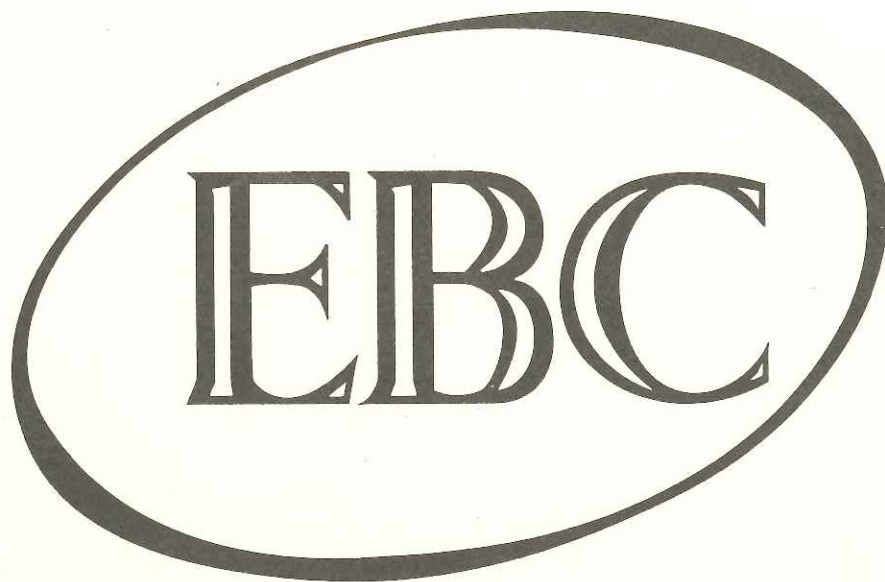


WHITE PAPER 1996

TOKYO, JAPAN



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The EBC White Paper

Japan's advanced economy powerfully influences the global market, and the forces that drive this success need to be increasingly understood. The way of approaching Japan is fundamentally affected by the formal and informal network of relationships that exist between the Government, the bureaucracy, businesses, industrial groups, trade associations and individuals, as well as its very different culture and mores from the West. The USA's political and economic strategy for, and relationship with, Japan has its own particular dynamics, while European interests, though sometimes in tandem, frequently diverge.

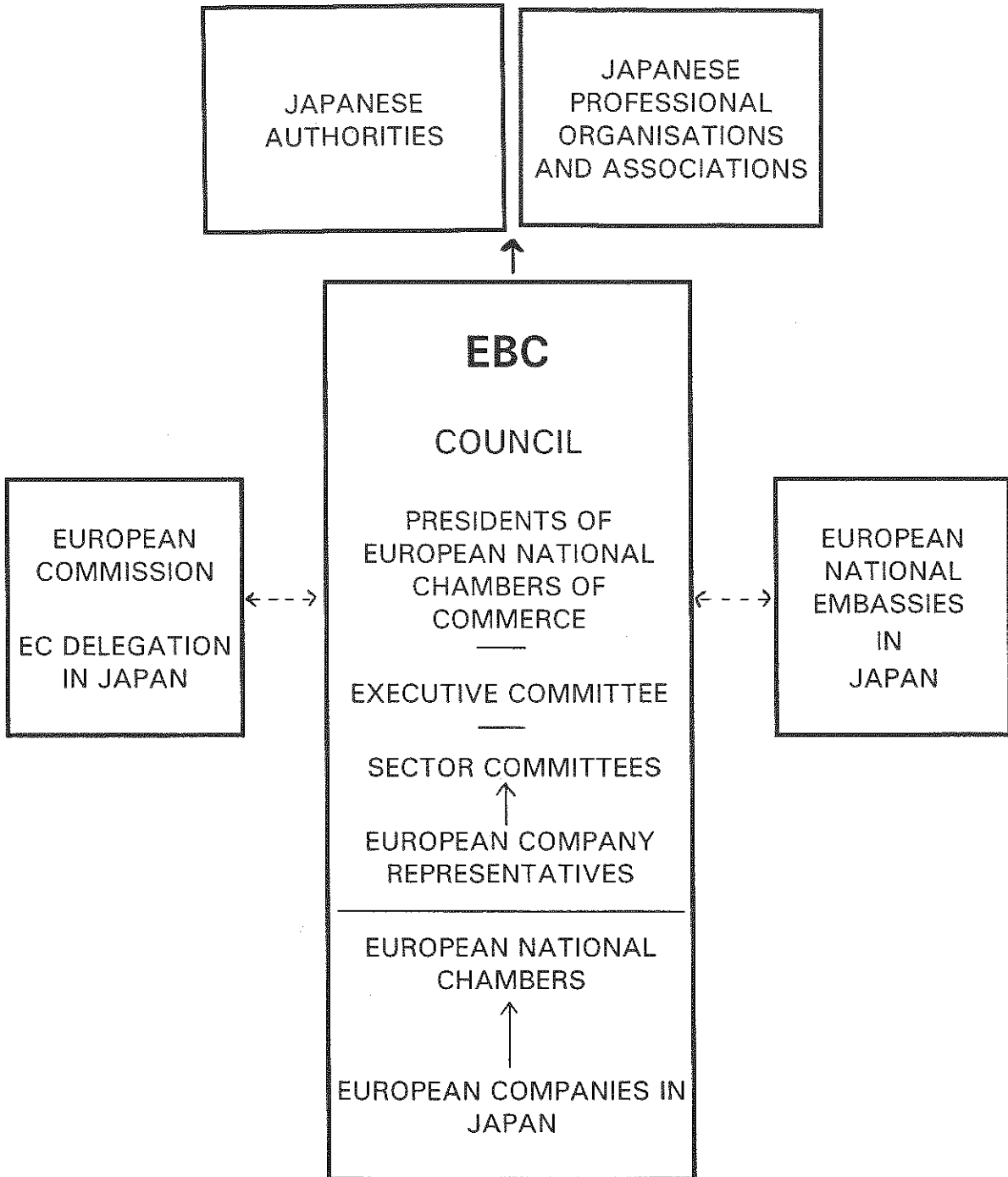
The European Business Community (EBC), operates naturally within this culture and is exposed to many aspects of Japan's policy making and implementation. This White Paper is key to the EBC's efforts to share this accumulated market experience with officials of the EU, national European Governments and European businesses, thus contributing to improved understanding.

It also directly addresses the Government of Japan by summarising the European business view of the opportunities and hindrances in this market-place. It focusses on those areas where European businesses are denied opportunities open to their Japanese counterparts. It recommends how the Government can contribute to a more level playing field in particular industrial and commercial sectors.

The process of deregulation in Japan, initiated primarily for domestic policy reasons, has far reaching consequences both in its scope and pace, for European businesses. In many areas those interests are the same as those of Japanese businesses, while in others they differ radically. This White Paper monitors and describes these variations. Progress has been made in certain areas since the issue of the 1995 White Paper, but many EBC Sector Committees report little or no change.

The EBC objective is to describe a balanced view of Japan which will hopefully serve as a catalyst for positive change in the business climate. The background, key problems and recommendations are described consistently for each sector, and these summaries should provide the opportunity for a constructive and developing dialogue with Government, as well as potentially enhancing a constructive relationship between Europe and Japan.

EBC NETWORK



General Information on EBC

Established in 1972 the Council promotes close cooperation and coordination between the National Chambers of Commerce, improves and formalises networking for the collection and exchange of information, and ensures the business community speaks to the Japanese authorities with a well considered and unified voice in all relevant industrial and commercial sectors.

A non-political organisation, the EBC advances the interests of European companies and industries with Japanese Government and business organisations as well as the press. The EBC works closely with the European Commission through its Delegation in Tokyo, and is recognised by the authorities as well as the Keidanren and other business organisations as an important alliance of European businesses. Major issues can be raised with Government on behalf of companies and industries without fear of retaliation.

The EBC operates through committees in 27 industrial and commercial sectors, with senior executives from companies of all sizes participating, and reflecting a wealth of experience in Japan. These committees collect and collate sector information and develop detailed positions on market conditions, laws, regulations and the process of deregulation, restraints to trade and practices which limit their growth and market penetration; discussing these regularly with relevant local authorities and EU officials where appropriate; working with their individual Chambers of Commerce and Embassies to secure a fully informed and coordinated European effort while maintaining the maximum focus through the EBC.

The representatives of the EC Delegation have a standing invitation to participate in these sector committee meetings as well as the regular EBC Council meetings, and mutual exchange of information is virtually continuous. The EBC Council is invited to brief visiting EU officials prior to negotiation with Government officials and receives debriefings thereafter.

The EBC is a private organisation representing European companies and relies on support from National Governments and the European Commission. Financial support is provided by the National Chambers of Commerce in Japan, voluntary donations from individual European companies and a subsidy from the European Commission.

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Current Business Environment in Japan

Japan is the most influential economy in Asia and one of the leading economies in the world. Its size, influence, technology and strength give this market a position which must be both understood and challenged by foreign investors and business. However, Japan is a country that has its share of problems, which currently include:

- An economy in its severest slowdown for many years, though fledgling signs of recovery are just beginning to emerge in early 1996.
- Unemployment levels slowly rising to a point which is unacceptable by Japanese standards.
- Several property-related debt problems affecting the financial sector, as well as the country's growth, and indeed world financial markets.
- A relatively weak government, (though credibility has improved of late), and an unstable political environment.
- Competitiveness being reduced, particularly in basic industries, forcing more companies to rationalise, merge and relocate production.
- The deregulation process, which has been initiated by the Japanese government to stimulate growth, creating some turbulence in the economy.
- Major reductions still occurring in property values and prices of consumer goods, resulting in a steady deflation of the economy.
- Many foreign investors still regarding Japan as a closed market, either directly in certain industries, or indirectly by virtue of culture and conservatism making penetration prohibitive, expensive and difficult.

However, over the past few years a number of fundamental changes have started to evolve. These developments are already beginning to potentially affect Japan culturally, socially, politically and economically and are being watched with great interest and some concern, as the "new Japan" emerges.

Among these important changes the deregulation process is of prime concern, even though essentially it is a domestic affair being implemented for the benefit of the

economy and the Japanese people. Recently there has been a considerable degree of uncertainty among the European business community regarding the commitment of some politicians and officials to implement deregulation thoroughly. The EBC encourages the re-doubling of efforts on this important subject.

The special historical relationship between Japan and the US remains a key factor affecting the business environment, strongly influenced by pressure from the American government. The economic consequence, following from bilateral agreements will be carefully monitored by the EBC. The more confident tone of Japan and the changing weight of Japanese trade from USA towards Asia however, will slowly change the balance of this relationship.

As Japan's position in the world develops in new directions, the EBC feels strongly that the EU must continue to strengthen and deepen its relationship with Japan, the better to protect its business as well as political interests for the long-term.

Japan still remains a major investment opportunity for European firms, given its technological, manufacturing and world economic strength as well as its major dominance of Asian total trade. Non participation, however, in the Japanese market leaves a gap of major proportions in any meaningful global strategy.

Common Issues and Themes

Several common issues, mentioned below, have been identified by the EBC Sector Committees as well as by the American Chamber of Commerce and Japanese business associations. Though not an exhaustive list, they are the issues most often quoted by the European Business Community. They relate to regulations, business practice, lack of incentives and bilateral agreements.

Regulations:

Most European companies have expressed their deep concern regarding the over regulation of the Japanese market. Moreover, relevant laws, rules and in particular guidelines are not always sufficiently transparent, especially for foreigners, creating ambiguities and the potential for different interpretations. Such a regulated environment discourages European companies from expanding their business in Japan and deters many from entering this difficult market. In particular, the harmonisation of standards is of great concern to several sectors, and in certain cases, prevents foreign companies from introducing innovative products and technologies that would benefit Japanese consumers.

In spite of some improvements, there are still impediments to entry in several sectors caused by extremely high tariffs.

The Japanese deregulation process is carefully monitored by the EBC. The slow speed, the limited range, the lack of depth and clarity in the process is causing great concern, as well as a certain amount of scepticism.

Business practice:

Business practice in Japan is nearly always referred to by EBC committees as being the main and constant barrier against penetration of the market. In particular, the following points have been mentioned:

- Existence of official and non-official cartels.
- Influence of Keiretsu.
- Manipulation of bidding.
- Price setting.
- Complex and controlled distribution.

It is recognised by the EBC, however, that the Japanese authorities have made some progress towards improving this situation by dismantling several cartels.

Lack of incentives:

At a time when many burgeoning Asian countries are providing incentives to foreign investment, the Japanese authorities are not taking any positive action to attract foreign investment. The EBC view is, that foreign investors will remain unwilling to invest in this country unless Japan takes all necessary steps to encourage investment by providing incentives. This development could be increasingly detrimental both to foreign business and the Japanese economy.

Bilateral Agreement:

Several EBC Committees have expressed their concern about bilateral discussions and agreements between Japan and the United States, which are detrimental to other nations. The EBC's firmly held position is that all countries must be treated on an equal basis.

Keiretsu

The word *Keiretsu* does not translate easily into other languages. The most common Japanese meaning is perhaps closest to the English "link," "affiliate" or "connected to." In its simplest form a *Keiretsu* is a group of individual units viewed together, usually as a hierarchical organisation, vertical or horizontal. What unites them is a flow of money, people and personal loyalty, either onwards or downwards through the hierarchies. The development of trustful relationships as well as "back scratching" provides strong mutual support within these groups.

There are similar organisations in other countries. Such interlocking business groups are founded on efficiency, and not necessarily on exclusion, and they are therefore not, by definition, a violation of anti monopoly law.

Hence, the EBC takes issue not with "*Keiretsu*" groups as such but rather their exclusive practices, and the way they operate. These groups, bound together in gigantic industrial combines, work together in such an exclusive manner that they are closed to those Japanese outside the group as well as to foreign investment and participation.

The customer-supplier relationship, the main bank system or the role of trading companies in *Keiretsu* groups often supports their exclusive nature.

The tradition of Japanese customer-supplier co-operation has been based on trust and relationships, rather than on contracts. Each network belongs to a system which provides its member firms with a "safety net". Where the consumer is affluent, docile and ready to pay, the system takes advantage of high retail prices, whereas in hard times, lower levels of profitability are accepted against a certain level of security. Far from the Western concept of the market-place where price competition is a common basic rule, the buyer-supplier relationship in Japan gives priority to this "mutual safety net" or system of "guarantees", in which member firms are both insurers and insured at the same time.

These long term relationships have another advantage: they enable affiliated member firms to acquire a deep technical knowledge of the buyer's operation, and often of the competition's bidding terms.

This system, which has brought substantial improvements in quality and cost reductions in the past, has been challenged since the beginning of the latest recession in Japan, as some *Keiretsu* suppliers have broken their bonds of exclusivity and sought additional customers. Such initiatives remain nevertheless more of an exception rather than a wide spread practice. For example, in the automotive industry, although the franchise contracts of all automotive *Keiretsu*, supported by JAMA, MITI, FTC and MOT, were changed some years ago to make it clear dealers could take on import franchises without fear, even then because of financial links, relationship, trust and conservatism, dealers' attitudes only slowly changed. Indeed, the factors of loyalty and trust like conservatism and long termism are so strong that they could not change quickly. In other words, change in *Keiretsu* control will only occur extremely slowly even when publicly encouraged.

As a result of this traditional buyer-supplier relationship system, even very competitive non-*Keiretsu* affiliated firms, especially foreign firms, are unable to break up the networks and access the consumer. This is particularly true for intermediate products when foreign firms lack the links between major manufacturing groups, affiliated subcontractors and distribution networks dominated by the Japanese *Keiretsu* companies.

Despite the weakening of the control of "main banks", there remains a strong bias towards own group -*Keiretsu*- financial institutions, which prevents foreign financial institutions from developing an equitable relationship with Japanese corporations, regardless of how competitive their products and services may be.

The tradition of the main bank relationship has led to a system of mutual shareholding. Typically, this is where the main bank holds the largest share among bank lenders, its affiliated securities company is in the most senior position as underwriter for domestic and international syndications, or again where this linkage is extended to the subsidiaries and affiliates of the corporations. The main bank support may also take the form of additional loans or the provision of management personnel to troubled companies.

Here again, the explicit long term relationship engaged in the "main bank" system allows very little room for the non-*Keiretsu* bound foreign competitors. This is particularly true in investment banking where information gathering, research capacity and financial strategic consultancy services that lead to major development projects, are often provided by Japanese banks and their securities arm to affiliated group members free of

charge. Conversely, foreign investment banks can only provide similar services on a free basis as they have no "safety net" or "guarantee" that the free time they invest will be rewarded on a long term basis by the company's main Japanese bank. In light of the current financial crisis which may somewhat weaken the relationship between the banks and the industrial sector, the EBC would very much welcome the Government's guidance in encouraging Japanese corporations to look beyond their Keiretsu relationships for competitive financial services and performance standards.

Whereas the main bank generally insures the business of the top level of their group companies, the main trading company of a *Keiretsu* will "insure" the thousands of fringe firms both inside and outside their own group via trade credit. Access to those smaller *Keiretsu* linked companies thus remains very difficult for foreign "outsiders".

This is also true in the insurance sector. Here Keiretsu group companies naturally tend to let their business flow to their group's main insurance company. In addition to the issues highlighted in the chapter on the insurance sector, which mainly deals with the concerns in relation to the deregulation process, the *Keiretsu* issue has been taken up in the 1994 US/Japan trade agreement. However, although the decision was made by both governments to appoint one research company to carry out a study on *keiretsu* issues, it is interesting to note that some 20 meetings and over 100 hours of discussion later, each side is having to appoint its own representative. At the time of writing, the terms of reference have yet to be agreed. This is a clear illustration of the lack of progress in this area and of the resistance to change by the Japanese insurance industry and their *Keiretsu*.

The EBC considers it unrealistic to expect that Keiretsu practices will change quickly, but as is explicitly specified in the sector chapters of this White Paper, the EBC welcomes any action taken by the Government of Japan to encourage Japanese industrial and financial groups to be less exclusionary in their practices and more open minded to things foreign, especially in the light of current foreign exchange fluctuations and the internationalisation of the economy. In particular, the EBC urges the Government to strengthen the powers of the Fair Trade Commission to develop a more effective competition policy and abolish the industrial cartels which cut across Keiretsu lines and are allied to preserve the structure and profitability of their own market.

Aeronautics

Background

JAL has never bought any large European Aircraft.

The Japanese market for large commercial aircraft is amongst the prime markets in the world, but it has so far been largely dominated by the USA. Airbus, with 51 aircraft out of 415 presently flying in Japan, has a market share of 12%, much below its world average of around 30%. This is mostly due to the fact that JAL, the main company and former national carrier, has never bought a European aircraft or engine for its existing fleet.

Aeronautics industry comprising divisions of "Heavy Industry."

The Japanese Aeronautics Industry, which was disbanded after the war, has been striving ever since to rebuild an indigenous capability. However rather than being composed of specialised companies, the industry consists of Aerospace Divisions of large "Heavy Industries" which depend mostly on defense contracts, from which 70% of their revenue is earned. Its civilian activity is for the best part subcontract work in partnership with US manufacturers. MITI has promoted the sector's independence through national projects and only recently through international co-operation on projects such as the R&D hypersonic engine HYPR, the YS-X commuter aircraft or in the engine field.

Key problems

Governmental pressure.

In the field of large aircraft and related engines and equipment, US manufacturers have a great advantage over European competitors, because of their ability to exert pressure at government, industrial and commercial level.

European manufacturers with marginal successes.

Even when the industry is aware of the merits of balancing its sources of influence and opening up to European co-operation, it tends to choose American partners. With the exception of a few successes in the field of engines and helicopters, actual co-operation between European and Japanese companies is almost non-existent. Even the 70/100 seat YS-X project, which seemed custom-tailored for co-operation with Europe, finally went to US manufacturers in 1994. Only at the beginning of 1996 has MITI re-opened the possibility of co-operation on a smaller, 75 seat, version.

Recommendations

Fair competition.

As far as purchases are concerned, it must be ensured that the Japanese authorities, agencies and companies in the field of aircraft, engines and components, allow European manufacturers to compete with the US on a fair basis, allowing Europe equal opportunities of success.

Unscheduled flights.

Deregulation needs to be promoted whenever possible. For example, the increase in the 60 seat limit for unscheduled flights would facilitate airline business and purchases.

Cooperation to be fostered.

The EBC Aeronautics Committee postulates that there are mutually beneficial opportunities of co-operation between European and Japanese manufacturers on such future projects as the A3XX, Airbus high capacity aircraft or the "Supersonic transport," both in the fields of airframe and propulsion. This would require Japanese companies to allow, for the first time in this sector, a certain degree of co-operation with countries other than the USA.

Airlines

Background

Airlines confronted by a network of rules, guidelines and procedures.

Efficient international air transport and freight services are vital to the economic life of a highly industrialised country such as Japan. An expansion of trade between Japan and other countries requires an increase in airline services to meet the needs of the business community. However the problems, mentioned below, confronting European passenger and cargo airlines doing business in Japan are reducing their efficiency and consuming a great amount of energy, time and money.

Over-regulated and arbitrary procedures.

Strictly regulated proceedings imposed on services by the Ministry of Transport (MoT) are fully acceptable when they are designed to maintain safety and to preserve regularity in the market. However, over-regulation and arbitrary decisions by the MoT and other Japanese agencies related to airline traffic must be considered impediments for foreign airlines operating in Japan.

Key problems

Shortage of slots at Narita and inflexibility in reallocation.

Since December 1990, Narita Airport Authorities have rejected additional slot requests by European carriers due to the limited number available. The Japanese Government rejects the commonly used transfer principles for airport slots, including reallocation of unused slots, which members of the International Air Transport Authorities have adopted (IATA). Until completion of the second runway, it is only possible to

increase access to the airport by a stronger commitment from the MoT and the Narita Airport Authorities to revise the one-hour and three-hour flight movement limitations. Other major airports with only one runway, such as Hong Kong and Gatwick, allow many more movements per hour than Narita Airport.

Preventing prices reflecting supply and demand.

In Japan, airlines must register all passenger tariffs with the Japan Civil Aviation Board. However, the MoT has influenced price levels in a way that is neither in the interests of the consumer nor a reflection of supply and demand. The present pricing structure does not reflect the current business environment and is very different from the liberalised pricing practices in Europe.

Foreign carriers disadvantaged in distribution.

The MoT requests all airlines to apply only the official JATA fares, or in case of group travel, the lower tariffs set by the MoT, even though the actual market prices are much lower. In any case all tickets have to show the official IATA fare for which the agency commission has to be paid, regardless of the actual net fare charged by the airline. The consumer price is fixed by the travel agency and is beyond the airline's control. The rigid pricing structure for ticket sales forces airlines to restrict discounts on sales through travel agencies. Compared with the national carriers, foreign airlines are at a disadvantage. The national carriers have sufficient economies of scale to set up 'de facto' their own direct distribution channels through captive agencies and affiliated travel offices. Fairer competition could be implemented if greater freedom in pricing was allowed, to enable direct distribution by promoting net fares to the consumer.

Inefficiencies related to bank settlement.

Restrictions on the "Bank Settlement Plan" - the official settlement and clearing system for ticket sales - do not allow agencies to make net remittance of market fares to airlines. Airlines incur extra costs by being compelled to establish duplicate settlement programmes.

An unfair "Fair Trade Commission."

The national carriers are enjoying favourable consideration in respect of petitions by the Fair Trade Commission (FTC). A recent ruling by the FTC to "suspend" restrictions hindering introduction of frequent flyer programmes was only made public to foreign carriers after the national carriers had established such programmes.

Osaka Airport's terminal fees the highest in the world.

The costs of building the second international airport in Osaka rose to such levels that terminal and landing fees are set at the highest rates in the world. Although they have been lowered recently, the reductions are temporary and subject to later review.

Only one US carrier is allowed to use own warehouses.

No carrier is allowed to use its own warehouse for storage of imported cargo except Japan Airlines and Federal Express. All other carriers must use common warehouse facilities at additional costs. At Narita and Baraki, airlines share the costs of storage for imported cargo. The ratio of the cost sharing was established a long time ago and needs to be reviewed to reflect the present market situation.

Sorting standards for cargo clearance.

The customs "sorting standards definition," applicable to cargo arriving at Narita, stipulates what cargo may be cleared at Narita or Baraki. As additional costs are involved for sorting and trucking the cargo, European carriers request the abolition of different standards.

Recommendations

- EBC requests that a clear statement be made by the MoT to explain the principles behind slot assignments.
- Reconfirmation of the commitment to IATA accepted practices for the assignment, transfer and withdrawal of airport slots.
- Consent from the MoT be given for adjusting and refiling of all passenger and cargo tariffs nearer the market-level, and administrative support made available for acceptance of timely fare adjustments.
- Current restrictions be eliminated in airfare and airfreight settlement procedures and airlines allowed to use chosen facilities at their own risk.
- All carriers ensured equal access to FTC proceedings, and prompt notice of rulings to be given to all member carriers at the same time.
- The authorities of the new Osaka airport, as well as the Japanese Government, are requested to cooperate in finding an equitable solution to the problem of landing and terminal fees, in order to attract more traffic through the new gateway.
- Narita Airport authorities, as well as other authorities involved, are requested to redefine cargo storage costs.
- Customs authorities are requested to abolish the point of entry stipulations in connection with sorting standards.

Animal Health

Background

Nutritional products to maintain the health of animals.

Animal health products are those nutritional, pharmaceutical or biological products used by veterinarians and the farming industry to maintain the health of animals and to achieve good economic results in the rearing of animals for meat, milk and eggs. The use and availability of these products affects the competitiveness of the domestic animal producer and has an indirect impact on Agricultural Policy, especially strategic self sufficiency. The misuse of these products may affect food safety, and the products are, therefore, highly regulated by the Ministry of Agriculture, Forestry, and Fisheries (MAFF) and indirectly by the Ministry of Health and Welfare (MHW). Each product is subject to a lengthy application and review process, e.g., one to two years for a new drug, before it is registered as approved for sale. Because of its impact on the successful introduction and penetration of the Japanese market by European products, the regulatory process has been the main focus of the EBC Animal Health Committee.

Valid scientific data generated outside Japan has not been accepted for application purposes.

Japanese procedures, for the approval for sale of animal health products, have been unique without significant reference to international norms. Valid scientific data generated outside Japan has not been accepted to substantiate an application for approval in Japan, except as anecdotal data. It is therefore necessary to generate scientific data which, by generally accepted scientific principles, has very limited relevance.

Japanese standards are not consistent with accepted international standards.

The lack of consistency with generally accepted international standards, and the difficulty in determining the true and complete requirements for approval, result in the duplication of expensive, long term scientific studies and significant delays in the introduction of new products from Europe.

Restricted distribution.

These circumstances led many European manufacturers to assign the development work necessary for approval to Japanese companies with the facilities and understanding of the requirements. Usually this development work was done *quid pro quo* in exchange for the granting of distribution and sales rights for the product. Some companies invested in the staff and facilities necessary to make an application for approval themselves. By doing so they have retained the distribution rights and may participate directly in the market.

EBC acting closely with ACCJ.

Formed some seven years ago the Animal Health Committee of the EBC has acted in close co-operation with the subcommittee on Animal Health Products of the American Chamber of Commerce in Japan. The first major issue identified and addressed with the appropriate Ministry, was the acceptance by the Government of Japan of the principle of standards for Acceptable Daily Intake (ADI) and Maximum Residue Level (MRL) of veterinary pharmaceutical products. Acceptance of this principle was confirmed by Japan's ratification of the World Trade Organization (WTO) agreements. The EBC continues to participate in a working group concerned with the implementation of these principles. More recently, with the encouragement of the EBC, representatives of MAFF and the EBC have begun to participate fully in the process of international harmonisation of standards for animal health products under the auspices of the "Office International des Epizootics".

Key Problems

The results of long term stability studies conducted outside Japan are accepted in principle by MAFF. In practice, however, due to variations in detailed requirements and, in general, a narrow interpretation of the requirements, these studies must still be repeated in Japan.

Unnecessary costs.

At the present time virtually all studies required to be done in the target animal must be conducted in Japan. Valid clinical, residue and safety studies in the target animal conducted outside Japan are not accepted by the Government. As a result, unnecessary costs are incurred and introduction to the market is delayed. The number of independent laboratories which are authorised for such studies is very limited. For example, no independent laboratories are authorised to conduct the required investigations of live virus vaccines, resulting in extraordinary capital investments for companies in this sector. The unnecessary duplication of animal studies often conflicts with the company's commitment to animal welfare issues and the company's animal ethics policy.

Re-establishing of standards and test methods.

The standards and test methods for products developed outside Japan are often established according to generally accepted international standards such as the British Pharmacopoeia, the European Pharmacopoeia or the US Pharmacopoeia. In many cases MAFF suggests that these standards and test methods be re-established according to the Japan Pharmacopoeia, a costly, tedious and unnecessary process. In all cases the applicant is required to establish, or re-establish, standards and test methods in Japan using three distinct production lots.

The relevance of the required pharmacological studies is limited to an academic interest.

The current requirements for General Pharmacology are not relevant. Isolated organ studies give only limited insight as to the interaction of a drug in the whole body system. Safety concerns in the target animal and in food are adequately and appropriately addressed in other required studies. For example, concerning drug residue in livestock products, the potential intake through food is at least 100 times below the No Observable Effect Level (NOEL). Thus the relevance of the required pharmacological studies is limited to an academic interest. Neither the US nor the EU member states require such general pharmacology studies.

Products tested a number of times before release for sale.

The Japanese Government requires that each production lot of all biological products, antibiotic feed additives and injectable antibiotics be assayed and released for sale by the National Veterinary Assay Laboratory. This requirement is enforced on all such products, even if produced in compliance with Good Manufacturing Practice. As a result of this requirement, some products are tested three or four times before release for sale, thus increasing testing and inventory costs and for many products, reducing the valid period of sale.

International harmonisation of test methods.

The EBC recognises the willingness of the Government to act on these and similar issues as shown by its position concerning ADI/MRL, international harmonisation and the recent announcements concerning deregulation. While it is also recognised that some actions require revisions in the law or published regulations, the EBC recognises the considerable ability of the Government to revise its interpretation and application of these regulations.

More safe, more efficacious and proven animal health products will be affordable in Japan.

Timely adaptation of these recommendations by the Government will mean that more safe, efficacious and proven animal health products will be available and affordable in Japan. Timely adaptation will directly contribute to the competitiveness of the Japanese farmer and will benefit all consumers, especially the veterinarian and his client.

Recommendations

While the eventual harmonisation of standards may eliminate this issue, the EBC recommends that the Government accept valid, long term stability studies conducted outside Japan.

- Wider acceptance by the Government of valid target animal studies conducted outside Japan.
- Specifications and test methods validated according to generally accepted international standards should be consistently accepted by the Government.
- The Government should abolish the requirements for General Pharmacology.
- The Government should fully and completely accept the principle of Good Manufacturing Practice and eliminate the repetitive release testing now required.

Asset Management

Background

Until the mid-1980s domestic trust banks and life insurance companies completely dominated the pensions industry in Japan, being the only financial institutions legally allowed to manage pension funds. In the same way, the investment trust management subsidiaries of domestic securities companies held sway over the mutual fund industry.

Small number of foreign trust banks set up.

Change came slowly through the recognition, in 1985 - 1986, of the first foreign trust banks. A limited number of licences was granted - nine in all, with six US participants and only one EU representative - but they carried all the privileges of access that the Japanese trust banks enjoyed.

The arrival of foreign investment management companies.....

This period also saw the opening of a number of investment management (IM) companies, both domestic and foreign. The Japanese IM companies tended to be subsidiaries of securities companies and banks, attracted both by the longer term prospect of eventual access to pension funds but more immediately to the apparently easy pickings offered by the "zaitech" boom, where cash-rich companies played the stock market.

Foreign companies usually had a mixture of motives for opening. As well as managing zaitech funds, although this was not a major factor normally, there was a desire to manage Japanese equities closer to the market and to obtain access to the flow of funds from Japanese financial institutions into overseas markets. Finally, there

was the simple consideration that Tokyo, in world terms, had become too large to ignore.

The formal licensing of discretionary investment management companies started in 1987, but it was not until 1990 that access to two major pools of money—pension funds for investment management companies and retail funds for investment trust management companies—was effectively conceded.

..... and ITM companies.

The management of mutual funds in Japan was until fairly recently entirely in the hands of the investment trust management (ITM) subsidiaries of domestic securities companies. From 1990, separate ITM subsidiaries of foreign investment management companies were permitted, and a small number of companies, all European at first, took advantage of this. With the recent awarding of “joint activity” ITM licences, whereby it has become possible to manage both mutual funds and pension funds within the same firm, a barrier to entry has been removed. However, while there is no legal prohibition against direct sales through telephone or mail, distribution has historically been in the hands of the securities companies and it was only comparatively recently that limited direct sales to institutional investors started.

No specific barriers for foreign companies.

Partly as a result of continued domestic liberalisation and partly as a result of US pressure, entry to the Japanese market has been eased and it is now possible to run both mutual funds and other types of account, such as pension funds, from the same legal entity. Apart from the necessity to be physically present in Japan, there are no legal impediments or barriers that specifically affect foreign companies.

Key Problems

Only partial access to pension funds allowed.

Dealing first with the management of Japanese pension funds, which has been the main area of concern for the EBC Asset Management Committee, the liberalisation in 1990 was only a partial one. It gave investment managers, both domestic and foreign, access to only one type of pension fund, the so-called Employment Benefit Pension (EBP) or "kosei nenkin", but denied them access to most public pension funds, (a significant part of the Japanese market) and to all Tax Qualified Pensions (TQP) or "tekikaku nenkin". Even the access granted to EBPs was restricted in terms of amounts, maturity of the fund, source of funding, and most notoriously, there was imposed an entirely ad hoc one-third cap on the maximum total entrustable to Investment Management (IM) companies.

Foreign share of the market is still small.

When one takes into account the relatively low fees paid by pension funds in Japan and the enormous marketing effort required to attract Japanese clients, it is hardly surprising that to date the foreign share of the market has been small. This should, however, be seen in the context of the whole pension fund market where the combined share of all IM companies, domestic and foreign, is currently only around 4% of the accessible, i.e. EBP, market. Thus, even for those such as Nomura and Industrial Bank of Japan's IM subsidiaries, penetration of an historically closed market has been slow. As a percentage of funds managed by IM companies in total, foreign companies actually posted a quite reasonable 8.8% market share. As at 30th September, 1995, some eleven European IM companies (out of 21 represented in Japan) had obtained mandates from Japanese corporate clients and four of those had, in addition, been awarded mandates by public pension

funds. The total sums of money involved are, however, still relatively small and no one claims to be profitable yet!

Investment restrictions.

All pension schemes are subject to the 5-3-3-2 rule which lays down arbitrary rules, based on book cost accounting, determining how investment should be managed. Under this rule, a minimum 50% of a fund's assets must be invested in yen-denominated "safe assets" (cash and bonds), while no more than 30% may be in Japanese equities, no more than 30% in overseas assets (equities and bonds) and, less significantly, no more than 20% in real estate. This is illogical in that it ignores changing market circumstances, the fact that pension fund liabilities are linked to wage inflation and makes no allowance for differing age profiles of pension funds.

From a purely practical market penetration point of view it means that IM companies which specialise in one or more areas, but do not cover the entire spectrum of asset classes, are at a significant disadvantage.

Pooled funds.

Unlike trust banks and life insurance, IM companies are not able to offer pooled vehicles to their clients. In other countries, privately placed pooled funds enable smaller pension funds in particular to obtain the benefits of diversification and the investment performance that IM companies provide to larger funds.

Bond Funds.

All equity Investment Trust industry funds are valued at market prices. However, bond funds are valued at book cost rather than market. This means that investors in the funds are not paying market value for the assets. New investors are either overpaying or underpaying for assets.

In particular, if they underpay for assets, they are being given access to historic gains which rightfully belong to previous investors. This is unhealthy and inequitable. It is only by valuing such funds at market value that all investors can be treated equally.

Recommendations

Pensions.

Since 1990, there has been a gradual relaxation of restrictions, which has increased the scope for both foreign and domestic IM companies. Of particular recent significance was the agreement on Financial Services between the Japanese and US Governments announced in January, 1995. Access has now been granted to a number of additional public pension funds. The qualification period before pension funds may employ investment management companies has been reduced and commitments were given to gradually phase out the "one-third" rule and to phase in market value based accounting for pension funds. Although arising from discussions between the Ministry of Finance (MOF) and the US Treasury, the concessions won were clearly stated to apply on a Most Favoured Nation (MFN) basis. Full implementation of the letter and spirit will need to be monitored but current indications are that commitments are being honored.

Notwithstanding these further concessions, there are still restrictions on both the access by IM companies and on what terms they may be entrusted with funds. The net result is that, even after the proposed reforms, there will still not be full and free access to pension fund assets.

- While the restriction on IM companies' total share of a pension funds's assets is due to be relaxed, from a cap of one-third to one-half from FY 1996/7, this still represents clear discrimination against IM companies and should be eliminated altogether.
- Remaining pools of money, where access is restricted for historical reasons, to trust banks and life insurance companies should also be freed up. These include tax qualified pensions, certain Mutual Aid Associations, and funds controlled by the Ministry of Posts and Telecommunications.
- The method proposed, whereby IM companies may obtain access to Pension Welfare Service Public Corporation "Nenpuku" funds is too cumbersome and costly for prospective investment managers. It could still be simplified to the benefit of all concerned.
- The 5-3-3-2 rule should be replaced with a "prudent man" set of rules, emphasising fiduciary responsibility and encouraging pension fund sponsors to think in terms of hiring investment managers on the basis of their perceived skills in one or more areas rather than largely for relationship reasons.
- IM companies should be allowed to create, administer and manage privately placed pooled funds.
- In the investment trust industry, assets of all funds should be valued at market cost.

Automobiles

Background

Gradual liberalisation of a protected market.

The strong position that the Japanese car industry occupies today, both in its own domestic market and in the global market place, owes much to the policies adopted in the past by the Japanese Government to protect the domestic industry. For a forty year period from the mid-1930's through to the mid-1970's the Japanese industry was largely shielded from external competition. The tone was set in 1935 with the passage of the Automobile Manufacturing Law, which stated bluntly that the automobile industry " should be placed in the hands of Japanese, both in name and reality, now and in the future."

That protectionist policy was resurrected after the Occupation. Through the use of high tariffs, a commodity tax regime which discriminated against imports, foreign exchange control and restrictions on foreign investment, both American and European car makers were prevented from establishing a significant presence in Japan at a time when they had a competitive advantage over the Japanese industry. In the 1950's it was primarily the European car makers who tried, and failed, to set up manufacturing operations in Japan.

Slow acceptance of imports.

Only when the Japanese industry was capable of standing on its own feet, and the domestic market had effectively matured, did the Japanese Government begin to lower the formal barriers to trade in cars. Even so, foreign exchange control for completed car imports was not lifted until 1965 and the last remaining controls on engine imports were only eliminated in 1971. Foreign

investment was liberalised in 1973 and tariffs were progressively lowered, before being totally eliminated on cars and trucks in 1978. But by then the competitive position of the Japanese and foreign producers had been reversed. During this period two generations of young Japanese grew up with little awareness of foreign cars. This contributed to the slow acceptance of imports when the market was gradually opened.

Technical deregulation.

In more recent years, the Japanese authorities have made considerable efforts to facilitate the growth of passenger car imports, notably the 1985 Action Programme to Promote Imports. Other measures such as the conversion of commodity tax into sales tax and a major reduction in import car insurance acted as the catalyst for increased sales of imports. By the early 1990's many of the technical barriers had been removed. In 1995 substantial progress was made in resolving outstanding issues relating to motor vehicle standards and testing, and the certification of European cars and commercial vehicles for export to Japan. At the end of last year the Ministry of Transport undertook that Japan will adhere, during fiscal 997, to the revised United Nations-Economic Commission for Europe 1958 Agreement on the mutual recognition of motor vehicle regulations. In the longer term this will reduce the cost to European manufacturers of complying with Japanese technical requirements.

Growth of imports Post-1985.

Pure imports of passenger cars (i.e. excluding reimports from the Japanese overseas transplants) grew steadily from 50,000 units in 1985 to 220,000 units in 1990. But with the bursting of the "bubble economy" imports declined, in common with the total market, to 158,000 units by 1993. The pure import market has subsequently rebounded to 259,337 units in 1995, of which European manufacturers accounted for 221,187, an increase of 29.5% over the previous year.

This growth is attributable to a multiplicity of causes. Importers have significantly reduced prices and invested heavily in infrastructure and the development of brand recognition. For its part the Japanese Government has clarified the contractual rights of domestic dealers to take on import franchises, relaxed residential planning regulations to allow imported car dealers to offer better service coverage in high population areas, and introduced tax incentives to encourage imports.

But still relatively low share of imports in Japanese market.

Nonetheless, Japan still has the lowest share of automotive imports among major industrialised countries. Whereas Japanese manufacturers took 10.6% of the Western European market (EU, Norway, and Switzerland) in 1995, pure imports only accounted for 5.9% of the total Japanese passenger car market, including kei cars. For every European car sold in Japan, Japanese manufacturers sell 5.8 cars in Western Europe, even though the output of the European industry is considerably larger than that of the Japanese.

Key Problems

- The domestic manufacturers were able to build up their distribution channels in a protected market. High land prices and restrictive zoning laws raise the cost of, if they do not effectively preclude foreign manufacturers from acquiring, green field sites or prime locations for their dealerships.
- The dealers of domestic manufacturers are hesitant about handling imported cars even though their contracts do not prevent them from doing so. Further import growth will be crucially dependent upon the ability of foreign manufacturers to develop their distribution networks, especially by recruiting domestic dealers.

Access to the distribution system.

Specific Japanese technical standards.

- Compliance with technical standards which are specific to Japan raises the cost of entry into the Japanese market and selling costs in Japan.

Recommendations

The Japanese government should:

- Continue to ensure that dealers are aware that Japanese Anti-Monopoly legislation allows them freedom to handle whatever products they wish.
- Improve the terms of Japan Development Bank loans available for domestic dealers who take on import franchises.
- Offer tax advantages to domestic dealers who take on import franchises, e.g. reductions in the real estate acquisition tax and fixed asset tax pertaining to land, buildings and facilities acquired by dealers for selling or maintaining imported cars.
- Provide low interest loans to dealers to enable them to increase their inventory of imported cars.
- Provide credit insurance on favourable terms to import car dealers.
- Increase government procurement, at national and local level, of imported automobiles.
- Co-operate closely with the European Commission, both bilaterally and within the framework of the UN-ECE to harmonise Japanese and European standards and testing procedures.

Automotive Components

Background

Keiretsu system.

The Japanese automotive industry controls more than 35% of world car production. In Japan the automotive industry, the second largest in the world after Europe, was protected from imports for 40 years. The 11 Japanese vehicle manufacturers have relied exclusively on domestic parts and equipment suppliers, traditionally organised into associations controlled by the vehicle makers (keiretsu). The exclusive nature of the keiretsu system effectively barred direct participation in domestic programmes by foreign suppliers until the early 1990's. However, these historical ties between manufacturers and suppliers persist and continue to hamper the penetration of foreign suppliers into the Japanese market. Imported components in 1993 accounted for only 2.6% of the Original Equipment Manufacturer's (OEM) parts used in Japan and less than 2.2% if replacement parts are included.

Design in seminar.

In 1992 the trade dispute between the US and Japan over automotive parts resulted in a voluntary purchasing plan by Japanese vehicle manufacturers. This plan envisaged purchase of parts from US suppliers with a value of US \$19 billion in 1994, both for their transplants in the US and imports to Japan. Intensive activities such as one-on-one meetings (five in a period of four years) and design-in seminars were organised to expand business opportunities between US suppliers and Japanese manufacturers.

Declining market shares.

At the same time Japan-based European suppliers recognised a change in the business environment in Japan. Trade statistics for automotive parts showed declining import market shares for European suppliers from 38% in 1990 to 27% in 1995. During this period no fundamental change occurred in the massive Japan parts trade imbalance. The Automotive Component Committee of the EBC was established in 1993 to further promote the interests of European OEM's and after-market suppliers.

First one-on-one meeting.

The first JAMA-CLEPA Business Conference one-on-one meeting, which took place in March 1995 in Paris, was welcomed by the Automotive Components Committee as a first sign of equal treatment of European suppliers. The success of this meeting encouraged the organisers to prepare a second Business Conference in May 1996 in Berlin.

Monitoring.

The bilateral US-Japan Agreement on Auto and Autoparts of June 1995, almost by definition raises the risk of discrimination against European interests. Its application will be carefully monitored by the Automotive Components Committee.

Key problems

Quality at competitive prices.

Access to the Japanese automotive market is particularly difficult due to the intimate relationship between suppliers and manufacturers. European suppliers are operating with a long term approach and have improved their competitiveness in recent years. European suppliers are convinced that they can supply the Japanese market with products of highest quality at

competitive prices. It is encouraging to see some signs of increasing interest in purchasing from foreign suppliers, but the reluctance of Japanese manufacturers to build up equally strong relationships with foreign suppliers is still apparent and mirrors the extremely low import of parts from foreign sources.

Increasing competition.

The EBC is also aware of increasing competition in this market due to the decline in car production in Japan. However, taking into account the strong value of the Yen - not only against the US\$ but also against the European ECU - commercial logic would support a much higher share of imported parts than is actually seen. The past trend for the trade figures for automotive components to show a rising trade surplus by Japan did not reflect economic logic and common sense, accenting the skewed nature of the Japanese market. Latest trade figures show a slight change in the trend, raising hopes for a more open attitude towards foreign suppliers.

Deregulation matters.

The EBC, however, still considers the market share of imported automotive components to be too low compared with the US and Europe and supports all efforts, including those on deregulation, which will ease access to the Japanese market.

The EBC will continue to be alert and to oppose all bilateral activities which discriminate against European suppliers or jeopardise their business efforts in Japan.

Recommendations

To tackle these problems the EBC - Automotive Components Committee should continue to:

- Follow up with European organisations, e.g. EC, CLEPA, national industry associations, chambers of commerce, to work for fair trade and fair purchasing decisions.
- Create a dialogue with Japanese industry associations, including the automotive components sub-committee of JAMA, in order to establish trust and a constructive relationship at industry level.
- Promote ties between European suppliers and Japanese manufacturers in cooperation with JAMA and CLEPA.
- Promote further face to face meetings, design-in seminars and quality support centres in Europe and Japan.
- Support the establishment of a European Technology Centre in Japan.
- Promote and facilitate greater participation of European component suppliers in trade shows such as the Tokyo Motor Show, and maintain pressure to ensure adequate floor space for European exhibitors at the Tokyo Motor Show.

The EBC will continue to monitor trade in automotive components to and from Japan in order to measure the results of these efforts.

Japan's Trade with Auto Parts by Region

Imports, Exports, Surplus (¥ billion)

		1990	1991	1992	1993	1994 (1-6)	1994 (7-12)	1994	1995 (1-6)	1995 (7-12)	1995	Δ94/95 (1-6)	Δ94/95 (7-12)	Δ94/95
Imports	Total	309.6	335.6	352.6	310.6	155.5	169.9	325.5	175.2	183.5	358.7	+12.7%	+8.0%	+10.2%
	EU 15	117.6	120.8	124.5	93.5	44.3	44.6	88.9	45.7	51.0	96.7	+3.3%	+14.2%	+8.8%
	USA	115.4	123.8	128.6	124.5	67.4	71.7	139.1	73.1	69.4	142.5	+8.6%	-3.3%	+2.5%
	East Asia	45.6	63.1	72.8	67.3	33.3	41.4	74.7	45.2	52.9	98.1	+35.5%	+27.8%	+31.2%
Exports	Total	3,543.6	3,405.2	3,572.2	3,642.6	1,922.3	1,980.2	3,902.5	1,973.8	1,955.1	3,928.9	+2.7%	-1.3%	+0.7%
	EU 15	499.6	506.8	580.5	556.3	274.3	298.0	572.2	315.7	306.1	621.8	+15.1%	+2.7%	+8.7%
	USA	1,509.5	1,342.8	1,400.5	1,425.3	786.2	770.3	1,556.5	743.1	704.6	1,447.6	-5.5%	-8.5%	-7.0%
	East Asia	816.8	828.2	860.4	930.6	509.2	544.4	1,053.6	566.3	590.9	1,157.2	+11.2%	+8.5%	+9.8%
Surplus	Total	3,234.1	3,069.6	3,219.6	3,331.9	1,766.8	1,810.3	3,577.1	1,798.6	1,771.5	3,570.2	+1.8%	-2.1%	-0.2%
	EU 15	381.9	386.0	456.0	462.8	230.0	253.3	483.3	270.0	255.1	525.1	+17.4%	+0.7%	+8.6%
	USA	1,394.1	1,218.9	1,271.9	1,300.7	718.8	698.6	1,417.4	669.9	635.2	1,305.1	-6.8%	-9.1%	-7.9%
	East Asia	771.2	765.1	787.6	863.2	475.9	502.9	978.8	521.1	537.9	1,059.1	+9.5%	+7.0%	+8.2%

Shares of Japan's Auto Parts Imports by Region

(per cent)



Source: EBC/ACC Data Collection, Ministry of Finance

EBC/ACC Charts, %-Imports

Banking

Background

Foreign banks' role.

The activities of foreign banks in Japan date from the end of the Edo period. After the second world war, they played a leading role in handling Japanese transactions with foreign countries. Since then, their presence and activities have changed in line with circumstances. Overall, the presence of foreign banks in Japan has contributed to the internationalisation and development of the Japanese financial markets.

Globalisation of financial services.

Some European banks entered the Japanese market during the fifties, yet the majority came in the mid seventies and early eighties. The European banks' strategy for Japan was part of a globalisation of financial services, and corresponded with similar advances made by Japanese banks into the European market. European banks expected to participate in the liberalisation and internationalisation of the Japanese economy and its financial system. To some extent their interest relied more on expectations than on market realities.

Minuscule market share.

In March 1981, some 64 foreign banks with 85 branches were operating in Japan, of which 24 banks or 37.5 % were European. In June 1995, 90 foreign banks were operating in Japan with 142 branches, of which European Banks accounted for 37, or 41.1% of the total. Three subsidiaries and 58 representative offices further complement the European banking presence in Japan. From 1981 to March 1995, the participation of foreign banks in domestic loans and discounts decreased from 3.25% to 1.8%, and in deposits increased from 0.93% to 1.02%.

The commitment by the Japanese authorities towards deregulation, liberalisation, and internationalisation of the Japanese market was one of the promising incentives that encouraged European banks to come to Japan. Foreign bankers wanted to take advantage of sophisticated banking instruments, financial proficiency, technology and innovation. However, as time has shown, industry expectations were too great as regards the pace, quality and possible benefits of expected reforms.

This crude reality has caused some banks to reassess their position in Japan. Nevertheless, most European banks would be pleased to enhance cooperation with the Japanese authorities in an effort to promote Tokyo as a truly first class international financial centre.

Key Problems

Over regulated market.

In Japan foreign participation in banking not only concerns economics, but is further complicated by other issues such as a complex web of laws, regulations and guidance, through which the government controls the financial market. In addition to this, the characteristics of the Japanese financial system, the peculiar Japanese accounting norms and business practices, the high operating costs and taxes, discourage foreign bankers from expanding in Japan.

Over the last fifteen years the government has implemented many changes to Japanese Banking Law, and to the financial system as a whole. These changes have not improved conditions, but rather have aggravated the market quota of foreign banks operating in Japan.

Offshore market.

- Tokyo's offshore market remains undeveloped due to the overly-strict demarcations existing between domestic and offshore markets. Ratings are inadequately reflected in prices in the unsecured yen call market and the CD market. The trading tax on securities in repurchase agreement transactions is an additional impediment to development. For Euro Yen commercial paper there is still a 14-day lock up period (or seasoning period). This makes access to the market difficult.

Bond market.

- In the Bond market there are several areas, including the secondary market for government-secured and municipal bonds, which leave room for improvement. For liquidity maintenance, trading concentrates on benchmark issues, causing problems in price formation. Financial instruments are not sufficiently diversified.

Foreign exchange markets.

- The development of the foreign exchange market is slow and there is a lack of transparency in the approval process for new financial instruments.
- In the derivative markets, accounting practices differ from international standards and the approval process for new financial products is unclear.

Tokyo as international financial centre.

- Tokyo, as an international financial centre, lags behind London and New York. Tokyo has sufficient financial institutions, large-scale capital and financial markets, and highly developed communications and information networks. However, it lacks well-diversified capital and money markets and has other deficiencies, including:
 - The limits on numbers of transactions, the level of obligations for filing reports to authorities, the presence of fire-walls.

- Inadequate disclosure by financial firms, and the difficulty in recruiting personnel specialised in international finance.
- In comparison with other markets in Asia, Tokyo is currently the most important, but there is a growing perception that in the medium term Singapore could outrank Tokyo. Singapore offers better earnings prospects for foreign financial institutions, fewer limits on transactions and a lower degree of regulation on foreign exchange and capital transactions.

The EBC Banking Committee encourages the Japanese authorities to maintain Tokyo as the most important financial market in Asia. Eventually, the Japanese administration could carry out the necessary improvements for Tokyo to become the most important financial centre in the world, and for the yen to play a bigger role in international trade and finance.

Recommendations

The overall assessment is that efforts towards deregulation of the financial market are slowly taking effect, but fall short of the standards achieved by London and New York. The present situation is that Japan is far from being globalised, and the EBC Banking Committees therefore notes:

- The reform is not sufficiently transparent.
- The terms of competition with Japanese financial institutions remain unequal.

Demarcations between offshore and domestic markets.

- Disclosure by financial institutions remains inadequate.
- The reforms have not helped to increase foreign banks' market quota or profit.
- The removal of the strict demarcations is needed between the domestic and offshore markets.
- The removal of the 14-day lock up period for Euro-Yen is desirable.
- Greater diversification of financial instruments is required.
- The enhancement of settlement procedures is needed as well as building-up of the market-market function.

Bonds.

- The reduction of the issuing costs for Samurai bonds should be in line with Euro bonds. The elimination of restrictions on the issuance of bonds by foreign privately owned financial institutions, and the improvement of the secondary market are also needed.
- The harmonisation of accounting standards is encouraged in line with internationally accepted standards.
- The reduction of the obligation for filing to the authorities is requested.
- The practice of fixed commissions for foreign exchange broker-dealers should be changed.

Chemicals

Background

Foreign companies represent significant part of the Japanese chemical sector.

The chemical industry in Japan is ranked number three in the world after Europe and the United States. Foreign companies represent a significant part of the chemical sector as far as sales, marketing, production and research are concerned. Around one hundred European chemical companies have commercial activities in Japan. Some of these companies use Japan as a base to cover Asia. Most of them are involved in Japanese Chemical Industry Associations and are members of the EBC Chemical Committee.

A surplus for Japan in the chemical trade balance - but not with Europe.

In 1995 the amount of chemicals imported to Japan were substantially less than the amount of chemicals exported from Japan, resulting in a surplus for Japan. However, the European chemical trade with Japan in the same year represented a surplus for Europe.

There are still some direct and indirect obstacles.

Although the situation for foreign companies has improved over the past few years, especially as far as cartels and import tariffs are concerned, there are still a number of direct obstacles which must be overcome.

Key Problems

New tariffs slow in implementation.

In spite of the new linear reduction over a period of 10 years, tariffs for high density polyethylene and polypropylene remain high compared to Europe. The implementation is very slow and not in line with the GATT recommendation. This also applies to other products, such as sorbitol.

Tariffs calculated on a percentage of CIF value.

The current methods of calculating tariffs for polymers need to be simplified. Rates are calculated in terms of yen per kilo, which is unusual and difficult to convert into normal business terms.

Specific approval needed for inflammable gas containers.

Heavy import tariffs remain on some products which are not produced in Japan, such as special acrylic fibres.

For inflammable gas, it is still necessary to obtain specific approval for bulk container use for inland transportation, even when these comply with internationally approved standards such as DIN, DOT, CSC and IMCO. For each loading of a container, detailed fabrication data of the containers are required in order to receive transport approval, and such approval is only valid for a limited number of days.

Cost of inland transportation.

Cost of inland transportation in Japan is extremely high compared to other developed countries, and the complexity of distribution is worsening this situation.

Maximum loading on truck is very little.

The maximum quantity which can be loaded on a truck is 19 tons, which is very low compared to other important nations.

Lack of warehousing and tank yard facilities.

There are not enough warehousing facilities for toxic materials, or free tank yard facilities. This situation is very often particularly detrimental to foreign companies.

Lack of harmonisation.

It takes a very long time to have new products and substances registered, even when already registered in Europe and the U.S.A. There is a lack of harmonisation.

Time required to obtain import licences.

Pharmaceutical raw materials can only be imported after proper import licences have been issued by MHW. The period between filing the required documents for

approval and a licence being obtained is about 18 months. It can be considerably longer, disregarding whether identical materials are already imported or locally produced by other companies. For materials contained in the Japanese pharmacopoeia the approval process is much shorter, e.g. 4 weeks.

Lack of incentives for foreign investments.

The costs of investing in Japan remain very high and existing incentives are not sufficient to attract foreign direct investments. This is important, as the foreign chemical industry has high potential and willingness to invest in Asia, but other Asiatic countries are becoming more attractive and this is often to the detriment of Japan.

Fair Trade Rules.

Most of the existing cartels have been officially dismantled.

Fair Trade Rules appear to be more carefully implemented, with some exception for position of monopoly of newly created companies by mergers or joint ventures.

Recommendations

- The Japanese authorities should accelerate the process of tariff harmonisation with other countries and within the frame of the GATT recommendations.
- The current methods used to calculate tariffs by kilo must be simplified.
- The mandatory container approval for inland transportation of inflammable gas must be abolished when containers have received international approvals.

- Steps must be taken by Japanese authorities to reduce the cost of inland transportation.
- Maximum loading on trucks must be increased.
- Warehousing facilities for toxic materials and free tank yard facilities must be extended for safety reasons, but also to allow foreign companies to have easier market access.
- Registration procedures for new products and substances must be harmonised with those existing in Europe and the U.S.A.
- The time required to obtain import licenses for fine chemicals used as pharmaceutical raw materials must be reduced.
- Incentives must be given to foreign companies to invest in Japan.
- Fair Trade Rules must be fully respected.

Construction

Background

Japanese closed market.

The EBC Construction Committee, established in 1993, embraces the following sections in the Japanese construction market:

- Import of construction materials.
- Architecture, design engineering and services.
- General construction.

The Japanese market, which was worth approximately ¥ 48 trillion in 1993, was almost closed to foreign construction companies until 1988, when limited measures to open the design and construction market were facilitated through the Major Projects Arrangement (MPA). The MPA system was replaced in Japan in 1994 by the "Action Plan on Construction." This allows bidding by some pre-qualified foreign construction and design companies, for some public works projects valued over SDR 5 Million.

Key Problems

Import of building materials.

Most building materials consist of raw or bulk materials such as stones, wood products, plastic floor coverings and ceramic tiles. Importers and architects face problems in convincing job site managers to use the more innovative, imported energy-saving components and equipment. The main excuses given are that these goods are not well known and the managers are

reluctant to guarantee a proper execution of the work, despite such goods being approved by relevant Japanese authorities.

Only one MPA project assigned to a European Company.

Experience through MPA shows that European construction companies have been treated on an unequal footing compared with others. Only one MPA project has been assigned to a European company. Japanese subcontractors usually work exclusively with specific general contractors, and penetrating this closed organisation is extremely difficult. The very tight link between administrative officials and Japanese firms does not encourage the move towards a more open market.

Consultant services are not valued separately.

Conditions for obtaining a Japanese architect licence are severe. For example, applicants must have practised abroad and have had at least three years experience in Japan. European architects and engineers are recognised internationally as having experience in renovation, energy saving and waste treatment. However, European professionals are currently not permitted to contribute significantly to construction work in Japan. Consulting services to the private sector, as well as to the public sector, are not as well developed in Japan as in other industrial countries as they are considered additional costs.

Design and engineering are commonly included in a package with construction costs, which makes separate offering difficult.

Third party project managers could secure better quality control on site, compared to in-house control. In Europe, control is mostly undertaken by architects or specialists who have no relationship with contractors.

Recommendations

The EBC construction Committee recommends the following to the Japanese Government:

Construction materials.

- Deregulate the transport industry to facilitate access to competitive prices.
- Accept construction material standards and foreign test data produced by the relevant authorities.
- Harmonise specifications for materials among the different government agencies.
- Simplify approval testing procedures in "independent" test centres.

General construction.

- Extend the new public work bidding system to local administrative areas such as municipalities, prefectures etc.
- Standardise the pre-qualification system, i.e., the criteria should be the same for every municipality or public institution.
- Lower the threshold under which the new bidding system is not compulsory.
- Simplify procedures for validation of those foreign techniques proved to be successful in a specified number of countries.
- Leave space in tenders for innovation and alternative proposals, processes, design and materials, which could subsequently reduce costs while maintaining or enhancing quality.

Design, engineering & services.

- Promote cooperation between Japanese and European international contractors, known to be outstanding construction exporters. This could provide a positive impact both on the competitiveness and innovation of the domestic market, and on the international development of Japanese contractors.
- Recognise that some European University architectural licences are equivalent to the 1st class architect licence in Japan.
- Improve cost performance of the construction industry by transparent pricing and consideration of alternative bids for the same project, using independent third-party consultants.
- Promote product service descriptions that provide a basis for comparison with alternative equipments.
- Promote third company consulting, for example for cost control of a contractor to show that even with “additional costs” of a consultant, the overall cost can come down remarkably.

Cosmetics

Background

Import market share.

The cosmetic market in Japan totalled ¥ 1.4 trillion in 1995. The imported share for foreign business was 4%, of which European companies had the majority of 2.8%. Of imported cosmetic products, 3.75% are distributed through department stores. Most cosmetics retailers are connected to chain-store systems of local brands and are not selling imported cosmetics. They represent about 65% of Japan's total cosmetic market.

Safety data.

Production and importation of cosmetic products are subject to approval by the Ministry of Health and Welfare. Formulas and safety data have to be presented to obtain approval, for both imported and locally produced products.

Comprehensive Licensing System.

Registration of cosmetics has been partly simplified by the introduction of the Comprehensive Licensing System (CLS). The CLS system includes 25 product categories, which again cover a range of cosmetic products, with each category having its own list of approved ingredients. Under CLS, if the cosmetic product contains only ingredients already allowed in the corresponding category, it is not necessary to apply for registration, and notification of manufacturing/import sale is sufficient.

Registration of cosmetics is still required when ingredients are used which are not listed under the specific CLS product category, even though the ingredient is listed in another CLS product category. In this case it is necessary to apply for ingredient

Slow, costly and lack of transparency.

registration and obtain an approval before product manufacturing/import.

Ingredient approval is slow, costly and lacking transparency. Reasons for refusals cannot be debated, even if the ingredient has a long history of safe use in the EU or the USA.

Over the past eight years the number of approved ingredients has increased to approximately 2,500 ingredients.

In March 1995 a deregulation programme, to be implemented in April 1996, was announced by the Japanese Government. This package promises to:

- Ease the import application procedures for parallel importers.
- Allow the use of floppy disk processing of import licence applications, for speedier processing.

They will further study for the "near" future.

- Decreasing the 25 categories for CLS.
- Increasing the number of approved ingredients.
- Allowing the possible acceptance of preservatives already used worldwide.

Until 1999, MHW will further study the possibility of harmonising their registration system with that of the EU and the USA.

Harmonisation

Every two or three years, worldwide meetings for mutual understanding and harmonisation of industry standards are organised by the American Cosmetic Toiletry and Fragrance Association, the European Cosmetic Toiletry and Perfumery Association and the Japanese Cosmetic Industry Association. The next meeting will be held in Washington, USA in the spring of 1996.

Key Problems

Parallel imports.

Deregulation which favours only parallel imports could damage the long term investment made by already active brands. New entrants would face the same market entry regulations as before, and current proposals by the Ministry of Health and Welfare (MHW) are only for products which have already been granted import permission. This current proposal suggests unequal treatment for importers and is vague on the implementation of guarantees for consumer safety.

International price comparisons by the Keizai Kikaku Cho, initiated by MITI, are prejudiced, incomplete and lack serious methodology.

Distribution network difficult to penetrate.

Japan is still allowing the cosmetic industry to practice a so-called SEIDO-HIN system. Chain store agreements between major local brands and retailers make it very difficult for outsiders to penetrate the distribution networks. Moreover, the current system with the "big store law" and special tax treatment protects the retailers. These protections favour the industry but not the consumers.

Current regulations such as the Japanese labelling of imported products, are not being followed by “unofficial” importers and the authorities are not implementing the regulations fairly.

Recommendations

For product registration of cosmetics, Japanese standards of evaluation and acceptance of ingredients should be harmonised with EU and US standards.

The announced deregulation package should be implemented and the same registration procedures should apply to all applicants and products. There should be fair and equal treatment of all importers.

Too much emphasis is placed on registration of products and not enough on the control of products in the market. Increased control could help to eliminate counterfeit goods which could cause health risks to consumers.

The distribution system should be made more accessible for imported products.

No Government surveys.

No further international price surveys should be undertaken unless they include prices for other commodities such as gasoline, housing, advertising and other elements which influence the price of both foreign and local products in the Japanese market.

Defence

Background

Budget.

Japan has, due to its pacifist post-World War II constitution, a comparatively small defence budget of around 1% of its GNP. However, due to the size of the Japanese economy, that budget is significantly larger than those of countries such as France, Germany or the UK.

Technology and export limitations.

Over the years Japan has developed an armament industry, first through licences and technology transfers, but now increasingly through indigenous development, which covers most of the needs of the armed forces. However due to the self-imposed interdiction of weapon exports, quantities are limited and costs are considered very high compared to world market standards.

Import share is estimated to be around 25% of total equipment purchases, including license fees and components, but the USA has a near monopoly.

Like the rest of the world, the Japanese defence equipment budget is now limited and the Industry is trying to put more stress on civilian business. MITI has a programme to help small and medium sized defence contractors develop new non-defence business.

Key problems

European industry limited to niche markets.

The self imposed weapon export restraint also applies to technology. This prohibits the Japanese Defence Agency or defence industrial companies from communicating on

equipment specifications with foreign parties, except the USA. This makes participation in a public bid very difficult for a European company, and co-operation out of the question.

The only sales possibilities for European manufacturers are for equipment of lesser importance, and this is only when there are no Japanese or American competitors, which limits the market to a few niches.

It is apparent that after the end of the cold war American companies in the defence sector are creating a monopoly, which is strongly supported by their government. That this is the case in a country as important as Japan is a matter of strong concern to the EBC, and it would be of mutual interest to ensure that the monopoly is being challenged, even if it is only in a limited way.

Recommendations

The EBC requests that the regulations concerning technology transfer be eased for European companies, to the same level as the USA, in order to facilitate participation in public tenders and to allow industrial co-operation.

Considering the overwhelming strength of US defence companies, there are only a limited number of cases in which European companies can compete. In those cases the EBC recommends that the supplier be chosen on the basis of merit and not on political grounds.

Technology transfer regulation should be eased.

Export Promotion

Background

Export from Europe to Japan.

The Export Promotion Committee was created by the Council of the European Business Community to attend to trade issues in sectors where the EBC does not have an active Committee. The Committee is concerned with issues involving exports from Europe to Japan and their access. The Committee members are from a broad range of business sectors.

Issues of concerns.

The Committee addresses issues that are either common within a sector or to several companies, and on a case by case basis.

The Committee is involved in activities such as:

- Documenting problems on importation.
- Formulating suggestions for improving market access.
- Providing relevant input to the European Commission for their "Market Access Problems in Japan" - "State of Play."
- Supporting the European Commission's trade missions, and the export promotion program "Gateway to Japan," by providing specialists in various sectors to address business executives unfamiliar with Japan such as:
 - Sea Japan (marine equipment fair).
 - Building and Construction Equipment and Material Mission.

- Medical Equipment Mission.
- Furniture Mission.
- Packing Machinery Mission.
- Waste Management Mission
- Cornet 96 (building and construction fair).
- The Committee may take the initiative to launch a new committee in a sector where it is necessary to overcome tangible or intangible barriers to reduce impediments to foreign business.
- The committee will, if necessary, present issues to the press.
- The Export Promotion Committee also supports the European Commission's Executive Training Program, where young executives receive eighteen months of Japanese language training in Japan.

Working relationship.

The Committee reports directly to the Council of the European Business Community. It has a well-established relationship with the European National Embassies in Japan and works closely with the European Commission's Delegation in Tokyo.

Working with Japanese institutions.

The Committee delegates members to various functions such as; board meetings of FIND, participation on the Supervisory Board of ISO 9000, and acting as an advisor to JETRO's Import Promotion Activities.

Why an Export Promotion Committee?

The EBC Export Promotion Committee believes that a stronger European presence in Japan is necessary, and that action to enhance such a situation will support businesses already established in the Japanese market.

Cut Flowers

Background

*Imported flowers are only
6% of the total market*

The Japanese market for cut flowers is the largest in the world. Total consumption grew in the period 1985-1995 from about 400 billion Yen to 800 billion Yen. Until recently the market has been dominated by domestic producers, and although imports have grown to approximately 48 billion Yen in market value, the share of imported flowers is only 6% of the total market. The market share of European Flowers is not more than 2%.

*Potential for 20% import
share*

Flower consumption in Japan is mainly centred on special occasions - such as weddings, funerals and gifts. Compared to Europe, where flowers are part of daily household consumption, the Japanese market could be developed further. It is expected that because of a changing society, home use consumption will increase and that the demand for flowers will have the potential to double within the next decade. As the Japanese agricultural sector is confronted with problems, such as a lack of successors to the older generation, domestic producers will find themselves unable to meet rising demands. After the year 2000 the market share of imported flowers has the potential to grow to more than 20%. Exports from Europe to Japan could amount to 100 - 120 billion Yen in market value. However, this can only be achieved following drastic changes in the Japanese plant quarantine system and the infrastructure of the international airports.

Through the work of the EC Delegation in Tokyo, the National Embassies and the EBC, the procedures for the import of flowers have improved. Times allocated for

plant quarantine inspections have been extended and the number of inspectors has increased.

Pre-inspection system does not solve the fundamental problems.

In 1985, bilateral negotiations between Japan and the Netherlands resulted in the establishment of the "pre-shipment inspection system", under which flowers are inspected in the Netherlands by Japanese plant quarantine officers. The pre-shipment inspection system, and the strong commitment of the Dutch flower industry, have resulted in a considerable increase in exports from the Netherlands to Japan. The pre-shipment inspection system has contributed to the increase in exports, but it has not solved the fundamental problems. Given more flexible plant quarantine regulations, exports from the Netherlands and other EU countries could increase twofold.

High international cost differentials, improved distribution methods and the appreciation of the Yen should have led to a much higher ratio of flower imports. Non-tariff barriers, however, restrict free access to the Japanese flower market.

Key Problems

Airport facilities totally inadequate

Most international airport facilities in Japan are totally inadequate for handling high and increasing volumes of cut flowers and other perishables.

Regulations outdated

The plant quarantine regulations are outdated and not in line with internationally accepted standards.

The numbers of plant quarantine inspectors are insufficient, and limited inspection times at some international airports hinder the speedy distribution of imported flowers, with obvious detrimental effects.

Recommendations

- The Japanese Government should make a detailed study of the development of inspection systems practice in the main cut-flower importing countries.
- "Selective plant quarantine systems" in advanced countries are based on the Pest Risk Analysis approach developed by the Food and Agricultural Organisation (FAO). In 1992 FAO members adopted the distinction between quarantine and non-quarantine pests to be included in the official International Plant Protection Convention Certificates. Based on the GATT Uruguay Round agreement, a sound scientific method was developed to support the Pest Risk Analysis System. As a first step, the Japanese authorities should apply minimum levels of the agreement on insects which are common in Japan and in the exporting countries, for example aphids and thrips.
- In order to speed up the procedures, inspection capacity should be increased and inspection times further extended. Inspection and clearance procedures should be simplified by establishing an on-line system between Plant Quarantine and Customs.
- Flowers failing the inspection test have to be fumigated, which reduces quality and increases cost. The Japanese Government is requested to investigate other means of disinfection. Improvements are necessary at the bonded warehouses and dispatch and distribution areas at all international airports, in particular at Narita where the biggest volumes are imported.
- As there is a basic lack of space at the airports, the Ministry of Agriculture, Ministry of Transport and the Ministry of Finance must investigate the possibilities of a fundamental change in the total handling, inspection and clearance process, to make more efficient use of space and manpower.

Food

Background

Prominent market for foreign food.

Japan is a prominent market for foreign food products and a priority customer for several European countries. A broad range of products is exported to Japan, whose food self sufficiency rate, after declining for about 30 years, reached 46% on a calorie basis in 1994. Foodstuff imports increased 9.3% to \$51.5 billion in 1995, dominated by exports from the USA, China, Australia and Taiwan.

The number of European companies currently engaged in the agricultural food sector in Japan is not as high as their participation in other sectors. Many European companies are now using the annual FOODEX exhibition to introduce their products to Japanese importers.

Promotional initiatives have been launched with the assistance of the EC, in sectors such as cheese with a brochure and a video aimed at guiding Japanese consumers, and pork meat through annual seminars promoting European quality to Japanese meat processors.

Japanese food production is legislated by strict standards and regulations, whose differences with international standards generate a wide range of obstacles to further penetration by foreign companies. This affects European firms with their broad variety of products, which more Japanese are beginning to appreciate.

Recently Japan deemed it necessary to take certain safeguard measures on all pork imports to decrease the speed of import growth.

Sales of bottled water have gone through a major expansion during the last ten years, boosted by foreign concepts of mineral water and natural mineral water. Home consumption has increased dramatically since 1991 to reach 4.5 liters per capita in 1994. Imported water currently accounts for more than one third of the total consumption, with a leading share by European natural mineral waters.

Key Problems

FOODEX

In 1996, twelve European countries were present at the FOODEX exhibition, occupying 25% of the total area with more than 5,000 square meters. Although especially attractive to foreign businesses as a means of presenting their products to professionals, the cost of FOODEX per square meter is more than twice that of the most prestigious European Food Fairs such as ANUGA and SIAL.

Dairy products.

Dairy products such as cheese, butter, yoghurt and ice cream, which were not a traditional part of the Japanese diet, have become more appealing to consumers. In addition, the food and pharmaceutical industries are using more milk ingredients for the processing of food and medications.

Many dairy products exported are seriously disadvantaged by strict import regulations and/or very high

duties. The recent shift from a quota to a tariff system, as decided by GATT, has brought extra high tariffs on certain items such as butter.

The exclusion of processed cheese in the tariff reduction scheme will lead to unbalanced competition within cheese categories.

Ingredients derived from dairy products are also facing problems because of high tariffs, customs classification and irregular market interventions due to the ad hoc release of quotas. Mixes containing such ingredients face problems of product definition and customs classification, inspection and test criteria. Furthermore certain mixes/combinations are not allowed.

Pork meat products.

Generally, a few larger Japanese groups monopolise production and they control both distribution and importation. Exporters in Europe are, to a large extent, controlled by the trading houses.

Imports are submitted to a minimum or "gate" price system which is used to calculate import taxes on a shipment. In order to minimise taxes, importers must manipulate the content of their shipment to avoid exceeding this gate price. The shipments are therefore organised with a combination of products, aiming to value them as closely as possible to the gate price. Such manipulation is a deterrent to the increase of imports.

Besides the "normal" gate price system, there is the "safeguard" which allows a reevaluation of the minimum price if imports are increasing faster than a pre-determined rate. Between November 1995 and March

1996, the gate price on pork meat was reevaluated by +23.6%. This reevaluation made frozen pork from Europe too expensive, stopping all exports. Meanwhile the USA and Taiwan continue to export their chilled meat, which competed directly with Japanese production. The safeguard is therefore working in a discriminatory way towards European products, which was certainly not its initial purpose.

Mineral water.

Despite the tremendous difference in water quality standards with Europe, bottled waters in Japan are nevertheless referred to and labelled, indiscriminately of origin or treatment, as "natural water" or "spring water," misleading customers who wish to consume "natural," meaning unprocessed, products.

In Europe, mineral water springs are protected from contamination by the purchase of extensive areas surrounding the spring and careful monitoring of nearby industrial and agricultural activities.

The European regulations define Natural Mineral Water as follows:

- To be identified as mineral water, the water must be proven beneficial to the health of the consumer.
- Only one product brand can be drawn from one water source, while in Japan one spring water can legally be marketed under several brand names.
- Any form of process/treatment of mineral water is forbidden if one wants to retain the "mineral " qualification.

Recommendations

FOODEX.

To make it possible for Japanese consumers to choose from a wider range of foreign food products it is necessary to encourage more medium sized companies to participate in FOODEX. The EBC Food Committee requests that the Japanese authorities involved ensure that expenses related to exhibiting food products at FOODEX are reduced to a level comparable to other leading international food fairs. This would put real meaning into Japanese political statements encouraging increasing importation of food products.

Dairy products.

The EBC Food Committee requests that the Japanese authorities reduce restrictions on dairy products, dairy derived products and mixed products with dairy ingredients, whether these restrictions be a quota system, tariff level or category discrimination. This would mean:

- Reducing the high level of duty on dairy products. Although an agreement has been made to reduce tariffs within 6 years from 1995, the remaining levies are still much too high.
- Increasing the volume of “duty free” imports allowed to Japanese natural cheese manufacturers in relation to their production of cheese for processing.
- Expanding levy reduction schedules to all categories without discrimination.

- Reviewing the classification of mixes with dairy ingredients and enlarging inspection and test regime possibilities.

Pork meat products.

The Japanese government must find a less disruptive way of regulating rising imports than applying temporary measures which encourage stocks and speculation. If deemed essential, such measures should be more accurately described to protect a particular Japanese production of food, rather than indiscriminately applied across a whole range of products. Therefore, the EBC recommends that a distinction should be made in the enforcement of the safeguard on pork meat to exonerate frozen meat.

However, the halting of illegal imports would prove very helpful in allowing a return to more harmonious market conditions.

Water.

The Japanese government is urged to allow health conscious customers to be fully informed about the non processed, and therefore completely natural character of European mineral water, by introducing classifications and labelling requirements enabling a clear distinction between processed and unprocessed water. It must be clear that European mineral waters have been scientifically proven to be beneficial to consumer health to earn their qualification.

The word "shizensui" used to label bottled water of all origins is unsuitable and misleading, when considering the distinctions between processed and unprocessed waters.

Insurance

Background

Japan is the largest life insurance market, and second largest non life market, in the world, accounting for some ¥ 40 trillion of premium income in fiscal 1994.

The foreign insurance market in Japan has a share of some 2.7 per cent, but if this figure is broken down into a European statistic the figure is a mere 0.2 per cent or ¥ 88 billion of premium income.

By contrast the share of foreign insurers in other G7 countries in Europe is:-

		Per cent
1	France	13
2	Germany	13
3	Italy	33
4	United Kingdom	19

History.

In 1992 the Insurance Advisory Council issued a report making recommendations for changes in the laws of Japan, together with other insurance procedures. Whilst some of these proposals were welcomed by the foreign insurance industry operating in Japan, others were considered to be detrimental to their interests. To better reflect the opinions of those parties, a European Business Insurance Committee was formed, consisting of Life and Non Life Insurers, Insurance Brokers and Reinsurers.

The third area.

The item which caused the greatest concern to Foreign Insurers was the proposed mutual entry of both the life and non life companies into the THIRD AREA. The third area consists mainly of personal accident, sickness and medical expenses insurance, and Foreign Insurers have developed an expertise in this market in the absence of deregulation. At the time of the Advisory Council report, third area business represented more than 40 per cent of Foreign Insurers premium income whilst for Japanese domestic companies this figure was less than 10 per cent.

Following the Insurance Advisory Council report a position paper was developed and issued in July 1993, which among other things requested urgent consideration of the following:

- That no deregulation should take place in the third area upon which European Insurers were so dependent until such time as there was deregulation in the primary areas i.e. the motor, fire and property markets.
- The ability to have much greater freedom to file and immediately use a range of products, of European Insurers own choosing.
- That a legal definition of life and non life be provided, similar to that found in Europe, which would ensure transparency.

The new law.

The Insurance Business Law was passed in the Diet last year and became effective from the 1st of April this year. The EBC Insurance Committee feels that there has been a lack of consultation during this period and that

the views of the foreign insurance market should have been more actively sought.

The continued delay in publication of the ministerial ordinances and the lack of consultation caused anxiety within the European insurance community, and there is continuing concern on the lack of publication of a timetable and schedule for deregulation.

Key Problems

Freedom of rate and products.

- On July 1st 1994 a single insurance market was created in Europe, allowing insurance companies to issue a full range of products and premiums of their own choosing. The EBC firmly believes that a similar process should exist in Japan today and that there should be much greater flexibility to devise new products of European Insurers own choosing together with freedom of rating and methods of distribution.
- The EBC notes with concern that new MoF requirements for changes to the pricing of life products in 1996 are more stringent than hitherto and result in greater price uniformity throughout the market. This is clearly contrary to the intended process of deregulation.
- The EBC believes that the rating association should be both an independent and neutral body, especially in the production and control of rates. Foreign Insurers or professional associations should be allowed to attend meetings and present market statistics from other countries. In the interim the EBC has noted the report made by the Fair Trading

Commission on the need to abolish all exemptions to the anti-monopoly law.

- The application of mandatory risk rates and advisory expense rates has the potential to do great harm to small companies which cannot hope to achieve the economies of scale of the large Japanese domestic companies. If this system is to be introduced small companies should be provided with adequate safeguards.
- The new law states that the Ministry of Finance must respond in writing within 90 days from the date of filing an application for a product and it is the opinion of the EBC that this period should be shortened to 30 days. The EBC Insurance Committee also believes that no such application should be refused on the grounds of timing or documentary requirement.
- The EBC welcomes the Japanese Government's commitment not to deregulate the third area without first unlocking the primary areas and now requests details be published in a timetable and schedule for such deregulation.
- The US/Japan trade talks agreement acknowledges that statistical data from outside Japan will be permitted to support applications, if such statistics are not available domestically, for the approval of an insurance product. The EBC welcomes this agreement.
- The opening up of the exclusive life distribution system should be carried out promptly and on a fair and equal basis.

Life Insurers distribution.

Insurance Brokers.

- The new Ordinances and Administrative Guidelines which came into force on the 1st of April will restrict a Brokers' ability to provide a full service to its clients.
- The EBC believes that if Insurance Brokers meet the financial and technical requirements of the authorities in Japan, they should be allowed a much greater degree of flexibility to introduce new concepts of insurance cover, rates and conditions.
- Brokers are seriously concerned that they can not place insurance cover, collect premiums, negotiate claims and distribute claim settlement payment on behalf of their clients.

Solvency margins.

- The use of solvency margins in Europe is a well established practice and therefore the EBC welcomes that principle being introduced in Japan. However, based on the different financial and legal standings of foreign non life branches, the EBC asserts that a separate standard be applied to such entities to take into account the parent worldwide assets.
- The assessment of probable maximum loss for earthquake exposures should not be arbitrarily imposed and should be the preserve of each insurer.
- The inclusion of unrealised profit on land in the proposed solvency margin standard is not an accepted practice in Europe. The EBC requests this item be deleted from the calculation as it is too dependent on movements in markets outside their control.

Assets held in Japan.

- The EBC requests that any assets held in Japan to meet the different reserve requirements should be in the form and denomination of the Foreign Insurers' choosing, in line with their respective investment philosophies. Furthermore Foreign Insurers should have the same investment opportunities overseas as domestic Japanese companies.
- In 1992 the Ministry of Finance proposed draft legislation to tax outwards reinsurance premiums. The introduction of amendments to the law was subsequently postponed but was never finally withdrawn. The EBC would oppose reintroduction of any such amendment.

US/Japan Trade Agreement.

The EBC is not a party to this agreement and has had no means of monitoring or being involved in the process to date. The EBC therefore urges that means are created to ensure that in future all interested parties are fully and actively involved. In the interim the EBC notes that a study is to take place on exclusionary business practices, including Keiretsu issues.

Recommendations

- The EBC continues to stress that the third area remains frozen until such time as there is significant deregulation in the primary areas.
- That newly formed non life subsidiaries of a life company be prevented from entering the third area until there has been significant deregulation in the primary areas.

- The EBC would like much greater flexibility to create products of European Insurers own choosing and to rapidly extend the file and use system.
- In respect of solvency margin, a separate standard should apply to branch operation. The assessment of maximum probable loss in respect of earthquake cover should be the preserve of each individual insurer.
- Insurance brokers be allowed to place insurance coverages, collect premiums and negotiate claims in a manner similar to their business practices outside Japan.

Investment

Background

Japan is the world's second largest economy, with GDP equal to about twice the rest of Asia combined. As such, Japan represents an attractive marketplace for many European companies. However, notwithstanding Japan's technical and knowledge-based lead in several key sectors, historic Foreign Direct Investment (FDI) into Japan has been relatively limited.

European investment into Japan - 90 billion.

The cumulative total of FDI from Europe into Japan between 1950 and 1994 reached only US \$ 10 billion, which is roughly 1/9th of the amount that Japan has invested in Europe over the same period.

This huge imbalance is largely a result of Japan's regulatory, structural and cultural impediments to FDI.

Company mergers.

According to KPMG, foreign acquisition activity in Japan during 1994 resulted in merely 44 deals with a total disclosed value of Yen 183 billion. US companies were the most active, with 24 transactions while European acquisitions accounted for only 14 deals. The majority of these transactions involved small, often family owned, Japanese Companies.

EBC obligations.

The main task of the EBC Investment Committee is to promote measures to facilitate European investment in Japan. At conferences, lectures and in position papers, the EBC has consistently called for the removal of obstacles to FDI in Japan and for the introduction of meaningful incentives

Key problems

The obstacles to M&A.

Major companies in Japan are often organised into clusters, with reciprocal share holdings to cement commercial relationships. Companies are very reluctant to sell such holdings. These arrangements exclude many companies from Merger and Acquisition (M&A) transactions and distort stock market prices.

Foreign investors are disadvantaged by a lack of financial information. Japanese financial statements are prepared for tax purposes on a basis which allows losses on investment to be deferred and allows the deferral of non-deductible expenses and provisions. Furthermore, the number of companies required to undergo an external audit (broadly, issued share capital of over Yen 500 million) is fewer than in other major industrialised countries.

Regulations.

The business environment in Japan is more highly regulated than in most other countries. This undoubtedly obstructs new market entry by both domestic and foreign firms. Over the past decade there has been a strong relationship between deregulation and FDI.

Government restrictions.

The Government can restrict inward investment in any sector if it is judged to "seriously and adversely affect the smooth performance of the national economy." However, in practice FDI is more likely to be restricted by individual industry regulation.

A five-year deregulation programme has recently been announced, but few extra incentives to invest are offered. Existing controls over FDI in reserved economic sectors are essentially maintained.

Incentives.

FDI in Japan is characterised by high start-up costs and poor prospects for an early return on investment. These factors, plus a host of other difficulties, ranging from recruitment problems to exclusionary business practices, discourage FDI in Japan in favour of the emerging Asian economic centres. Incentives are needed if Japan is to attract significant investment.

Whilst we appreciate efforts by the Japanese Government and its affiliated organisations, such as the Foreign Investment in Japan Development Corporation (FIND) and the Japan Development Bank (JDB), to provide incentives, the EBC believes that the publicity given to many programmes is out of proportion to their true value. Furthermore, the programmes often exclude companies already operating in Japan.

Recommendations

Mergers & Acquisitions.

The Government, banks and capital markets should encourage Japanese corporations to respect the interests of independent shareholders, to be more open to foreign joint venture/collaboration proposals and to release more information.

The share capital threshold for external audit of financial statements should be reduced from 500 million Yen to 100 million Yen. Audited financial statements should be publicly available.

Regulations.

The Government should pursue its objective of deregulation more vigorously in all sectors. This includes full execution of the Administrative Procedures Law, which clarifies administrative procedures, promotes transparency

and ensures equal treatment of domestic and foreign companies.

The restrictive provisions on the practices of foreign lawyers should be abolished.

Incentives.

The Government should systematically review the effectiveness and performance of existing incentive programmes and extend programmes to cover all foreign companies in Japan. Government efforts should be more focused and the views of foreign companies should be considered when setting policy.

More specifically, we recommend that the JDB:

- Provides loans in respect of start-up costs and equity investment.
- Focusses more on providing loans to smaller & medium sized companies.
- Provides loans to finance development of office-based, not just manufacturing-based, organisations and considers taking the lead in arranging co-finance with commercial banks.

Legal Services

Background

Increasing need for legal services.

As a general rule, only Japanese qualified lawyers, "bengoshi", are permitted to practice law in Japan. The law establishing this monopoly can impose criminal sanctions on any person contravening it.

As an exception to this rule, foreign law firms were first permitted to establish offices in Japan in 1987. However, the conditions under which they can operate are restrictive. This is particularly relevant since Japanese and foreign firms need increasingly to have legal advice on international transactions or disputes.

Foreign law firms are permitted only to practice through designated lawyers "gaikokuho jimu bengoshi" (GJB) who have been licensed in Japan. These GJB can act in matters which involve the law but only of a jurisdiction in which they are qualified to act and not otherwise.

European lawyers with GJB's in Japan act for Japanese clients with business in, or subject to the law of, the jurisdiction(s) in which the firm's GJB is qualified, and for existing foreign clients with business in Japan who want to use their existing lawyers to assist them in obtaining appropriate legal advice.

Key problems

American and European lawyers together raised, in the context of the GATT negotiations, a number of problems affecting their ability to practice in Japan. As a result some minor amendments have been made to the law, but they are by no means enough. The main issues are described below.

Five year's experience in the country of principal qualification is a requirement for a GJB licence. An amendment to the law at the beginning of 1995 relaxed this to the extent that two of those years can have been spent in Japan, but practicing the law of qualification in any other foreign country is disallowed.

The lawyers that are of most use in Japan are those with experience in advising foreign businesses. It is usual for such lawyers to have spent some of their time abroad elsewhere than in Japan. It is believed that the five year requirement is unnecessary, but even if it remains, the additional restriction on the two years exception serves no purpose other than to be a further barrier to bringing suitable lawyers into Japan.

Only bengoshi is permitted to advise on third party law.

Although GJB are entitled to pass on to Japanese clients advice obtained from other jurisdictions provided the source is clearly indicated, Japanese lawyers argue that under the current law only bengoshi are permitted to handle third party law. This appears to be an attempt to oblige clients to use bengoshi, and not the international law firms which are clearly more competent in this field, when legal work in several jurisdictions has to be effi-

ciently co-ordinated and the client given overall legal advice.

No wish for foreign law firms to practice Japanese law.

International European law firms have no wish to practice Japanese law without using Japanese lawyers. A much improved service could be provided to clients trading or investing in Japan if their international lawyers had a Japanese qualified partner who could provide the advice as part of the overall service by the firm.

Restriction on co-operation.

A change in the law in 1995 permits a joint arrangement between a foreign firm and bengoshi, but it is highly restrictive. It is unlikely to work unless used as a facade for a more workable partnership.

Employment of bengoshi.

The service to clients would also be much improved if GJB could employ bengoshi. This is not permitted. There are few other countries that prohibit employment in this way, even if there are restrictions in limited areas such as appearance in court.

Unfairly strengthen position of Japanese party.

The effect of a combination of laws in Japan has meant that in practice any foreign company with an arbitration that is held in Japan must employ a bengoshi to conduct the arbitration even though the governing law of the contract is not Japanese law. If the Japanese party is able to negotiate a contract with an arbitration clause that requires arbitration in Japan, for example, these legal impediments unfairly strengthen the negotiating position of the Japanese party in the event of a dispute.

Restrictions deprive Japanese of business.

In terms of business, these restrictions have worked to the advantage of most international firms since they inevitably advise their clients to avoid if at all possible

arbitration clauses that permit arbitration in Japan. As a result, the business probably goes to Hong Kong or elsewhere where such firms can handle it in any event. Despite this, it is a restriction that is unhelpful to clients and deprives lawyers, both foreign and Japanese, of business in Japan.

Arbitration.

A study commission set up by the Ministry of Justice and the Federation of Japanese Law Societies "Nichibenren" is looking into the problems of arbitration at present which are now being implemented. This will improve the situation.

Ministry reluctant without support from Nichibenren.

As a result of the GATT negotiations, Japan amended the law governing GJB's with effect from the beginning of 1995. The Ministry of Justice has been reluctant to do much more without the support of the Nichibenren and that support is very unlikely. Only a very small proportion of Japanese lawyers do any commercial work, even domestic work. They concentrate much more on crime and tort. Although they will be largely unaffected by the changes sought by European and American lawyers, they nevertheless claim that foreign law firms will eventually move into their practice areas.

Progress.

The need for good international legal advice at the early stage of a negotiation is increasingly important for Japanese companies investing abroad. As much as possible needs to be done to educate Japanese firms of this need. They may then in turn strongly encourage the bureaucracy to bring about more change.

Since the first publication of this White Paper here have been encouraging signs that this is happening. The

Administrative Reform Committee recommended further deregulation and the Ministry of Justice has announced an intention to set up a new study commission. The EBC hopes that this commission will be constituted so that it represents and reflects the needs of clients as well as the contentions of the lawyers.

The EBC also deems that gradually, Japanese lawyers themselves may come to realise how much they are losing out by not opening the market. The ability to work for international firms whose clients include major Japanese companies as well as many others is an opportunity that is now denied them.

Recommendations

- Reduce or abolish the years of experience required for lawyers wishing to work in Japan.
- Allow foreign lawyers to handle third party law.
- Allow Japanese qualified lawyers to work in foreign law firms in Japan.
- Remove the restriction on the permit of joining arrangements between foreign firms and bengoshi.

Liquor

Background

The European wines and spirits industry produces a large percentage of the world's finest and most famous alcoholic beverages, widely acknowledged to be pre-eminent in terms of quality.

Highly discriminatory tax.

Despite progress in recent years, Japanese market penetration rates achieved by EU distilled spirits producers remain at low levels, due principally to the continued existence of a highly discriminatory liquor tax regime. Indeed, total imports of spirits from all countries comprise only 8% by volume of the Japanese market, compared with an imported spirits penetration rate of 30% or more in other industrialised democracies.

In contrast, the liquor taxation system as applied to wine in Japan does not discriminate against imported products and with this background EU producers have succeeded in gaining a market share in excess of 40%.

WTO Panel established.

The initiatives of the EBC Liquor Committee have been strongly supported by the European Commission and Confederation Européenne des Producteurs de Spiritueux (CEPS), particularly in the area of liquor tax. Following EBC and CEPS representations, the Commission secured a favourable GATT Panel ruling in 1987 which led to a narrowing of liquor tax differentials by the Japanese government in 1989 and 1994. Despite these changes, large discriminatory differentials still persist and the dispute was referred to a WTO Panel by the EC, the United States and Canada in September 1995.

"Zero for zero" agreement.

Other areas in which EBC lobbying activities have had a material result include import duty, tariffs on whisky and brandy imports being phased out under the "zero for zero" agreement in the GATT Uruguay Round and product labelling specifications. As explained below, however, further progress in both areas remains a priority for the EBC.

Tax discrimination against imported spirits.

- Continued liquor tax discrimination against imported distilled spirits in favour of domestic products distorts consumer demand and restricts fair market access by European producers. The current liquor tax regime contravenes a clear GATT Panel ruling in 1987, which the Japanese Government accepted but has not fully complied with.

Whisky and brandy taxed four to seven times higher than shochu.

The 1987 GATT Panel found that Japan's liquor tax regime discriminated against imported spirits in favour of domestic products and required the reduction of liquor tax differentials on all distilled spirits to "de minimis" levels. The Japanese Government accepted the GATT findings but, nine years later, these have been only partially implemented. Whisky and brandy continue to be taxed between four and seven times more than shochu while for other spirits (e.g. vodka, gin and rum), the tax rate is some two to three times higher.

Loose product definitions encourage domestic producers to "experiment at the margin".

- Product definitions for alcoholic products are still very loose, allowing European nomenclature to be applied to products made in Japan, such as whisky and liqueur, which would not qualify for use of such terms in Europe. This misleads consumers and allows Japanese producers to exploit discriminatory

liquor tax differentials and market products which fall below internationally accepted product specifications.

"Zero for zero" does not cover white spirits.

- Duty rates in Japan remain unreasonably high. Under the GATT Uruguay Round the Japanese Government agreed in 1993 to a "zero for zero" basis on duty rates for imported whisky and brandy. However, this is to be phased in over ten years. Meanwhile, the Japanese Government did not agree to reduce or remove duty on imported white spirits. This duty remains as a significant impediment to European white spirits producers in their efforts to compete against shochu, which accounts for 98% of the white spirits consumed in Japan. In addition, the protectionist intent and effect of the duty is compounded by a tax rate on gin, rum, vodka, etc. which is two to three times that levied on shochu.

Restrictive retail liquor licensing.

- Under the Large Scale Retail Stores Law, retail liquor licenses are granted automatically only to very large stores with a total floor area of more than 10,000 square metres. This restricts the access of European alcoholic beverage products to Japanese consumers in the majority of modern and progressive retail outlets (e.g. most supermarkets and many convenience stores).

Wholesale licensing procedures opaque and unevenly regulated.

- Several kinds of wholesale liquor licenses exist, e.g., oo-oroshi and oroshi, and separate licenses are required for each sales office operated by the manufacturer or importer of liquor products. Criteria for licensing approval are not transparent. Moreover, the present licensing system becomes blurred because regulations are policed unevenly.

Recommendations

A single tax rate per litre of pure alcohol for all distilled spirits.

- The Japanese Government should fully implement the 1987 GATT ruling to reduce liquor tax differentials across all spirit categories, including shochu, to 'de minimis' levels. The most transparent method of compliance would be to levy a single tax rate per litre of pure alcohol for all distilled spirits.

The EBC does not seek preferential treatment for imports, nor specific levels of tax rates, nor "guarantees" of market share; the request is simply for a level playing field on which to compete fairly in all sectors of the market. This would also benefit Japanese consumers by allowing them to choose their distilled spirits on the basis of taste preferences, not tax preferences.

Adoption of international product definitions.

- Product definitions in Japan should be raised to the level of product specifications prevailing for all international liquor categories, as defined in the EU and USA and endorsed by the International Federation of Wines and Spirits. Liquor tax loopholes which permit or encourage domestic producers to experiment at the margin of product definitions should be closed.

Extension of "zero for zero" to white spirits.

- The EBC requests the Japanese Government to phase out duty on imported white spirits in line with, and at the same time as, the phasing out of duty on imported whisky and brandy.

Relation of the large Scale Retail Stores Law and retail liquor licensing.

- The EBC strongly endorses the EU proposal that Japan relax the Large Scale Retail Stores Law by lowering the threshold for "automatic liquor licensing" from the existing 10,000 sqm. to 3,000

sqm. Moreover, simple and transparent license approval criteria for retail stores below the threshold should be introduced.

*Simple, transparent
wholesale liquor licensing.*

- Either the wholesale liquor licensing system should be consistently and universally enforced, with a clear separation between the tiers of distribution, or the deregulatory measure of allowing all manufacturers and importers of alcoholic beverages to sell directly to retailers should be introduced. Moreover, licenses should be geographically "borderless" within Japan and simple notification to the tax authorities should be accepted in case of change of address or establishment of a new branch office by an existing license-holder. Finally, simple and transparent application vetting criteria should be established.

Medical Diagnostics

Background

Market data of IVD in Japan.

The Japanese In Vitro Diagnostics (IVD) size in 1993 was ¥ 252.4 billion. The foreign business market share was 34% and the European business share was 17% of the total market.

Instruments and reagents are treated differently under the Pharmaceutical Law.

The IVD products for reagents and instruments are used by clinical testing laboratories such as hospitals, private laboratories and blood transfusion centres, to carry out diagnostic tests on clinical specimens. However, instruments and reagents have to be considered as separate issues, as they are treated in different ways under the Pharmaceutical Law in Japan.

In-Vitro Diagnostics classified problematical.

In Japan, IVD products are classified as pharmaceuticals and therefore need specific approval application. This approval application raises some specific questions for the applicant:

- The registration of class 2.2 products, also defined as “me too” products, is supposed to take a standard processing time of six months, as defined by the Ministry of Health and Welfare (MHW). In reality however, the standard processing time is nearly nine months.
- All class 1 products and some class 2 products have to undergo additional Documentation and Laboratory Testing (Yoken) and/or pass the Investigation Subcommittee Examination under the Pharmaceutical Affairs Council, (Chosakai). The products that have to undergo Yoken, regardless of class, are blood

typing sera and blood transfusion related parameters. Further important parameters in the light of public health, defined by MHW, have to undergo Yoken.

- The necessity for at least six months stability test data for three lots of IVD is time consuming.

The financial values, related to the proposed changes, are estimated as follows:

- Direct registration costs, affecting all companies, including Japanese, ¥ 10 - 20 billion.
- Losses from inflicted delays in launching new products, by all companies, ¥ 20 - 40 billion.
- Loss of market share by foreign companies because of delayed launching of products in Japan compared to home base country, ¥ 15 - 30 billion.
- Loss of profit by foreign companies wishing to avoid registration and therefore distributing through Japanese companies, ¥ 10 - 20 billion.

Registration of IVD in Europe.

In Europe, the situation for IVD varies from country to country. In France the registration is easier and takes approximately four months. In Germany the number of tests to register is limited to plasma proteins and some infectious diseases. In other European countries there is no registration except for reagents used in blood transfusion and for major infectious diseases such as Aids and Hepatitis. Future European registration, currently under preparation, will only require registration for reagents used in blood transfusion and major infectious diseases.

EBC history in the field of IVD.

The EBC Committee for Medical Diagnostics was established in 1986. Its purpose was to focus on impending problems related to the required IVD registration procedure, which was introduced in 1985. Four years ago the EBC established a list of twelve "Problem Areas" for improvements, especially in the field of registration. The list of problems, which was later shortened to eight, was recognized as a working document by the American Chamber of Commerce in Japan (ACCJ) and the Japanese Association of Clinical Reagents Industries (JACR). Through informal contacts the list was submitted to MHW. Independently, JACR founded a working group, which included the ACCJ and the EBC, for the purpose of developing the idea of a specific category for IVD, separate from pharmaceuticals. This proposal was officially submitted to MHW in November 1993.

MHW working on deregulation after EBC's request.

All these requests were repeated to the Office of Trade and Investment Ombudsman (OTO) in February 1995. On this occasion the EBC also requested the creation of a category of IVD medical devices, in accordance with the European Parliament and Council Directive on In-Vitro Diagnostic Medical Devices. The MHW's answer to the proposals tabled at the OTO, advised as part of the deregulation process the establishment of an "Investigation Group for Making IVD Approval Standards" for a notification system. The ministry also addressed their views on the eight points raised by the EBC. As a first measure MHW has introduced the floppy disk as a data carrier of application approval data which is expected to lead to a shortening of the application processing time.

Key Problems

Classification of IVD as pharmaceuticals.

- The classification of IVD as pharmaceuticals is a general problem that continues to be time consuming and cumbersome in achieving registration.

Processing time of applications.

- The current approval application system to register IVD also for class 2.2 products has led to an average processing time of nine months, including delivery processing time of six months announced by the MHW.

International standards and norms.

- The international tendency to introduce standards and norms in the field of IVD manufacturing Good Manufacturing Procedure (GMP), International Standard Operation Norm (ISO), will also take place in Japan. It is, however, expected that the authorities will create specific Japanese versions of such standards and norms that will not necessarily fit with those of Europe.

Recommendations

- To separate IVD from pharmaceuticals and create a category according to the spirit of the proposal of the EU Council Directive on IVD medical devices, within the framework of the Pharmaceutical Law. This item is not under discussion at the moment, as the focus is on the installation of the notification system, but it is the long term target of the EBC.
- To support the Investigation Group, making IVD Approval Standards for a notification system, the JACR and the ACCJ support the EBC's effort through their own committees and in the San Sha

Kaidan. The time frame announced for the Investigation Group's work by the MHW is still two years.

- To follow up the activities of the MHW, which are announced in the following fields:
 - The achievement of the standard processing time of six months.
 - The shortening of the six month real time stability of IVD and/or acceptance of accelerated stability data, as a prerequisite of the application for registration.
 - Improve the definition of products which have to undergo Chosakai and/or Yoken.
- Progress in these areas is anticipated by March 1996, but failing this, a complaint to OTO should again be considered. However, the reduction of requirements for pharmacists performing different duties is realised from 1 February 1996, as requested by the EBC-CMD.
- The reaction of the Japanese authorities to international standardisation and norms, e.g., ISO 9000/EN29000, and GMP, have to be monitored and influenced through San Sha Kaidan in order to avoid separate standards being developed which could lead to additional bureaucratic hurdles.

Medical Equipment

Background

Inexpensive copies of European equipment.

European-made medical equipment has a long history in Japan, based on a tradition of innovation and superior performance. New types of products have typically been introduced from the West and Japanese companies, unencumbered by research costs, were quick to make inexpensive copies or adaptations of western products. Thus, historically, foreign-made equipment has been limited to technologically superior products, innovative products that are not easily copied, or those where the Japanese market is too small to make the copying of products worthwhile.

Licensing procedures slow.

Along with the improvement of the health care system during the past twenty-five years and increased domestic manufacturing costs, foreign companies have had the opportunity to expand their market share. During this time various trade barriers, such as high import duties, slow licensing procedures and difficult spare parts processing, have conspired to increase costs and delay product introduction by foreign companies. These barriers have helped to protect Japanese manufacturers from strong competition and given them additional time to develop copies of foreign products.

Trade barriers.

The EBC Medical Equipment Committee was established in 1984 and worked to ease or eliminate direct forms of trade barriers. Since that time the following areas of improvements have been realised, in cooperation with the Ministries of the Japanese Government:

- Elimination of all import duties on medical equipment.
- Shortening of time periods for approval procedures.
- Recognition of chemical and electronic test data obtained abroad.
- Improved procedures for licensing modified equipment.
- Improved procedures for displaying and demonstrating un-licensed equipment at exhibitions
- Easing of customs procedures for spare parts.
- Improved consultation procedures with government organisations.

Key Problems

Incentives to doctors using high performance equipment.

In addition to the difficulty newcomers experience in trying to break into a competitive market in a country with different business practices, the problems faced by the industry are related to the way government budgets are allocated. This includes equipment of different performance, payment to doctors and hospitals under the medical compensation system for using different types of modalities and unification and mutual recognition of standards. Recent changes in the procedures for government tenders often discriminate against high performance equipment and make the system unwieldy.

Recommendations

The Medical Equipment Committee recommends that:

- Doctors and hospitals should be adequately compensated, under the medical reimbursement systems, for purchasing and using European medical equipment.
- Allocation of government budgets should take better account of the need for quality equipment.
- The movement to unify standards needs to be accelerated, and mutual recognition of good manufacturing standards with European ones needs to be achieved.
- The new government tender system needs to be streamlined.

Patents, Trademarks & Licences

Background

Increase in infringement of property rights.

The economic value of intellectual property rights has increased significantly because of the rapid incorporation of high technology and software applications into the economy over recent years. A consequence of this has been a pronounced increase in the frequency of infringement of these rights, raising the need to reinforce regulatory safeguards.

Japan one of the most advanced countries.

For a long time accused by other industrialised countries for its abusive and discriminatory use of the intellectual property system, over the last twenty years Japan has been working to improve its image as a fair protector of foreign techniques and know-how. Reform of the intellectual property laws has been far-reaching, making Japan today one of the most advanced countries in this regard.

Global harmonisation.

Japan has followed the predominant trend towards global harmonisation and has been actively involved in different rounds of negotiations within the World Intellectual Property Organisation (WIPO) and within the General Agreement on Tariffs and Trade (GATT) where a special agreement was recently concluded on Trade-Related Aspects of Intellectual Property Rights.

Stronger action by police and customs.

In line with global harmonisation of intellectual property laws and practices, the Japanese Patent Office has improved the process of patent and trademark applications. Stronger action has been taken by the

police and customs office to deal with infringement of intellectual property rights. Protection of software was granted under copyright law in 1985. The Trade Secret Law was enacted on June 29, 1990. Protection of service marks was introduced on April 1st, 1992. Penalties against infringers were substantially raised in 1994. Protection of notorious trademarks and against dead copies were granted in the same year. Further, the latest revision of the Patent Law will greatly alleviate criticism of the Japanese system, by the introduction of the post-grant opposition system, together with the right to file Japanese patent applications in the English language initially, and the alleviation of amendment procedure.

New provision in the law promising, but how will it be in practice?

Despite all these efforts, it remains to be seen whether enforcement of this most recent provision of the law will, in practice, be as promising as the enhancement of the law was in dispelling former criticism. The lack of efficient legal measures against infringers of intellectual property rights, especially in the case of patent and software infringement, remains as one of the obstacles faced by foreign companies in Japan.

Key Problems

- Average length of pending applications in Japan is still one of the longest among developed countries.
- The backlog is due to a chronic shortage of patent examiners (despite the increase of personnel between 1991 and 1994), exacerbated by the very large number of patent applications filed in Japan.

- The filing of applications to cover slight variations in known technology is widely practiced, despite the availability of the multi-claim system.
- There is no formal time deadline for the examiner to render a written decision, even though proceedings have been accelerated.
- There is no discovery procedure whereby the owner of a process patent may seek evidence of suspected infringement.
- The design law is almost unusable because of the length of the examination, in addition to the high cost of registration fees.
- The problem of counterfeits remains endemic, despite the substantial efforts of police and customs.
- In civil cases, the pitifully small damages awarded to Trademark owners deter them from taking legal action against counterfeiters, not to mention the high cost of court proceedings and difficulties of enforcement.
- The delay by the Patent Office in its issuance of official counterfeit appraisal is often another obstacle to a speedy resolution of counterfeit cases.
- Investigations into counterfeiting at customs houses have improved but still, in many cases, importers are not subject to judicial proceedings.

- The liberalisation of parallel imports is used too often as a way to circumvent the law on counterfeit goods.
- Names of origin are still insufficiently protected in Japan, despite the recent amendment of the Trademark Law which prohibits registration of names of origin for wine and spirits.

Pirate software was 67% of software business in Japan in 1994.

With regard to software protection, the Japanese authorities have not, at the time of printing, drawn up any final position concerning the software decompilation in Japan. Moreover the enforcement of the copyright law in the field of software remains difficult in Japan. According to reliable sources (Business Software Alliance), in 1994 pirated software accounted for 67% of software business in Japan.

Recommendations

The EBC is pleased with the recent Japanese policy in the field of intellectual property and its goodwill with regard to the global harmonisation of laws and systems. The newly enacted laws now provide Japan with a comparable system to that of the main industrialised countries.

Notwithstanding these improvements, problems remain which require further attention from the Japanese authorities.

In particular we would recommend additional action so as to:

- Eliminate post examination delays, so that the overall time for registering a patent can be reduced to a maximum of eighteen months.
- Extend the interpretation of patent claims sufficiently to protect minor modifications.
- Allow application of designs belonging to the same family of goods in a single application in order to reduce the cost of registration and annuities.
- Provide judicial or administrative means by which a patent owner can obtain information about processes suspected of infringement, with appropriate safeguards against abuse.
- Accelerate and ease the issue of the "preservation of evidence" orders.
- Enforce effective economic sanctions against counterfeiting.
- Accelerate the delivery of the Patent Office counterfeit appraisal.
- Have the burden of proof shared between the importer and the Trademark owner in case of the parallel import of dubious goods.
- Strengthen enforcement remedies for copyright owners and adopt a clear position concerning the decompilation issue.

Pharmaceuticals

Background

Second biggest market worldwide.

With a total volume of Yen 6.7 trillion, the Japanese Pharmaceutical market is the second biggest of its kind in the world. Prescription drugs account for 85%, while over-the-counter business is still at a moderate level. Although more than 40 foreign companies operate business activities in Japan - ranging from research & development to production, marketing and sales - foreign business market share is still limited to a modest 26%. In a market dominated by domestic producers, European Pharmaceutical companies hold a share of 17%.

Industry and MHW working together to ease regulations.

After decades of closed market policies and excessive regulations, since 1980 the Ministry of Health and Welfare (MHW) has taken a series of steps to ease regulations and open the pharmaceutical market. Today, the Japanese pharmaceutical market is considered open, with the exception of foreign clinical data acceptance.

MHW increasing pressure on drug manufacturers.

Even though Japanese Health Care costs (per capita and in percentage of GDP) are moderate when compared to other major OECD countries, MHW is planning to take various measures aimed at containing medical and drug expenditures to counter the huge deficit in the National Health Insurance (NHI) budget. In addition, Japan's rapidly changing demographic structure indicates that by the year 2020 more than a quarter of the nation's population will have reached 65 years of age, adding to an increasing financial burden in Health Care. Drugs are singled out as a major component contributing to the steady increase in Health Care costs and MHW is currently deliberating on major modifications in the NHI system, designed to reduce drug costs. While dialogue

between MHW and the industry has recently improved, the pharmaceutical industry is generally not included in the official debates regarding these cost containment measures.

Harmonisation of technical requirements.

Representatives of the Governments and the Pharmaceutical Industries from Japan, US and EU participate in International Conferences on Harmonisation of Technical Requirements for Registration of Pharmaceutical Products for Human Use (ICH). The third ICH (ICH3) took place in Yokohama in 1995, manifesting progress on the issue of ethnic factors in the acceptability of foreign data and Good Clinical Practice (GCP) guidelines. The next ICH, scheduled for 1997 in Brussels, aims to finally resolve these issues.

Key Problems

Acceptance of foreign clinical data.

Currently, all clinical data for a new product (Phase I, II and III) must be generated in Japan, and foreign clinical data are accepted only as a reference. Although some progress was made during ICH3, the industry's position is that if a complete set of foreign clinical data is available for a given new product, only comparative open trials should be conducted in Japan to confirm efficacy and safety of the drug in Japanese subjects. If this is permitted, the time required to prepare a New Drug Application (NDA) dossier would be cut by half. Presently, it takes between four and six years to complete all phases of clinical trials before an NDA is filed.

Repeating of tests.

When importing a pharmaceutical product the importer is required to prepare quality control tests, in addition to those carried out in the exporting country, unless a mutual recognition of "Good Manufacturing Practice" (GMP) has been agreed. Unfortunately, Japan has only confirmed such a mutual recognition with certain

European countries, but negotiations to improve the status quo are ongoing between Japan and the EC.

*Pharmaceutical industry
not represented in CSIMC
meetings.*

There are two advisory bodies for MHW's Health Insurance Scheme: the "Central Social Insurance Medical Council" (CSIMC) and the "Council of Health Insurance." Pharmaceutical industry representatives were invited to participate in a special committee of the Council of Health Insurance, but they are still prohibited from participating in the more powerful CSIMC meetings, where the final decision is made on issues concerning the Health Insurance Scheme.

Recommendations

- The Pharmaceutical Industry should continue to support ICH in preparing scientific arguments supporting the acceptance of foreign clinical data, while intensifying pressure on various activities and bodies including MHW.
- The EC should strive to reach a comprehensive agreement on GMP for the Pharmaceutical Industry, outside the current blanket agreement dialogue, in order to speed up mutual recognition.
- Pricing for new products has been improved, granting innovative products a higher premium. However, the dialogue on the treatment of "long listed" products and on generics as well as on the benefits of drugs in Health Care will be continued. Representatives of the Pharmaceutical Industry should be invited as official members to this dialogue at CSIMC meetings.

Industrial Raw Materials

Background

The largest market in the world for nickel.

Nickel, and particularly ferronickel, is mainly used for manufacturing stainless steel. The principal stainless steel end-users are the chemical, food processing and construction industries along with household appliances and consumer goods. Regular growth in stainless steel consumption has led to a steady development of the stainless steel industry. Indeed, Japan, which represents the largest market in the world for the consumption of nickel, has one of the most dynamic stainless steel industries and stands first in the world for stainless steel production. As a consequence, the industry relies on imported nickel materials to meet a third of its needs.

Japan suffers from energy and Labour costs.

There is an important domestic nickel industry which has to import its nickel feed, and which has been suffering from high energy and labour costs and large fluctuations in output.

Key problems

Import duty system protects the local industry.

The Japanese nickel industry is still protected by customs import duties which heavily penalise European producers in the very competitive nickel market. It is important to note that Japan is the only industrialised country to have set duties on nickel products. The import duty system, originally meant to protect domestic nickel producers, has allowed Japanese manufacturers to modernise their equipment and to regularly increase production capacities. Japanese ferronickel producers have recently stepped up production with their engagement in long-term export contracts to South East Asia's fast-growing stainless steel industry.

Reduction of duty rates.

Within the framework of the GATT Uruguay round, the Japanese Government committed itself to lowering duty rates. The duty rate applied to ferronickel is to be reduced by half to 3.3% by the end of 1999. But this is completely unsatisfactory as the import duty system will still significantly affect the competitiveness of imported ferronickel.

The Japanese Government claims that the Generalised System of Preference (GSP) duty-free quotas allow ferronickel producers to avoid duties. The spirit of the GSP was to encourage the development of certain countries. In this respect, ferronickel imported from New Caledonia is eligible in the system. However, the quantity covered by these quotas amounts to a mere fourth of the total ferronickel imports and thus does not solve the problem. The EBC Industrial Raw Materials Committee believes that given the current nickel and stainless steel industries' position, action should be taken to resolve the import duty question.

Recommendations

Since Japanese ferronickel producers have started exporting on a regular basis to South East Asian markets, the need to maintain protection of the domestic nickel industry appears questionable. Moreover, Taiwan and Korea have recently decided to abolish all duties on imports of ferronickel.

In order to solve this problem, the EBC proposes that either the duties on raw nickel imports are eliminated or that ferronickel GSP quotas are tripled to prevent discrimination against European companies.

Securities

Background

There are currently 50 non-Japanese securities houses operating in Japan. Of these, 25 are from EU countries and two from Switzerland. Fourteen are members of the Tokyo Stock Exchange (TSE).

Country of Origin	Number of Securities Houses	Number of TSE Members
Britain	13	6
Germany	6	2
France	5	4
Netherlands	1	0
Switzerland	2	2

The European houses together cover most areas of securities business, including the trading and broking of bonds, equities and derivatives, although some of them tend to specialise in one or two fields such as Japanese equity broking or derivatives trading.

As far as Japanese equity turnover is concerned, non-Japanese TSE-members' turnover has increased to between 20% and 25% i.e. a very substantial share of the market, of which around half is accounted for by European houses and half by US houses. Statistics on turnover in the bond and derivatives markets are more difficult to assess because of the wider dispersion of these markets.

In general, much progress has been made in recent years in the elimination of regulations which resulted in

effective discrimination against foreign securities companies. Therefore, many of the regulations or requirements which the Securities Committee would like to see modified, represent concerns shared by Japanese securities companies. This progress has continued recently, and it is pleasing to report, that since the last publication in 1995, it has been possible to remove two items from the Securities Committee agenda:

- Until recently, Japanese privatisation issues had taken place almost entirely in the domestic market. It is encouraging to hear that an international tranche is planned for the next privatisation, so hopefully this issue is now being addressed, and accordingly it has been tentatively removed from the agenda.
- The rule which forbids, until 90 days after the issue date, the purchase by Japanese investors of European bonds issued by:
 - Non-Japanese companies was abolished last year.
 - Japanese companies will be changed from 90 days to 40 days from 1st January 1996 and will be abolished completely from 1st January 1998.

Accordingly, the fact that the agenda has grown overall since 1995 is not a reflection of a worsening regulatory environment but of new issues being brought to the attention of the Securities Committee.

Key Problems

Poor current auction system for new equity issues

- The present system of determining the price of initial public offers (IPOs), including those of privatised companies, by auction and subsequent fixed price offers is not working well. The current system tends to result in a distorted offer price which does not accurately reflect the market value of the shares.

Tiny primary market share despite significant secondary market share.

- Non-Japanese securities companies' share of the domestic bond and equity market underwriting is minuscule compared with their share of the secondary markets. For example, the non-Japanese securities houses' share of underwriting new equity or equity-related securities in Japan is around 1.5%, whereas their share of TSE turnover is around 20%. Such a divergence is peculiar to Japan and does not reflect the penetration of overseas markets achieved by Japanese securities companies.

Small share limit per investor.

- There is a limit of a very small number of shares per investor in any Initial Public Offering (IPO), which is particularly onerous for non-Japanese firms who target institutional as opposed to individual clients.

No individual stock options.

- There are no individual stock options traded on any Japanese stock exchange, despite the fact that many clients and member firms wish to trade them. It is encouraging that the Tokyo Stock Exchange (TSE) and/or the Osaka Securities Exchange (OSE) now plan to introduce these, but there are concerns that delays still continue.

Archaic transmission of corporate information.

- Company results are released to the press after the close of TSE business but not made freely available until the following morning Tokyo time, with the result that several users have access to inside

information that can be misused outside TSE trading hours, for example on the London/New York “over-the-counter” markets.

Margin trading forbidden to non-residents of Japan.

- Japanese residents are permitted to buy and sell stock by putting up only a percentage of the value of the stock/cash in each case (“to buy and sell on margin”) and borrowing the balance from a securities company. Non-residents are not permitted to do this, and as the majority of foreign securities companies’ clients are non-resident, this represents effective discrimination against both non-resident investors and foreign securities companies.

Stock-lending market restricted.

- Stock-lending and stock-borrowing is not a free market in Japan with the result that borrowing rates are higher than London and New York even for Japanese shares, and much higher than these markets for their domestic shares.

Selling short restricted.

- There are severe restrictions on selling stock short in Japan. This reduces liquidity in the market and particularly hampers foreign firms, many of whose clients wish to trade in the Tokyo market, but do not necessarily wish to have a “net long” position in every stock in which they trade.

Far too much reporting required.

- The Ministry of Finance (MoF), the Bank of Japan and the Japan Securities Dealers’ Association require a plethora of weekly, monthly, quarterly and annual data which represents a cumbersome and unnecessary burden on all securities companies. The effect of this is to saddle both non-Japanese and Japanese securities companies with significant extra costs. It is nevertheless encouraging that the MoF is now studying this in detail and the EBC Securities Committee is helping with this exercise.

Manual settlement still the norm

- Despite the existence of a good electronic delivery-versus-payment (DVP) settlements system, manual settlement is still the norm in Japan. This is because, although it is much cheaper for the Trust Banks to conduct electronic settlement, no discount is passed on to the client so there is no incentive for the client to request use of the electronic system. This increases the costs of dealing in shares and hence unnecessarily inhibits business. It is also less secure than a DVP system.

Inefficient and unfair controls on investment management.

- The investment management of Tax Qualified Pension Funds is still reserved for life insurance companies and Trust Banks, and other discriminatory regulations on the investment management of Japanese pension funds remain.

No efficient bond clearing system

- There is no efficient bond clearing or settlement system in the domestic market in Japan which is inhibiting the growth of a healthy corporate bond market.

Recommendations

Introduce underwritten or "book-building" system.

- To the maximum extent possible, the IPO system should be changed either to an underwritten system or to a "book-building" system, as commonly applied in the UK and US markets.

Encourage lead-managers to promote foreign participation.

- The MoF should ask lead managers of domestic bonds and equity issues to encourage issuers to offer significantly larger underwriting shares to non-Japanese securities companies.

- Abolish the limit of a very small number of shares per investor for IPOs at least for overseas investors.
- Introduce individual stock options in 1996.
- The TSE should make arrangements to transmit corporate results electronically as soon as they are announced.
- Permit non-residents to buy and sell stock on margin.
- Liberalise the stock-lending and stock-borrowing market in Japan.
- Permit short-selling as long as stock is borrowed so that prompt settlement can be made.
- The authorities should lighten the burden of reporting, following the MoF's welcome review of the issue.
- The MoF should encourage electronic settlement, for example by encouraging the Trust Banks to give discounts to clients who request this service.
- All regulations with regard to pension fund management, which place investment advisory companies holding a discretionary management licence at a disadvantage to Trust Banks and life insurance companies, should be abolished.
- A modern bond clearing system similar to CEDEL or Euroclear should be established. Representatives of non-Japanese securities companies should have an opportunity to advise on the design of such a system, before final decisions are taken.

Encourage electronic settlement.

Abolish unfair and inefficient controls.

Introduce efficient bond clearing system.

Shipping

Background

Container shipping industry.

Although many types of European ships including liners, bulk carriers, tankers, cruise ships and other specialised vessels operate to and from Japan, this paper deals with the container shipping industry only as it is this sector on which the activities of the EBC Shipping Committee are concentrated.

European Shipping lines carry more than 50% of the container trade.

The following EU member state container operators serve Japan today: Compagnie Maritime d'Affretement (CMA), DSR-Senator, Hapag-Lloyd, Lloyd Triestino, Mærsk Line, Nedlloyd Lines, P&O Containers and P&O Swire Containers. Other European container carriers include Norasia and Wilhelmsen Lines. European carriers lift more than 50% of the container trade between Japan and Europe and vice versa, and are also engaged in many cross trades, i.e., between Japan and non-European countries. In some of these trades, for example between Japan and USA, Australia, New Zealand, Africa and Latin America, they play a very significant role.

No discrimination against foreign carriers.

There is generally no formal discrimination against European or other non-Japanese carriers in this market although non-Japanese shipping lines face the usual problems of most foreign service businesses in Japan, i.e., a general preference for the national 'product' and a host of intangible and subtle barriers to free competition.

Restrictive and inflexible working practices on the waterfront.

The major problems faced by European and other foreign carriers are in most cases the same as those faced by the Japanese shipping industry. These are restrictive working practices on the waterfront which give rise to lack of

competition amongst waterfront industries and associations, lack of operational flexibility and very high costs.

The JHTA controls the waterfront.

The key influence on the waterfront is exercised by the Japan Harbour Transportation Association (JHTA or Nikko-kyo). The membership of JHTA comprises all major waterfront business except shipping lines and it is JHTA's policies and decisions which control the way they run the waterfront. There may not be any international parallel to this exceptionally powerful organisation.

The Shipping Committee of the EBC represents the interests of the European carriers and liaises with the Transport Directorate in Brussels through the EC Delegation. The principal organisation representing all foreign shipping lines in Japan is, however, the Japan Foreign Steamship Association (JFSA). EBC Shipping Committee members are all members of the JFSA Executive Committee and work actively to support its initiatives. These include regular meetings with the Ministry of Transport, JHTA, the Japanese Shipowners and various other waterfront associations.

MOT involvement.

In the last two years, the Ministry of Transport has taken the initiative to arrange "Transport Forums" in Japan with both European and US lines. While the opportunity for additional dialogue with MoT is welcomed, no tangible progress toward resolving the main issues has resulted. Although the MoT regulates waterfront activities, the ministry has declined to become involved on the basis that the issues under discussion are "commercial matters" in which it cannot intervene.

Active support from the EC Delegation.

The EC Delegation's active support of the European lines, backed by the Transport Directorate in Brussels, has played a significant role in influencing the JHTA to stop the collection of the highly controversial Harbour

Management Fund a few years ago. In 1995 the EU presented a Demarche in the form of a 'note verbale' to the Japanese Government regarding prior consultation and mandatory weighing and measuring of container cargo.

Key Problems

Managed competition.

- "Managed" competition on the waterfront is a fundamental problem underlying most specific issues, including the high costs of operation. Shipping lines may not change terminal operators without JHTA's approval and this is rarely given. The result is that lines cannot seek competitive bids for the handling of their business, nor can they consolidate their operations, except in rare cases, to achieve economies of scale or efficiency of operation. The effect of this denial of free competition is far-reaching. Contractors, both management and labour, have little if any incentive to eliminate or modernise practices which are outmoded or which merely preserve the status quo.

Rather than try to tackle this problem head on, the EBC shipping lines are focusing on the specific issues below.

Prior Consultation on any change that might reduce employment.

- Prior Consultation is the process by which JHTA actually exercises its control of the waterfront and the lines. This practice was introduced at the time of containerisation, following an agreement between JHTA and the waterfront Labour Unions, that there would be Prior Consultation on any changes that might reduce employment or adversely affect working conditions of the labour.

Issues that require Prior Consultation 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 groupings of shipping lines.

Total lack of transparency.

The present system is that lines submit their applications to JHTA through the JFSA. In a process which totally lacks transparency, JHTA then 'consults' as necessary with the unions and hands down their decision, which the lines are effectively bound to accept. In practice, only in very rare cases do lines submit applications which they know will not be granted. JHTA's policy is to ensure the continuation of the status quo, as far as individual terminal operator/line relationships are concerned. This is an accepted but resented reality.

Prior Consultation now under review.

The Prior Consultation system is now under review with the expectation that some degree of modification may take place. However, at the time of writing the outcome and the effects on the carriers is uncertain.

Sunday work.

- With the exception of Shimizu, and on a temporary basis other ports, major Japanese container ports do not work on Sundays.

Additional costs.

The lack of Sunday work limits the utilisation of expensive facilities. This results in congestion both on the water and landside, and inhibits the efficient scheduling of vessels. It increases costs to shipping lines and their customers and contributes to a lack of competitiveness of Japanese ports compared to those in neighbouring countries. This situation is made worse by the fact that Japanese ports do not work on an 'around the clock basis' in contrast to most major ports overseas.

Historically, Sunday work has only been permitted on an exceptional basis in Japan. However, until 1992 permission was granted on application but as a matter of course through the Prior Consultation process. The facility was then withdrawn by JHTA as a result of a dispute with the waterfront unions over other labour issues.

No tangible progress toward resumption of regular Sunday working has been achieved despite repeated requests by European and EBC backed carriers, the Federal Maritime Commission (FMC), other foreign governments and the Japanese lines.

Operational costs among the highest in the world.

- Port and associated charges in Japan have long been among the highest in the world and this situation has worsened with the sharp strengthening of the Yen. Ocean freight is charged in US Dollars so shipping lines operating in Japan are caught in a squeeze.

JFSA has drawn the attention of Government authorities in Japan and the respective contractors, to the excessively high costs of operating in Japan including the fact that charges in Japan are far higher than in other major ports in the world. So far, little reaction has been obtained, but the JFSA and EBC Shipping Committee will maintain an active campaign on this issue. Pilotage, tugs, wharfage charges and tonnage dues have been targeted in particular.

Cabotage.

- Cabotage is popularly understood to be the carriage of goods or passengers from one port to another within the same country.

In general, only national flag carriers are permitted to engage in such activities. A few exceptions are known to exist, for limited activities, under political bilateral agreements.

Inability to move 2 x 20 foot containers on one chassis.

- Despite lengthy discussions no progress has been achieved on the ability of lines to move 2 x 20 foot containers on one chassis over the roads in Japan. Such operation would improve efficiency and reduce costs. The position is complicated by the fact that the relevant rules of the Japanese Government Departments concerned, i.e., the Ministry of Transport, the Ministry of Construction and the National Police Agency are not co-ordinated.

Road weight limitations for containers on chassis.

Japanese road weight limitations for containers on chassis are less than those applicable in Europe and the USA, which causes problems for the vast majority of containers which move outside container terminals.

Recommendations

Urgent need to open the waterfront industry.

- The EBC believes there is an urgent need for the Japanese Government to use its influence to open the waterfront industry, to allow the lines freedom of choice in their facilities and contractors and thereby lower costs, improve productivity and work as effectively as in other major ports. The decreasing competitiveness and attractiveness of Japan as a market for not only the European lines but other carriers will have a progressively adverse impact on the shipping and waterfront industry. It will potentially have an even wider impact on Japan as a trading nation.

Prior Consultation.

- That those matters not affecting the employment of labour be handled on a fully routine basis, thus eliminating the need for the unnecessary and time-consuming approval process required today.

Sunday and 24 hour work.

- That the temporary agreement permitting Sunday work should be made permanent within the early part of 1996 and that 24-hour working be introduced.

Operational Costs.

- That operational costs in Japan be reduced to a level which will restore the competitiveness of Japanese ports.

Cabotage.

- That European shipping lines be granted the freedom to carry their own containers, full or empty, from one Japanese port to another.

2 x 20 foot container on chassis.

- That Japanese Government regulations are harmonised such that the carriage of 2 x 20 foot containers on one chassis is permitted and made operationally feasible.

Weight limitations for containers on chassis.

- That Japanese road weight limitations for containers on chassis are relaxed to European levels.

Space

Background

An advanced space industry.

With a total space budget of around half that of Europe, Japan is among the leading nations in the world in the space field. The successful launch of the H II rocket has given the country the independent access to space that it was pursuing. In the field of satellites, Japan has been building and launching approximately one scientific spacecraft per year. But with the operational satellite market being opened, following the super 301 agreement, US manufacturers have almost a monopoly.

Local Industry largely depends on government Agency orders.

As a consequence, and contrary to developments in Europe or the USA, the commercial part of the Japanese space industry is extremely reduced and manufacturers are relying nearly exclusively on orders from Government Agencies such as the National Space Development Agency (NASDA), depending on the Science and Technology Agency or the Institute of Space and Astronautical Sciences (ISAS), or the Ministry of Education.

Competitive in components and ground stations.

The three Japanese satellite manufacturers are unable to compete on the world satellite market due to their low volume of business. They therefore concentrate on components such as payloads, solar panels, ground stations etc.

No Japan-Europe co-operation in space.

There is, so far, no co-operation worth mentioning between European and Japanese companies in space, and the only relevant European success in the commercial area is the sale of launch services to Japanese satellite operators by Arianespace.

Key problems

Technological independence policy.

Until recently, NASDA had been promoting Japanese technological independence with little regard to costs, which meant practically no available room for foreign co-operation. Recently, owing to a growing pressure on budgets, they have seemed to put more emphasis on cost, and foreign purchases are being authorised or even recommended.

Shields Japanese industry from foreign competition.

However, Japanese companies still have very little autonomy, particularly in the field of R&D where Government contracts are split between many different companies. This makes co-operation with foreign companies extremely difficult. The EBC believes that this policy is shielding the Japanese industry from competition and world markets, to the disadvantage of both sides.

Government Agencies are still very much in control of manufacturers in the space sector, and this makes discussion at the industry level, and long term co-operation strategy, very difficult. For a variety of reasons, there is so far little cooperation between NASDA and its European equivalent European Space Agency (ESA).

Recommendations

More independence to the industry.

The Japanese Agencies should give more flexibility and more independence to Japanese manufacturers.

International co-operation at the industry level should be encouraged in order to be effective. European standards should be accepted without restrictions by these Agencies.

Government cooperation.

Significant co-operation will only be possible if it is promoted by the respective European and Japanese government Agencies, in such fields as launchers, space stations, remote sensing, navigation, global information infrastructures etc.

Consolidated Tax Return

Background

Many foreign-owned corporations have entered the Japanese market in a variety of forms, depending on the state of the market. These forms include liaison offices, branches, subsidiaries and phases concerned with joint-ventures.

Efficient organisations hindered.

Both Japanese entities and foreign corporations have been hindered in their efforts to efficiently structure operations, by legal and tax restrictions imposed on management holding companies and financial holding companies.

Need for streamlining business.

The period of recession in the early nineties has heightened the corporate need for streamlining business and restructuring organisations. In particular, better use of human resources in management and supporting functions is expected in every sector of the economy.

Moreover, technological advances, which are currently creating new business opportunities, make it essential for companies to be able to restructure themselves rapidly to cope with changing market conditions.

Key Problems

The traditional ban on holding companies may be eased in the near future, given the amount of interest devoted

to this issue and the comprehensive nature of studies undertaken recently.

The two main tax issues.

However, while the Anti-monopoly Law may be revised to allow holding companies, no attempt seems under way to tackle the tax issues.

- Under current regulations, any reorganisation is likely to trigger additional tax costs because of capital gains arising from the transfer of assets.
- A survey of tax relief available to groups of companies in the United Kingdom, France and Germany demonstrates that many other countries recognise the need to enable companies to reallocate their assets, while safeguarding the interests of the respective tax authorities. In the above-mentioned countries, measures are widely available both for group relief and for tax-free reallocations of assets within a group.

Recommendations

Group relief part of accepted holding concept.

In order to support and facilitate the streamlining process for corporations, group relief should be introduced in the FTC holding company provisions, or otherwise.

European system as model.

The European system of consolidation of profit/loss in groups of corporations should be the model, rather than the more complex U.S. style consolidated tax return.

Telecommunication & Information Processing

Deregulation

Background

As part of the ongoing discussions between Europe and the Ministry of Post and Telecommunications regarding telecommunication deregulation issues, the European Business Community in Japan is still concerned about the pace of deregulation and the lack of a clear schedule for the deregulation process. In particular the European Business Community still wishes to see further deregulation on the following, in line with general international trends.

Key Problems

Non-tariff based contracts.

- Interconnection & Negotiation of non-tariff based contracts. It is expected that the Interconnection Rules between NTT and NCC's are valid also for Special Type II Carriers.

Requirement to file Operating Agreements.

- Operating Agreements between members of the same group of companies in Japan and the receiving country are still required.

The requirement to publish tariffs and service conditions.

- Special Type II Carrier services are not tied to national life, economy or security and Special Type II Carrier services are extremely competitive.

Recently MPT has relaxed tariff authorisation for Type II Carriers, but there still remains an obligation to notify those tariffs. There should be no restrictions on the freedom of Special Type II Carriers to set prices and service conditions as they see fit, even for services provided to a large customer base (many and unspecified persons), nor should there be requirements to notify the MPT of pricing.

Breakout.

- Breakout services are approved by MPT just for Type I International Carriers under a revision of the rules applying to breakout on 1st July 1995.

International Simple Resale (ISR)

- Resale of international private lines is now permitted with no interconnection to PSTN (including VPN services). The MPT has announced a timetable under which it will review the remaining restrictions on the resale of international private lines interconnected with PSTN at one or both ends. However it is proposed that MPT act to implement the further deregulation of leased lines resale towards ISR during 1996.

Carrier tariff filings.

- The MPT at present requires Type I carriers to file for authority to set and change tariffs. This is contrary to a free competitive market. It is noted that the April 1995 paper on deregulatory measures indicates that a review will be conducted.

International Calling Card service

- Restrictions for third country calling still exist, mainly due to the necessity to negotiate with Japanese Type I International carriers.

Restrictions on IDC/ITJ routing traffic.

- Restrictions on IDC/ITJ routing traffic via transit countries. International Type I carriers IDC and ITJ are prohibited from routing traffic via a third country to terminal countries with which they do not have direct operating agreements. This is despite the fact that IDC and ITJ now have direct agreements with approximately 100 countries and that opening direct routes to new (smaller) countries is highly uneconomic. This puts them at a competitive disadvantage to KDD.

Recommendations

Non-tariff based contracts.

- Type I carriers should be permitted to lease international circuits under wholesale rates with Special Type II Carriers.

Requirement to file Operating Agreement.

- The restrictive Operating Agreement between members of the same group of companies should be simplified.

The requirement to publish tariffs and services conditions.

- All services from Special Type II Carriers should be unregulated from a tariff and service condition perspective.

Breakout.

- MPT should permit Special Type II Carriers to provide breakout services at the distant end of an international leased line into the PSTN for the purpose of completing calls within the distant country and via that distant country to third countries via the PSTN.

International Simple Resales (ISR).

- A clear and precise timetable should be advised immediately, concerning the remaining restrictions related to resale of international private lines.

Value added services.

- VAS should be more clearly defined and brought up-to-date in the light of technical advances and increasing diversity in service provision.

Foreign ownership of Type I Carriers.

- There are currently restrictions on foreign ownership of Type I Carriers. To be consistent with the deregulation of satellite Type I carriers these restrictions should be removed.

Carrier tariff filings.

- The results of the April 1995 paper on deregulatory measures should allow Carriers to simply notify the MPT of the new service introduction, new tariffs and tariff changes. The MPT should merely record the matter.

International telephone Calling Card service.

- MPT is requested to ensure the Type I International Carriers conduct these negotiations in a reasonable manner with the aim of allowing service providers to offer a full range of Calling Card services to and from Japan.

Restrictions on IDC/ITJ routing traffic.

- Restrictions on IDC/ITJ routing traffic via transit countries International Type I carriers IDC and ITJ should be abolished.

Interconnection of domestic leased line to PSTN.

- In 1995 interconnection at one end of the domestic PSTN was allowed. However it is proposed that MPT act to implement the further deregulation of both sides of the interconnection during 1996. A

clear and precise timetable should be advised immediately.

Subcarrier FM Paging.

- Community FM radio is currently restricted to 10W emission power. In order to provide large and effective competition in subcarrier FM paging in Japan, this power limitation should be raised to 100W as soon as possible. A timetable for this review should be provided in 1996.

Tariff Discrimination in leased line half circuits.

- For leased line half circuits there should be no tariff discrimination between Europe and Japan compared with the US and Japan

Administrative Business Law.

- Clarification of the impact of the Administrative Business Law on the Telecommunication Business Law is requested.

(Note: This document was prepared during December 1995. It is recognized in the current climate, where deregulation and its introduction in Japan is occurring continuously, that some of the concerns voiced in this document may have been partially addressed at the time of printing.)

Procurement

Background

Different standards in Japan.

The import situation for Telecommunications and Information Processing equipment remains complicated, since the standards applied for telecommunication

equipment in Japan differ substantially from international standards.

NTT had mandate for national research and development.

In the past Nippon Telegraph and Telephone Corporation (NTT) had a mandate from the Ministry of Post and Telecommunications (MPT) to promote national research and development in the field of telecommunications. NTT was also authorised to build up a national communications network. NTT employs 8,000 engineers, developing telecommunication systems and equipment for the national network. In other institutions, universities or in private industry, there are no comparable capacities allocated for telecommunications developments. This situation is unchanged even after the privatisation of NTT which occurred about ten years ago.

Key Problems

Adaptation to NTT standards.

As a result of the NTT "monopoly", substantial interfaces and protocols are proprietary and a manufacturer cannot supply equipment without implementing essential adaptation. In the mobile telecommunications area certain aspects such as "service functions" are not specified public standards, as the standards are defined internally among the operators.

Broadband networks to NTT's standards.

This situation, dominated by NTT, could become even more imbalanced if the future nationwide fibre-based "broadband networks" are implemented according to NTT's guidelines alone. Accordingly the lack of real deregulation and effective competition causes uncer-

tainty about future trends in the telecommunications business in Japan.

Reduction of product rights.

To date manufacturers can participate in NTT's procurement tenders for new equipment, and assuming they are successful thereby acquire long term continuity as an NTT supplier. This, however, implies the manufacturers carry out new developments and implement upgrades according to detailed instructions from NTT. Such collaboration will include the use of components and equipment from a third party into the suppliers' systems resulting in reduced product rights for the supplier. This affects not only suppliers from overseas but Japanese suppliers as well.

Recommendations

- NTT should be encouraged to provide open interfaces to their network and inside the network (V.51), so that it will be possible for manufacturers to become suppliers to NTT of equipment which has not been co-developed with NTT.
- In the long term, it would help if new carriers are encouraged to set up their own networks at a reasonable size.

(Note: This document was prepared during December 1995. It is recognised in the current climate, where deregulation and its introduction in Japan is occurring continuously, that some of the concerns voiced in this document may have been partially addressed at the time of printing.)

Transfer Pricing

Background

Risk of Double Taxation.

Transfer pricing adjustments to the tax base of Multi National Enterprises (MNE) lead to taxation on income which has already been taxed in another state. Even if the taxed entities are not identical, the MNE, as a group, will suffer economic double taxation.

Risk of Trade Barriers.

Double taxation is a potential barrier to international trade and might effectively replace the varied trade barriers that are to be removed under GATT.

Especially for imports.

High import prices produce low taxable income for the importing company, but when import tariffs are high, this is balanced by the tariff revenue which results from high transfer prices. When import tariffs are removed, tax authorities are tempted to compensate for the reduction in tariff income by seeking to increase the taxable income of importing companies on the basis that their transfer prices are too high. This may result in discrimination against import business, and the economic burden of double taxation which can result from a transfer pricing assessment, can function as a covert non-tariff trade barrier.

OECD Transfer Pricing Guidelines essential.

These problems should be reduced by observing OECD Transfer Pricing Guidelines, and they are in fact exacerbated when the guidelines are not followed.

Problems

Compliance practice.

In the decade since the introduction of specific transfer pricing legislation, Japanese compliance practice has not always observed the OECD Guidelines, and has not tried to eliminate double taxation whenever possible.

Examination practice.

- Transfer pricing audits under Japanese rules may be based on comparative data. This data is often unavailable to the taxpayer when they determine their transfer prices and may also remain undisclosed to the taxpayer during the audit.
- Thus the taxpayer is not only confronted with a pricing method and result different from his original commercial judgment but he also has no means of independently assessing or arguing against the comparative data used by the tax audit. Such lack of transparency enables the tax authorities to arbitrarily choose the comparative data which is most favourable for their argument.

The OECD Guidelines, however, require a fair examination of practice which takes sufficient account of the inherent inexactness of the various transfer pricing methods and the possible range of valid results, as well as the commercial judgment of the taxpayer faced with such ambiguity.

Burden of proof.

- The practice of using comparative data also results in a shift in the burden of proof from the tax authorities to the taxpayer. Once comparative data is presented the taxpayer must prove why his case is different.

The OECD Guidelines, on the other hand, require that tax sovereigns should not impose a burden of proof which may influence his behaviour to over accrue income to that tax jurisdiction.

Immediate Payment Prior to mutual consultations.

Although not confined to Japan, tax authorities tend to make assessment before consulting the other tax authorities concerned. Because transfer pricing is not an exact science the arms-length pricing and the method to determine it will, in most cases, be ambiguous. Moreover, different tax administrations often reach differing determinations of the arms-length conditions, and final assessments are invariably reduced after competent authority consultations.

Given this, the requirement for immediate payment, even if the taxpayer decides to file an appeal, deprives a taxpayer of funds which should be employed in his business. The option to avoid an arrest by offering security instead does not give practical relief, since such security could be as costly as (financing) the payment.

Moreover, such payment has a strong prejudicial effect on any appeal which is filed, especially since Japan provides no specialised financial courts, after exhaustion of the remedies of the tax administration.

Unduly harsh penalties.

- Even if the taxpayer has made every effort to derive an arms-length transfer price but still suffers an assessment, based on a comparable only available to the tax authorities, the Japanese system still imposes a 10% - 15% penalty in addition to interest.

These penalties are imposed automatically, whether or not the taxpayer has been negligent, and they

may also lead to under-reporting in other jurisdictions where such penalties are not imposed. These clearly conflict with OECD Guidelines.

Finally, the lack of transparency, consulting and clear rules of compliance practice increases the additional burden of administrative work imposed on enterprises by a transfer price audit. Such administrative costs amount to a de facto third tax on top of the double taxation inherent in transfer pricing adjustments.

Recommendations

- Full compliance with OECD Guidelines.
- Arm's-length adjustments should be based only on comparative data which is available beforehand to the tax payer.
- Introduction of exceptions from the regulations concerning payment of assessments and penalties in the General law of National Tax Law for transfer pricing cases, providing for suspension of assessments until the results of appeals are known and to restrict the imposition of penalties to cases of negligence.
- Timely mutual consulting of the tax authorities improved, possibly by multilateral agreement with EU Member States following the EU-Tax Harmonisations guidelines on Avoidance of Double Taxation in case of Profit Corrections. (90/436/EC)

Abbreviations:

ACCJ	American Chamber of Commerce in Japan
BoJ	Bank of Japan
CLEPA	Liaison Committee for the Automotive Components and Equipment Industry
CSIMC	Central Social Insurance Medical Council
EBP	Employment Benefit Pension
ESA	European Space Agency
GATT	General Agreement on Tariffs and Trade
GIBN	Global Information Broadband Network
GJB	Gakoku Jimu Bengoshi
GSP	Generalised System of Preference
GWP	Gross Written Premium
IATA	International Air Transport Authorities
IM	Investment Management
IVD	In-Vitro Diagnostics
ISAS	Institute of Space and Astronautical Sciences
ITM	Investment Trust Management
JACR	Japan Association of Clinical Reagents Industries
JAMA	Japan Automotive Manufacturers Association
JFSA	Japan Foreign Steamship Association
MHW	Ministry of Health and Welfare
MITI	Ministry of International Trade and Industry
MoF	Ministry of Finance
MoT	Ministry of Transport
NASDA	National Space Development Agency
OTO	Office of the Trade and Investment Ombudsman
TQP	Tax Qualified Pension
TSE	Tokyo Stock Exchange
WIPO	World Intellectual Property Organisation

Japanese words used in the text:

Baraki	Port town close to Narita
Chosakai	Investigation Sub-committee Examination
Dango	Manipulated bidding
Kansai	West Japan, Osaka area
Keidanren	Federation of Economic Organisations
Keiretsu	Collusion by affiliated companies
Kosei nenkin	Employment Benefit Pension
Nenpuku	Pension Welfare Service Public Corporation
San Sha Kaidan	Three party meeting
Tekikaku nenkin	Tax Qualified Pension
Yoken	Documentation and Laboratory Testing
Zaitech	Companies playing the stock market

EBC Sector Committees:

EBC Aeronautics Committee:

Chairman: Mr. P. Sevaistre,

Members:

Aerospatiale
Airbus Industrie
Alcatel
Arianespace
British Aerospace International Ltd
Daimler Benz Aerospace (DASA)
Eurocopter
Finmeccanica/Agusta-Alenia-FIAR-OTOBREDA
GEC-Marconi (Japan) Ltd
L'Air Liquide (Teisan)
Nippon Souriau Denshi K.K.
Pechiney Japon
Rolls-Royce International Ltd.
Sextant Avionique
SNECMA Tokyo Liaison Office
Thomson-CSF Japan K.K.

EBC Airlines Committee:

Chairman: Mr. R. Kaptur,

Members:

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Air France
Alitalia Airlines
Austrian Airlines
British Airways
Cargolux Airlines International
Iberia, Lineas Aereas de Espana
KLM Royal Dutch Airlines
Lufthansa Cargo AG
Sabena Belgian World Airlines
Scandinavian Airlines System
Swiss Air Transport Co.
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Chairman: Mr. J. B. Stewart,

Members:

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Bayer Ltd

Ciba Japan Ltd

Hoescht Japan Ltd

Janssen-Cilag K.K.

Nippon Roche K.K.

Nippon Uclaf K.K.

Rhone Merieux

SDS Biotech K.K.

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Chairman: Mr. C. Shaw,

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Commerz International Capital Management

Credit Lyonnais International Asset Management

DB Morgan Grenfell Asset Management Ltd

Gartmore Investment Management (Japan) Ltd

Henderson International Japan K.K.

Japan Gamma Asset Management Ltd

Jardine Fleming Investment Advisers (Japan) Ltd

Kleinwort Benson Investment Management K.K.

Lazard Japan Asset Management K.K.

Baring Asset Management (Japan) Ltd

NatWest Investment Management Japan Ltd

Paribas Asset Management Japan Ltd

Pictet (Japan) Ltd

Rothschild Asset Management (Japan) Ltd

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Members:

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AP Japan, Ltd
AVL Japan KK
A. Raymond
BASF Engineering Plastics Co., Ltd
Bertrand Faure Japon K.K.
Bosch K.K.
Getrag
Hoechst Japan Ltd
Hoerbiger Nippon K.K.
ITT Aumotive Europe
Johnson Matthey
K.K. S.E.R.I.C.
Keiper Recaro Japan Co.
Labinal K.K.
Lebranchu
Lectra Systems Japan Ltd
Lemförder Metallwaren International GmbH
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Labinal K.K.
Magneti Marelli S.P.A.
Mannesmann AG
Michel Thierry S. A.
Nihon Michelin Tire Co. Ltd
Nihon Saint Gobain K.K.
Nippon Solvay K.K.
Osram-Melco
Pirelli K.K.
Plasto
PMC Co. Ltd
Recticel
Siemens AG
Sika Ltd
Teksid
Valeo Japan Co. Ltd
Waeles
ZF Japan Co.Ltd

EBC Automobile Committee:

Chairman: Mr. P. Woods,

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BMW Japan Corp.
Citroen Japon Co., Ltd
Fiat & Alfa Romeo Motors Japan K.K.
Inchcape Peugeot Japan Co., Ltd
Mercedes-Benz Japan Co., Ltd
Nicole Automobiles Co., Ltd
Opel Japan
Renault Export Japon
Renault Tokyo Liaison Office
Rolls-Royce Motor Cars Ltd
Volkswagen Audi Nippon K.K.
Volvo Cars Japan Corporation

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Chairman: Graf von Ballestrem,

Members:

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ABN AMRO Bank N.V.
Banca Commerciale Italiana
Banco Central Hispanoamericano
Bank Austria
Banque Nationale de Paris
Barclays Bank
Credit Lyonnais
Den Danske Bank
Internationale Nederlanden Bank
Unibank A/S
Westdeutsche Landesbank

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Air Liquide
Albright and Wilson
Atochem
Akzo Nobel
Ausimont
BASF
Bayer
Boehringer Mannheim
BP
Ciba-Geigy
Clariant
Degussa
DSM
Enichem
Hoechst
Hüls
Henkel
ICI
Lonza
Merck
Nissho Berol
Petrofina
Shell
Solvay
Total

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AEG Japan
Atlantis Associates Co., Ltd
Beazer Japan Co., Ltd
Bouygues
Ca et la
Clestra & Hauserman
Currie & Brown
Degremont Co.
FLS Japan Ltd
Freudenberg
Grohe
GTM International
Legrand
Midas International
Nihon Sika
Osram-Melco Ltd
Rocamet
Schal Bovis
SIA
Siplast
SNE
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Chanel K.K.
Clarins K.K.
Cosmelor Ltd.
CTF Marketing Co., Ltd
Elle International Co., Ltd
Guerlain K.K.
Lorekos K.K.
Mary Cohr Japon Inc.
Parfums Givenchy K.K.
Parfums Nina Ricci Japon K.K.
Pierre Fabre Japon K.K.
Schwarzkopf K.K.
Thalgo Cosmetics Japon Co., Ltd
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Sunburst Farms Japan Inc.

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Hispania Ltd
Japan Interim Management K.K.
Inchcape Japan Ltd
Roland Berger & Partner
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Members:

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An Bord Bainne Co-operative Ltd Sorinter Corporation

Arcane Ltd

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Bresse Bleu Japon K.K.

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Danone International Brands Japan Co.,

Denmark Protein (MD Food)

DMV Japan

Finland House Co.,

Food From Britain

Foodane

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Irish Trade Board

Investimentos, Comercio e Turismo de Portugal

Italian Trade Commission

Nestle Japan Ltd

Nichifutsu Boeki K.K.

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Nippon Lever B. V.

Royal Grenland Trading

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Allianz Fire & Marine Insurance Japan Ltd
Assicurazioni Generali S.p.A
Assurances Generales de France
AXA Representative Office
Bain Clarkson Japan Ltd
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Cologne Re Tokyo
Eagle Star Insurance Co., Ltd
GAN Incendie Accidents
Gerling-Konzern
HHL (Japan) Ltd
Jardine Insurance Agency Ltd
Le Blanc de Nicolay Reassurance
Mercantile and General Reinsurance
Minet Ltd
Nationale-Nederlanden Life Insurance Co.
Royal Exchange Assurance
Royal Insurance PLC
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Hiroshima Municipal University
KPMG Centry Audit Corp.
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