

25 March 2008

## **A NEW EU-JAPAN FRAMEWORK FOR COOPERATION**

### **EXECUTIVE SUMMARY**

Accounting for close to 40% of global GDP, the European Union and Japan are two major economic players in the global economy. Trade between the two areas amounts to more than € 150 billion a year. In addition, mutual investments have increased with the EU being today's largest source of foreign investment. However, despite these strong economic ties, this relationship can and should be strengthened.

BUSINESSEUROPE advocates the establishment of a new European-Japanese partnership which should increase cooperation in a number of areas. This should be done through the creation of an EU-Japan Economic Partnership Council (EUJ-EPC).

This new institutional structure would have to be established respectively at a high Commission / ministerial level and should focus on issues of common interest between the European Union and Japan. Priorities should be set and the work coordinated by the European Commission and the Japanese ministry in charge. It should involve the European Parliament and the Japanese Diet, as well as the business communities represented by BUSINESSEUROPE and Nippon Keidanren.

Japan and the European Union should focus their cooperation on bilateral issues, including:

- industrial cooperation, focusing on regulatory cooperation, mutual understanding of existing and upcoming regulations on each side, and promotion of the better regulation agenda;
- cooperation with regard to the safety of food products and phytosanitary standards;
- development of the respective services markets;
- implementation of existing strong bilateral investment rules;
- securing reciprocal market access to domestic procurement markets.

In addition, they should strengthen their cooperation with regard to global challenges:

- access to raw materials;
- protection of IPR around the world;
- strengthening the multilateral trading system within the WTO;
- further cooperation in the areas of environment, energy and innovation.

BUSINESSEUROPE is a strong supporter of the Doha Development Agenda and calls for ambitious results namely in the areas of non-agricultural market access; services and trade facilitation. Against this strong multilateral background, the European Union and Japan must exclude any bilateral tariff negotiations, as this could put at risk a successful future outcome of the ongoing Doha round negotiations.

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### **1. INTRODUCTION**

The size as well as the economic and political importance of the European Union (EU) and Japan underline the need for close cooperation between these two global economic blocs. Together, the EU and Japan account for close to 40% of global GDP. Trade between the two areas amounts to more than € 150 billion a year. In 2005, the European Union imported goods worth € 76.5 billion and services worth € 11.8 billion. The EU exported € 44.7 billion in goods and € 19.9 billion in services. In addition, mutual investments have increased over the last few years, with the EU today being Japan's largest source of foreign investment.

European business has a strong interest in enhancing trade relations between the two sides and BUSINESSEUROPE calls for ambitious efforts to boost economic ties. At the same time, the European Union and Japan have to be realistic about expectations and targets, and need to focus on deliverables for business. In addition, closer cooperation must take account of WTO rules and the responsibility that the two trading blocs have for maintaining a strong multilateral trading system. Both sides should refrain from initiatives that would dilute support for the multilateral negotiations in the framework of the Doha Development Agenda. BUSINESSEUROPE's trade policy priority remains the successful conclusion of the round.

Japanese and the European societies face similar competitiveness challenges, for instance demographic changes with an ageing society. In order to deepen and strengthen the relationship between Japan and the European Union, BUSINESSEUROPE advocates the establishment of a new European-Japanese Partnership, which should aim at increasing cooperation in a number of key areas. The European Union and Japan could deliver significant progress in the areas of industrial and food products cooperation, services, investment and procurement. Both sides could further increase their cooperation in tackling global challenges like access to raw materials, strengthening intellectual property rights (IPR), innovation, climate change and energy, and international trade in the framework of the WTO. Considering this multilateral background, any bilateral tariff negotiations must be excluded.

### **2. BETTER REGULATION, MORE INTEGRATION**

#### **a. Industrial Cooperation**

- i. BUSINESSEUROPE has supported the EU-Japan cooperation dialogues already in place. Among those, two key dialogues have been the ten-year Action Plan for EU-Japan Cooperation (since 2001), and the two-way Regulatory Reform dialogue that aims to reduce obstructive regulations hampering trade and foreign investment. These dialogues have made some progress in removing obstacles to trade, but their current structures have not delivered enough tangible and binding results. A prime example of

the lack of cooperation is in the pharmaceutical sector including medicinal products and vaccines. While the global pharmaceutical industry has consolidated and put most of its efforts into developing drugs on a global scale, the pharmaceutical industry in Japan has remained largely isolated. Good Clinical Practice (GCP) rules remain different from global standards, which make clinical trials more expensive in Japan and participation by multinational companies difficult and costly. If anything, the situation for medical devices, diagnostics and veterinary medicine is more severe. This lack of convergence has benefited neither European and Japanese companies, nor patients in need of medical treatment. Increased cooperation in the harmonisation of regulations and standards would be beneficial also to the timber products industry.

- ii. Further cooperation must also go beyond the 2002 EU-Japan Mutual Recognition Agreement, which enables acceptance of conformity assessments that were conducted in one region according to the regulations of the other, covering four product areas: telecommunications, terminal and radio equipment, electrical products, and laboratory practices for chemicals and manufacturing practices for pharmaceuticals.
- iii. To truly deliver on binding regulatory cooperation, a new initiative is needed to carry it to a higher level which should also review and streamline the existing cooperative arrangements. Japanese and European policy-makers should increase mutual understanding of existing and upcoming regulations on each side to exclude unwittingly taking initiatives that create barriers to trade. This issue needs to be tackled in a pro-active way by agreeing to a set of clear guidelines in a binding regulatory cooperation agreement. Through this agreement, both sides should commit to exchanging annual legislative work programmes at the earliest stage to prevent regulatory divergence and new trade barriers. In addition, the two sides should agree to an early warning system for draft legislation in order to make the dialogue effective. Finally, a future agreement should require further progress in the mutual recognition of standards and certification schemes, for example mutual recognition between the EU's system of security of the supply chain export including the authorised economic operator (AEO) and Japan's.
- iv. In addition to binding rules, the EU and Japan should develop a joint strategy to promote the better regulation agenda. Authorities in the EU and in Japan should learn from each other's experience to adopt a common system of good governance. Currently the views of businesses in Japan and the EU are not sufficiently taken into account in the regulatory process. The better regulation approach, based on transparency, early public consultation, impact assessment, public access to draft regulations or administrative measures, could lead to a reduction of administrative burden, which would be to the benefit of the Japanese and European economies as a whole.

b. Food products

More than 60% of Japan's food supply is dependent on imports, amounting to € 35 billion in 2006. Taking into account Japan's limited capacity for domestic food production, a reduction in trade restrictions in the food sector is long overdue. The difficulty in importing perfectly safe high-quality food into the complex Japanese market

is exacerbated by differences in food safety standards between Japan and the European Union. The new EU-Japan cooperation should therefore work towards further mutual recognition of standards on the safety of food and food ingredients, as well as phytosanitary standards and health protection systems.

c. Services

The services sector offers enormous potential trade opportunities between Japan and the European Union. Already today Japan is Europe's third biggest trade partner in services. However, trade in services only accounts for about one fifth within the total EU-Japan trade balance, compared with about one third in EU-US trade relations.

The European Union and Japan should take advantage of their strategic regional positions and develop their services markets as regional services hubs. In order to achieve a boost to services trade, key regulatory changes would be necessary. For instance, huge benefits could be realised for both sides by establishing common competition rules and common standards for service providers in the financial, legal, telecom, construction and accounting services sectors.

d. Investment

To date, legislation concerning investment does not recognise the importance and size of EU-Japan investments. With the regrettable increase in protectionist sentiment worldwide, there is a risk of new discriminatory measures against foreign investment in the future. BUSINESSEUROPE therefore calls for the implementation of existing strong bilateral investment rules between Japan and the European Union as part of the framework. Both sides should agree to carve each other out of any future legislative restrictions on foreign investment. It would not require a change to current legislation at EU, Member State, or Japanese State level but would mean that any future restrictions would not affect either party. In addition, Japanese triangular merger and acquisition rules should be revised so as to permit a deferral of capital gains for shareholders receiving shares from a foreign company with no previous operations in Japan under the triangular merger scheme and other reorganisation schemes. This would provide greater legal certainty for companies operating in the two regions and would help Japan reach its foreign investment targets.

e. Procurement

The European Union and Japan must tackle their procurement systems, especially in view of their importance for foreign direct investment. Although the European Union and Japan have acceded to the plurilateral "WTO General Procurement Agreement (GPA)", the Japanese legal framework for procurement effectively frustrates access for foreign businesses through its complex system of diverse statutes and regulations, scattered across many different legal texts. The difficulties created by different tendering rules at central and local levels are aggravated by the fact that not all prefectures are subject to the WTO GPA rules. Further complications of the procurement process for domestic and foreign companies are poor dissemination of procurement information in Japan and the absence of a single point of access.

European and Japanese authorities should therefore seek to secure reciprocal market access with binding and simplified rules, guaranteeing equal treatment of foreign and domestic suppliers.

### 3. COOPERATION ON GLOBAL ECONOMIC CHALLENGES

#### *Access to raw materials*

The European Union and Japan are largely dependent on imports of raw materials from third countries. In the case of some commodities, the European Union at present imports 100% of its industrial raw materials. It is therefore crucial that, externally, the objective of a level playing-field for access to natural resources and unfettered trade is pursued. BUSINESSEUROPE is concerned about the proliferation of trade and investment restrictions around the world. Today this is especially affecting trade in critical resources from Ukraine, Russia, China and Gulf States and some African countries. The European Union and the Japanese government together, with the support of business, should pro-actively pursue the removal of export taxes and other forms of trade or investment restrictions imposed by foreign governments.

#### *Strengthening IPR around the world*

BUSINESSEUROPE strongly supports the process of the Japan-EU dialogue on intellectual property. The agenda of this dialogue broadly encompasses the key issues of concern for European users in the field of intellectual property and BUSINESSEUROPE is committed to work closely with both administrations to seek concrete improvements. Furthermore, BUSINESSEUROPE urges the parties to assume mutually supportive positions in cooperation with the US in ongoing discussions relating to patents in the WHO Intergovernmental Working Group on Public Health, Innovation and Intellectual Property (IGWG) and in the United Nations Framework Convention on Climate Change (UNFCCC).

BUSINESSEUROPE is also cooperating closely with Japanese business through the Industry Trilateral, which seeks to voice the views of patent owners in Europe, US and Japan about the challenges the global patent system faces. In addition, BUSINESSEUROPE has set up a cooperation platform with IIPPF (International Intellectual Property Protection Forum, Japan) to address the growing global threats of counterfeiting, piracy, and other intellectual property rights violations. This platform which also includes US business will focus its attention in 2008 on the proposed international framework to combat counterfeiting with ACTA (Anti-Counterfeiting Trade Agreement).

#### *WTO*

Any trade agreement between the European Union and Japan or between either and third countries should reinforce, rather than weaken, the multilateral international trade system within the WTO. BUSINESSEUROPE is a strong supporter of the Doha Development Agenda and calls for ambitious results namely in the areas of non-agricultural market access, services and trade facilitation. BUSINESSEUROPE therefore considers that any new agreement between the European Union and Japan must exclude negotiations on tariffs as this could put at risk the successful outcome of the ongoing Doha round negotiations. However, BUSINESSEUROPE would like to encourage the EU and Japan to cooperate more closely on industrial market access negotiations in the WTO.

#### *Environment, energy and innovation*

Global warming is a global challenge which is high on the political agenda of the EU and Japan. Although Japan and Europe still have relatively high per-capita emissions, their relative share in global greenhouse gas emissions is steadily decreasing while it is increasing substantially in emerging countries.

As more than 70% of the world's energy-saving potential is in developing countries, a constant and substantial transfer of technology must be encouraged. In view of the upcoming international negotiations on combating climate change, in particular the UNFCCC conferences in Poznan (2008) and Copenhagen (2009), the European Union and Japan must push that the dissemination of energy-efficient solutions will be set at top of the agenda.

Facilitating trade in so-called environmental goods and services worldwide could contribute to energy efficiency. However, as there is no agreed definition of an environmental good, an ambitious reduction of trade barriers in the WTO Doha negotiations is the best way forward. Positive discrimination for environmental goods would most likely create administrative obstacles while contributing very little to the environment. While generally favourable to voluntary technology transfer, BUSINESSEUROPE urges the EU and Japan to ensure that intellectual property rights and WTO local content rules are fully enforced to protect investments. In addition, the EU and Japan have an interest in cooperating on open international standards for energy-efficient products.

#### **4. EU-JAPAN ECONOMIC PARTNERSHIP COUNCIL (EUJ-EPC)**

To deliver on the above proposals, BUSINESSEUROPE favours the setting-up of a new institutional structure between Japan and the EU. BUSINESSEUROPE advocates the creation of an EU-Japan Economic Partnership Council (EUJ-EPC) to strengthen and deepen EU-Japan relations. The EUJ-EPC should focus on issues of common interest to the European Union and Japan: regulatory cooperation in goods and services; investment; public procurement; intellectual property; energy; climate change and environment; financial services; trade and security; and innovation. It could also agree to extend cooperation on further non-tariff issues and should prepare decisions for ratification at EU-Japan summits.

The EUJ-EPC needs to be established at a high level on both sides. It should be led by a high ranking Commissioner on the European side and on the ministerial level in Japan. Priorities should be set and coordinated via the European Commission services and the Japanese Ministry in charge. The European Parliament and the Japanese Diet should also be adequately involved and consulted throughout the process. Finally, BUSINESSEUROPE and Nippon Keidanren should play a role in defining the business recommendations for the EUJ-EPC in close consultation with the EU-Japan Business Round Table.

The European and the Japanese business communities have a strong interest in developing and strengthening the economic ties between the two economies. BUSINESSEUROPE will work to promote economic cooperation with its Japanese counterparts and with EU and Japanese governments.

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