories** This distinction will change under new rules proposed by the MPHPT in June 2002 eliminating the two categories in favour of a single general license category. In general, competitive carriers support the repeal of distinctions that have now become artificial. The EBC cautions, however, that the MPHPT could risk creating a regulatory vacuum by not having a new framework in place to succeed current licensing rules.

Recommendation: The EBC recommends a robust competition policy regime based on economic analysis of market power and enforced through asymmetric rules as the logical successor to the Type I/II system.

Background:

The last twelve months

In the year since the EBC published its last Report on the Japanese Business Environment, the MPHPT has enacted sweeping changes and proposed many bold initiatives for the future. In a series of policy papers released between February and August 2002, the MPHPT has painted a futuristic vision of all-IP networks, where any kind of content can be delivered to any device. Guidelines have been developed for a new mobile service called mobile virtual network operators, whereby a licensed mobile operator will wholesale some spectrum to alternative service providers. In a June report, the MPHPT also outlined its vision for a deregulated IT sector and support of new business models for applications, service platforms, and content distribution among others. Among the more forward-looking deregulatory measures being planned is a proposal to eliminate licensing categories based on the ownership of facilities. Currently, licenses are awarded on the basis of owned facilities (Type I) and service provision utilising the facilities of others (Type II). This distinction will be removed. Finally, the new IT competition framework proposes to eliminate the requirement for carriers to file tariffs, allowing greater pricing freedom, except for dominant carriers. Such changes could be written into new legislation as early as the Diet session in January 2003. It is worth recalling that the Telecommunications Business Law (TBL) was last rewritten in 2001.

Dominant carrier rules / NTT Group regulation

With so much change in the telecommunications regulatory framework, the questions arise: If the Type I and Type II licensing distinctions are removed, what sort of regulatory framework will take their place? What principles will the Ministry use to regulate the sector? Since the TBL was revised in 2001, the Japanese government has introduced economic-based regulation into the telecommunications sector via competition policy principles, including the recognition of dominance in specific markets. The designation of dominance carries with it asymmetric obligations compared with other carriers. These rules are welcome and necessary for the advancement of competition in the sector, and the EBC believes such controls should not be relaxed or abandoned in the drive towards more comprehensive deregulation.

Specifically, the MPHPT should move swiftly to reinforce the competition-based controls it first published in 2001. The EBC recommends three main areas of increased attention.

- **NTT Firewalls:** As the Japanese Government removes restrictions on carriers, every effort must be taken to ensure that dominant carriers do not use their control of a monopoly service (e.g. the local loop) to enter into a competitive service on un-fair terms. Standard preventative measures include separate subsidiaries, with separate ownership, management and accounts; non-discriminatory provision of services to unaffiliated parties; and prohibitions on cross-subsidisation and sharing of customer information between sales teams.
- **Market definition:** It is a common practice in competition policy to define product and service markets in order to regulate a dominant firm, to calculate the level of competition in a given market, and to judge the effects of a merger. Japan needs a methodology for determining significant power in a particular market. These criteria are the cornerstones of asymmetric regulation, and the EBC looks forward to MPHPT's proposed framework in this regard.
- **Business expansion of dominant carriers:** New business ventures should not be permitted for dominant carriers without meeting several criteria based on effective competition in existing markets.

telecommunications equipment

European firms are global leaders in the telecommunications equipment business, especially in wireless technologies. The EBC urges the Japanese Government to continue supporting global harmonisation efforts, as this will ultimately benefit users of information and communications technology in Japan and throughout the world. Proprietary standards should be avoided and harmonisation of technical standards industry led.

Key issues:



- **MRA** The EBC is disappointed with the slow pace of implementation of the Mutual Recognition Agreement (MRA) signed between the EU and Japan in 2001, especially in the designation of recognised testing bodies as stipulated under the agreement.

Recommendation: The EBC urges the Japanese Government, in cooperation with EU authorities, to implement all parts of the MRA without delay.

- **SDoC** The EBC recognises that the Japanese Government is working to introduce a system based on Supplier's Declaration of Conformance (SDoC), as has been introduced in Europe, but only for wired telecommunications terminals, with limited application to wireless/radio equipment.

Recommendation: SDoCs issued by European producers should be accepted in Japan without any additional testing or administrative requirements, not only for wired terminals, but for wireless equipment as well.

- **Spectrum allocation** The current allocation of spectrum for mobile and fixed services differs substantially between Japan and other regions of the world. This may continue to be a major barrier to interoperability with other regions and countries if no measures are taken to address this problem.

Recommendation: The EBC urges the Japanese Government to harmonise spectrum allocation with European standards for additional IMT-2000 bands beyond current allocations in the 1920-1980 MHz and 2100-2170 MHz range, especially for the 2.5 GHz band already identified for IMT-2000, as well as for future allocations for systems beyond IMT-2000.

Background:

Japan's IT policy

The Japanese Government has embarked on a national "IT Strategy" designed to improve information technology infrastructure in Japan, with the goal of making Japan a leader in IT by the year 2005. Internet access costs have fallen dramatically and access to broadband infrastructure is now amongst the most developed in the world. At the same time, Japanese service providers are bringing new information and communication technologies in areas such as 3rd Generation (3G) wireless to commercial application faster than anywhere else in the world. This is an outstanding national achievement, one of the few bright spots in an otherwise gloomy global market environment for information and communications technology.

Harmonisation

It is very important that the Japanese Government respect current trends towards globalisation as it implements its IT policies. The EBC supports an industry led, global approach to standards and platform development, and is encouraged by signs that the Japanese Government supports these initiatives as well. The EBC appreciates the opportunity to contribute to Ministry of Public Management, Home Affairs, Posts and Telecommunications (MPHPT) policy committees as an official participant.

The EBC is pleased to note that the Communications and Information Network Association of Japan (CIAJ) has begun studying the introduction of Supplier's Declaration of Conformance to supplement the use of 3rd party designated testing bodies in Japan. The MPHPT has also established a study committee on the subject, and is expected to release a report shortly. The EBC supports the introduction of an SDoC system in Japan. Such a system has been introduced in Europe, which has made it easier for manufacturers to quickly introduce new products in the rapidly developing telecommunications market. The EBC feels that the Japanese SDoC system should be as broad-based as possible, covering all wired terminal equipment and special radio equipment, and not be limited to wired products as is currently being proposed by the study groups.

The EBC urges the EU and Japan to cooperate even further on the harmonisation of mobile telecommunications standards, especially for 3G wireless technologies and beyond. One area that deserves more attention is the further harmonisation of spectrum allocation, particularly for the 2.5 GHz band already identified for IMT-2000 allocation in Japan. Continued divergence in the allocation of spectrums will have a negative impact on equipment interoperability to the detriment of consumers and producers throughout the world.

Issues concerning the global circulation of IMT-2000 handsets also need to be studied carefully. The expansion of 3G wireless service around the world will likely lead to an increasing global demand for terminals based on the IMT-2000 standard. The EBC supports harmonisation of technical requirements concerning terminal interoperability and emission limits, but emphasises that circulation should be industry led based on the previous success of the GSM deployment model, with minimum involvement of the International Telecommunications Union (ITU).

Procurement

Fragmented qualifying procedures, sole sourcing, and selectively disclosed specifications for certain projects continue to inhibit foreign firms from supplying Japanese government entities with telecommunications equipment. The EBC urges the Japanese Government to make further improvements to areas such as disclosure, bid criteria/performance specifications, qualification procedures, and open bidding procedures to ensure public sector procurement of foreign telecommunications equipment keeps pace with the private sector.

Appendices

Blue Star Sponsors
Special Sponsors
Sponsors
Executive Operating Board
Committees
National Chambers

Arianespace



AstraZeneca K.K.

Aventis Pharma Ltd.



**AXA Life Insurance Co.,
Ltd.**

Chanel K.K.



Dresdner Kleinwort
Wasserstein (Japan) Ltd.

Equant Co., Ltd.



Radiometer K.K.

Sanofi-Synthelabo K.K.



**Siemens-Asahi Medical
Technologies Ltd.**

The French Chamber of
Commerce & Industry in
Japan (CCIFJ)



TotalFinaElf

Special Sponsors

Barclays Group

Bayer Ltd.



BNP Paribas Securities (Japan) Ltd.

Cosmetics Committee

IKEA Japan

Lovell White Durrant

Nippon BXI Incorporated

Nippon Finnpap Ltd.

PCA Life Insurance Co., Ltd.

Philips Japan Ltd.

Sponsors

Clarins K.K.
Coface Japan
Credit Lyonnais
Credit Suisse Life Insurance Co., Ltd.
Dade Behring Ltd.
Gerling Allgemeine Versicherungs AG
ING Securities (Japan) Ltd.
Intervet K.K.
Janssen Pharmaceutical K.K.
Loyens & Volkmaars B.V.
Merial Japan Ltd.
Nippon Boehringer Ingelheim Co., Ltd.
Novo Nordisk Pharma Ltd.
Rolls-Royce International Ltd.
Swedbank
Telekurs (Japan) Ltd.
Volkswagen Group Japan



Executive Operating Board

Chairman

Richard Collasse

President, Chanel K.K.
Yebisu Garden Place Tower 33F
4-20-3, Ebisu, Shibuya-ku, Tokyo 150-6033
Tel: 5421-7500; Fax 5421-7531

Vice-Chairmen



Michael Otter (Austria)

Commercial Attaché, Austrian Embassy
3-13-3 Motoazabu, Minato-ku, Tokyo 106-8691
Tel: 3403-1777; Fax: 3403-3407

Duco Delgorge (Belgium/Luxembourg)

Representative, Puratos Japan K.K.
2-11-9 Kita-Aoyama, Minato-ku,
Tokyo 107-0061
Tel: 5410-2322; Fax: 5410-2321

Patrick Carroll (Britain)

President, Airbus K.K.
Tokyo Kaijo Bldg. Shinkan 5F
1-2-1 Marunouchi
Chiyoda-ku, Tokyo 100-0005
Tel: 03-5220-0250; Fax: 03-5220-0253

Torben Henriksen (Denmark)

President & Representative Director
Yamagen 7F., 3-10-12 Iwamoto-cho, Chiyoda-ku,
Tokyo 101-0032
Tel: 5833-8223; Fax: 5833-8225

Erik Ullner (Finland)

Chief Representative, Konigstedt Ltd.
Homat Kaya 501, 20-13 Ichibancho, Chiyoda-ku,
Tokyo 102-0082
Tel: 3512-0435; Fax: 3512-0436

Hubert de Mestier (France)

Chief Representative for North-East Asia
Total Fina Elf
Akasaka Shasta-East 8F., 4-2-19 Akasaka, Minato-ku,
Tokyo 107-0052
Tel: 5562-5210; Fax: 5562-5315

Dieter Pfeiffer (Germany)

President, Degussa Japan Co., Ltd.
Shinjuku Monolith 12F, 2-3-1 Nishi-Shinjuku
Shinjuku-ku, Tokyo 163-0938
Tel: 5323-7302; Fax: 5323-7395

Carlo Zambotto (Italy)

Representative, Automobili Lamborghini Japan
3-7-5 Oyamadai, Setagaya-ku,
Tokyo 158-0086
Tel: 5752-1530; Fax: 5752-1547

Wolter Veenhoven (Netherlands)

President, Royal Ten Cate
3-44-20 Sanno, Ohta-ku,
Tokyo 143-0023
Tel: 5709-5975; Fax: 5709-5984

Jan Vilhelm Koren (Norway)

Senior Principal Surveyor, Det Norske Veritas
Nisseki Yokohama Bldg. 8F, 1-1-8 Sakuragi-cho
Naka-ku, Yokohama, Kanagawa 213-0062
Tel: 045-683-1477; Fax: 045-683-1061

Lave Lindberg (Sweden)

President, ABB K.K.
Cerulean Tower, 26-1, Sakuragaoka-cho,
Shibuya-ku, Tokyo 150-8512
Tel: 5784-6001 ; Fax: 5784-6277

Andre Zimmermann (Switzerland)

Representative Director, Telekurs (Japan) Ltd.
Kakigara-cho F Bldg. 5F
1-28-5 Nihonbashi Kakigara-cho
Chuo-ku Tokyo 103-0014
Tel: 3808-2271; Fax: 3808-2274

Committees

Aeronautics, Space & Defence

Chair: Ramon Terrones
Vice President Strategic Growth
Airbus Industrie
Tokyo Kaijo Bldg. Shinkan 5F
1-2-1 Marunouchi, Chiyoda-ku, Tokyo 100-0005
Tel: 5220-0245; Fax: 5220-0253

Airlines

Chair: Gregor Wende
General Manager
Lufthansa Japan
3-1-13 Shiba-Koen, Minato-ku,
Tokyo 105-0011
Tel: 5402-5201; Fax: 5402-5209

Animal Health

Chair: Gerhard Roth
Representative
Intervet International
C/O Mitaka Pharmaceutical Co., Ltd.
4-16-39 Shimorenjaku, Mitaka-shi, Tokyo 181-0013
Tel: 0422-46-9191; Fax: 0422-46-9139

Asset Management

Chair: Richard Mountford
Managing Director
Schroder Investment Management (Japan) Ltd.
Pacific Century Place Marunouchi
1-11-1 Marunouchi, Chiyoda-ku, Tokyo 100-6224
Tel: 5293-1500; 5293-1550

Automobiles

Chair: Richard G. Murray
President
Peugeot Japan Co., Ltd.
F Nissei Ebisu Bldg. 4F
3-16-3 Higashi, Shibuya-ku, Tokyo 150-0011
Tel: 5468-1333; Fax: 5468-1323

Automotive Components

Chair: Nikolaus Boltze
Representative Director
Behr Japan K.K.
5-2-1 Togoshi, Shinagawa-ku
Tokyo 142-0041
Tel: 5749-2081; Fax: 5749-2083

Banking

Chair: Pierre Finas
General Manager for Japan
Credit Lyonnais, Tokyo Branch
Hibiya Kokusai Bldg. 5F
2-2-3 Uchisaiwaicho, Chiyoda-ku, Tokyo 100-0011
Tel: 5512-5600; Fax: 5512-5606

Construction

Chair: Arthur Hawtin
Director, Currie & Brown (Japan) Ltd.
7F, TM Hiroo Bldg.
1-9-20 Hiroo, Shibuya-ku,
Tokyo 150-0012
Tel: 3442-6642; Fax: 3442-1958

Cosmetics

Chair: Lionel Requillart
Vice-President and Representative Director
Pierre Fabre Japon Co., Ltd.
6-8-8 Akasaka, Minato-ku
Tokyo 107-0052
Tel: 3589-3631; Fax: 3589-3820

Cut Flowers

Chair: Jos van der Valk
Managing Director
Greenwing Japan Inc.
Ena Azabudai Bldg. 1-9-19, Azabudai
Minato-ku; Tokyo 106-0041
Tel: 3560-7413; Fax: 3560-7416

E-Commerce

Chair: Pascale Sinneave
Marketing & Communications Manager
Coface Japan
Kioicho Bldg. 3F
3-12 Kioicho, Chiyoda-ku, Tokyo 102-0094
Tel: 3556-6545; 3556-6255

Environmental Technology

Chair: Holger Wittich
President
JBS Inc.
1-51-3-501 Higashi Nakano
Nakano-ku, Tokyo 164-0003
Tel: 3363-7581; Fax: 3363-7582

Food

Chair: Andy Mankiewicz
President
Tozai Group Ltd.
Harajuku 101 Bldg. #301
4-23-12 Jingumae, Shibuya-ku, Tokyo 150-0001
Tel: 5772-7487; Fax: 5772-7489

Human Resources

Chair: Richard Mason
Director, Corporate Communications
JAC Japan
Tanbaya Bldg. 4F.,
3-2-4 Kojimachi, Chiyoda-ku, Tokyo 102-0083
Tel: 3262-8184; Fax: 3265-0590



Committees

Insurance

Chair: Christian Wrede
Executive Director & CFO
AXA Life Insurance Co., Ltd.
1-2-19 Higashi, Shibuya-ku, Tokyo 150-8020
Tel: 5774-2024; Fax: 5774-3884

Legal Services

Chair: Michael Hancock
Partner
Lovell White Durrant
Joware Hanzomon 7F
2-19 Hayabusa-cho, Chiyoda-ku, Tokyo 102-0092
Tel: 3221-8511; Fax: 3221-8560

Liquor

Chair: Michael Sainsbury
President & Representative Director
Maxxium Japan K.K.
40 Mori Bldg. 3F
5-13-1 Toranomon, Minato-ku, Tokyo 105-0001
Tel: 5401-6260; Fax: 5472-0511

Materials

Chair: Masaru Kobayashi
Representative Director, Senior Vice-President
Pechiney Japon (SA)
Shinjuku Mitsui Bldg. 29F
2-1-1 Nishi-Shinjuku, Shinjuku-ku, Tokyo 163-0429
Tel: 3349-6660; 3349-6770

Medical Diagnostics

Chair: Hiroshi Uchida
Chairman
Dade Behring Ltd.
Nakanosakue Sunbright Twin 11F
2-46-1 Honcho, Nakano-ku, Tokyo 164-8603
Tel: 5365-8212; Fax: 5365-8230

Medical Equipment

Chair: Peter Schano
President
Radiometer K.K.
Nishi-Shinbashi Tokyu Bldg.
3-16-11 Nishi-Shinbashi, Minato-ku, Tokyo 105-0003
Tel: 5777-3505; Fax: 5777-3501

Patents, Trademarks & Licenses

Chair: Laurent Dubois
Laurent Dubois Foreign Law Office
37 Mori Bldg, 8F, 3-5-1, Toranomon
Minato-ku, Tokyo 105-0001
Tel: 5472-2372; Fax: 5472-2375

Securities

Chair: Jean-Francois Minier
Managing Director & Branch Manager
Dresdner Kleinwort Wasserstein (Japan)
Toranomon 4-chome MT Bldg.
4-1-8, Toranomon, Minato-ku, Tokyo 105-0001
Tel: 5403-9898; Fax: 5403-9075

Shipping

Chair: Jorgen Holck
President
P&O Nedlloyd (Japan) K.K.
Omori Bellport D-Wing, 13F
6-26-3 Minami-Ohi, Shinagawa-ku, Tokyo 140-8554
Tel: 5764-0351; Fax: 5764-0399

Tax

Chair: Pieter Stalman
Partner
Loyens & Loeff
Feliz Bldg. 6F, 2-3-14 Kajicho, ,
Chiyoda-ku, Tokyo 101-0044
Tel: 3258-8110; Fax: 3258-8115

Telecommunications Carriers

Chair: Lisa Suits
Vice President, Public Policy
Cable & Wireless IDC Inc. (Japan)
CS Tower Bldg., 18F, 5-20-8 Asakusabashi
Taito-ku, Tokyo 111-8061
Tel: 5820-5010, Fax: 5820-5510

Telecommunications Equipment

Chair: Yoshio Honda
Senior Technical Manager, Radio Access Systems
Nippon Ericsson K.K.
Koraku Mori Bldg. 5F.
1-4-14 Koraku, Bunkyo-ku, Tokyo 112-0004
Tel: 3830-2351; Fax: 3830-2760



National Chambers

Austria – ABC

President

Horst Mueller
Advisor, Hoerbiger Nippon KK
87-4 Honjo, Narita City, Chiba 286-0114
Tel: 0476-35-4011; Fax: 0476-33-0833

Representative

Wolfgang Penzias
Commercial Section, Austrian Embassy
3-13-3 Motoazabu, Minato-ku, Tokyo 106-0046
Tel: 3403-1777; Fax: 3403-3407

Belgium/Luxembourg – BLCCJ

President

Vincent Pairet
President, Inergy Automotive Systems K.K.
Omi Bldg. 4F, 3-19-1 Shibuya
Shibuya-ku, Tokyo 150-0002
Tel: 5766-5801; Fax: 5766-5802

Senior Representatives

Valerie Aughuet and Yuka Oishi
Ichibancho Central Bldg, 802, 22-1 Ichibancho
Chiyoda-ku, Tokyo 102-0082
Tel: 3237-9281; Fax: 3237-9282



Britain – BCCJ

President

David Blume
President, Jaguar Japan Ltd.
Shuwa Kamiyacho Bldg., 10F
4-3-13 Toranomom, Minato-ku, Tokyo 105-0001
Tel: 5470-4146; Fax: 5470-4286

Executive Director

Ian De Stains
Kenkyusha Eigo Centre Bldg., 3F,
1-2 Kagurazaka, Shinjuku-ku, Tokyo 162-0825
Tel: 3267-1901; Fax: 3267-1903

Denmark – DCCJ

President

Vagn Heiberg
President, Coloplast K.K.
YS Bldg. 4F, 2-11-16 Shiba Daimon
Minato-ku, Tokyo 105-0012
Tel: 3459-6641; Fax: 3459-6640

Executive Director

Claus Plougmand
c/o Royal Danish Embassy
29-6 Sarugaku-cho, Shibuya-ku,
Tokyo 150-0033
Tel: 3780-8729; Fax: 3476-4234

Finland – FCCJ

President

Timo Varhama
President, Nippon Finnpap Ltd.
Akasaka Lions Bldg.
1-1-2 Moto-Akasaka
Minato-ku, Tokyo 107-0051
Tel: 3405-4152; Fax: 3405-8716

Representative

Clas G. Bystedt
Setagaya Tsurumaki Heim 203
2-33-20 Tsurumaki
Setagaya-ku, Tokyo 154-0016
Tel: 5450-7207; Fax: 5450-7208

National Chambers

France – CCIFJ

President

Bernard Anquez
General Manager, Air France
Shin-Aoyama Bldg. West 15F, Minami Aoyama,
Minato-ku, Tokyo 107-8549
Tel: 3475-2201; Fax: 3475-2229

Executive Director

Luc Drevet
Ida Bldg., 5-5 Rokubancho
Chiyoda-ku, Tokyo 102-0085
Tel: 3288-9621; Fax: 3288-9558

Germany – GCCJ

President

Ralf Wilde
President, TÜV Rheinland Japan Ltd.
Shin Yokohama Daini Center Bldg. 9F
3-19-5 Shin Yokohama, Kohoku-ku
Yokohama 222-0033
Tel: 045-470-1903; Fax: 045-473-5221

Executive Director

Manfred Dransfeld
Sanbancho KS Bldg. 5F
Sanbancho, 2 Banchi, Chiyoda-ku, Tokyo 102-0075
Tel: 5276-9811; Fax: 5276-8733



Ireland

Director

Declan Collins
Enterprise Ireland
Ireland House 1F,
2-10-7 Kojimachi,
Chiyoda-ku, Tokyo 102-0083
Tel: 3263-0611; Fax: 3263-0614

Italy – ICCJ

President

Romano Mazzucco
Senior Vice President Asia Pacific, Alitalia Airlines
Harumi Toriton Square X Bldg. 16F
1-8-10 Harumi, Chuo-ku, Tokyo 104-6016
Tel: 5166-9106; Fax: 5166-9197

Executive Secretary General

Alessandro Borelli
Enokizaka Bldg. 3F
1-12-12 Akasaka, Minato-ku, Tokyo 107-0052
Tel: 3560-1100; Fax: 3560-1105

The Netherlands – NCCJ

President

W.O. Jalink
Representative Director, Heineken Japan K.K.
Kirin Harajuku Bldg.
6-26-1 Jingumae, Shibuya-ku, Tokyo 150-0001
Tel: 3499-7411; Fax: 3499-7410

Executive Director

Femke Janssen
C/O KLM, Yurakucho Denki Bldg., North 15F
1-7-1 Yurakucho
Chiyoda-ku, Tokyo 100-0006
Tel: 5223-2371; Fax: 5223-2372

National Chambers

Norway – NBF

President

Emil Ekker
President, Laerdal Medical Japan K.K.
10F Park West Bldg., 6-12-1 Nishi-Shinjuku, Shinjuku-
ku, Tokyo 160-0023
Tel: 3346-1861; Fax: 3346-1862

Representative

Henning P. Hummervoll
Norwegian Trade and Technology Office
Royal Norwegian Embassy
5-12-2 Minami Azabu, Minato-ku, Tokyo 106-0047
Tel: 5475-5461; Fax: 3440-2620

Spain

Representative

Ernesto Giménez-Burgos
Commercial Attache
Economic and Commercial Office
Sanbancho KS Bldg., 3F, 2 Sanbancho
Chiyoda-ku, Tokyo 102-0075
Tel: 3222-3555; Fax: 3222-3550



Sweden – SCCJ

President

Tommy Kullberg
President, IKEA Japan
Top Azabudai Bldg. 1-2F
1-9-18 Azabudai
Minato-ku, Tokyo 106-0041
Tel: 3560-3170; Fax: 3560-3169

General Manager

Taiko Nakazato
Kioicho Fukudaya Bldg.
6-12 Kioicho
Chiyoda-ku, Tokyo 102-0094
Tel : 5211-2101; Fax: 5211-2102

Switzerland – SCCIJ

President

Charles Ochsner
Attorney-at-Law, Tokyo Resident Partner
Python Schifferli Peter & Partners, Tokyo Office
2-17-8 Nagatacho, Chiyoda-ku, Tokyo 100-0014
Tel: 3503-4007; Fax: 3503-4077

Executive Director

Kiyoko Harris
Toranomom No2 WAIKO Bldg. 3F,
5-2-6 Toranomom
Minato-ku, Tokyo 105-0005
Tel: 5408-7569; Fax: 3433-6066