

FACT SHEET

Seventh Report to the Leaders on the U.S.-Japan Regulatory Reform and Competition Policy Initiative

July 5, 2008

OVERVIEW

The U.S.-Japan Regulatory Reform and Competition Policy Initiative (Regulatory Reform Initiative) was established in 2001 as a vehicle to encourage greater economic growth by opening up new business opportunities, improving the overall business environment, and strengthening competition in the marketplace. The Initiative is one of the key components of the overarching U.S.-Japan Economic Partnership for Growth.

Engagement between the Governments of the United States and Japan under this seventh year of the Regulatory Reform Initiative has been ongoing since annual recommendations were exchanged in October 2007. This work has been taking place under the Initiative's four working groups as well as in the High Level Officials Meeting process. This Report to the Leaders outlines progress as well as new, forward-looking commitments made by Japan over the past nine months.

This Seventh Report to the Leaders documents measures taken by Japan in key sectors such as telecommunications, information technology, intellectual property rights, medical devices and pharmaceuticals, financial services, agriculture, competition policy, transparency, legal reform, commercial law, and distribution. Progress reflected in this Report includes steps to streamline import procedures, open regulatory decision-making, lower barriers to trade and business, enhance competition, and improve the business climate.

The United States continues to strongly encourage Japan to keep its focus firmly on pursuing an ambitious agenda of economic and regulatory reform that will continue to benefit consumers and businesses and help stimulate new economic growth.

Seventh Report to the Leaders

PROGRESS HIGHLIGHTS

COMMUNICATIONS

- Agreeing to eliminate mobile handset subsidies that Japan's dominant carrier (NTT DoCoMo) and other mobile carriers have sought to recover from interconnecting operators, which should help reduce high mobile termination rates that have significantly impeded competition.
- Allocating spectrum being vacated by traditional broadcasters for new services including mobile TV, and initiating a procedure the U.S. expects to address how to promote choice of technology for new service providers.
- Ensuring that NTT East and West's transition to IP-based "next generation" fiber optic networks incorporates pro-competitive interconnection obligations.
- Facilitating trade in telecom and IT equipment via arrangements permitting testing and certification of equipment outside of Japan, and avoiding duplicative testing of similar equipment models.

INFORMATION TECHNOLOGIES

- Launching negotiations with the United States and other partners to conclude a strong Anti-Counterfeiting Trade Agreement in 2008 to further strengthen intellectual property rights enforcement internationally.
- Increasing reimbursement incentives for doctors and hospitals to introduce and use innovative health IT that facilitates information sharing, such as picture archiving systems.
- Expanding by April 2009 the information available to potential vendors in Japan's central online database for government procurement of information systems, thus improving the quality of data about procurement opportunities.
- Increasing disclosure of information on compliance with the new Basic Policy for the Public Procurement of Computer Systems, enabling companies to better monitor Japan's progress in implementing the year-old policy.

MEDICAL DEVICES AND PHARMACEUTICALS

- Improving financial incentives for development of innovative medical devices by raising premiums and creating new functional categories.
- Hiring more staff for Japan's regulatory agency to review product applications for new medical devices and pharmaceuticals, helping to further reduce product lags in Japan's market.
- Increasing by 50 percent the number of consultations regulators will hold with drug companies, and increasing reviewers and their level of expertise.

- Providing the pharmaceutical industry with opportunities to comment on key reimbursement issues, such as the market expansion rule and annual pricing.
- Agreeing to stamp instructions received at prior consultations for the import of nutritional supplements with the date and name of the quarantine station to provide companies with evidence that they completed a prior consultation.
- Publishing a list of active ingredients used in medicated cosmetics by the end of 2008 to increase transparency in the quasi-drug approval process.

FINANCIAL SERVICES

- Introducing the "Plan for Enhancing the Competitiveness of Japan's Financial and Capital Markets," developed in consultation with industry and geared to support more competitive, efficient and dynamic financial markets.
- Committing to lower firewalls between banking and securities companies, which should promote greater efficiency and competition in Japan's financial markets.
- Enhancing dialogue with the financial services industry, including foreign firms, as part of the Financial Services Agency's "Better Regulation" policy.

COMPETITION POLICY

- Reviewing the Japan Fair Trade Commission's (JFTC) entire administrative examination system in FY2008 with a view to ensuring that respondents receive procedural fairness.
- Committing to provide proposed recipients of JFTC orders with adequate time to review evidence and make counter-arguments, thereby improving procedural fairness.
- Committing to treat documents containing attorney-client communications as confidential when they contain information subject to protection under law.
- Strengthening penalties against both companies and individuals found to have engaged in bid rigging activities.
- Increasing to 11 the number of Ministries that have adopted complementary programs to encourage reporting by companies of bid rigging activities under the JFTC's leniency program.

COMMERCIAL LAW AND LEGAL SYSTEMS REFORM

- Committing to set up a fair and transparent mergers and acquisitions (M&A) climate, including through clarification by summer 2008 of conditions for the introduction and invocation of anti-takeover measures.
- Undertaking to take broad-reaching measures to strengthen corporate governance, including encouraging stock exchange efforts to that end, and conducting a broad legal system review to identify possible legislative changes that may be necessary.

- Revising Tokyo Stock Exchange listing rules to require companies to seek to send out proxy materials more than two weeks before the annual shareholders meeting.
- Encouraging the stock exchanges to make self-regulatory rules more effective to ensure that minority investors of listed companies are not unreasonably disadvantaged.
- Working to reach a conclusion by the end of 2008 on necessary measures for the establishment of professional corporations by foreign lawyers in Japan that would permit foreign lawyers to establish multiple branch offices.

OTHER TRADE-RELATED GOVERNMENT PRACTICES AND TRANSPARENCY

- Liberalizing opportunities for insurance companies to sell their products through banks, enabling them to offer a wider selection of products through banks, which will increase the competitiveness of Japan's insurance market and increase consumer convenience
- Approving six new food additives for use in Japan, including polysorbates, which are already accepted throughout the world, facilitating trade in safe agricultural products and processed food.
- Streamlining pest quarantine procedures for lettuce exported to Japan for consumption.
- Producing approximately 120 official English translations of Japan's laws and regulations as of the end of April 2008, improving access to information for companies operating in Japan.

PRIVATIZATION (JAPAN POST)

- Affirming that equivalent conditions of competition should always be ensured in expanding the business scope of postal financial institutions.
- Clarifying that the relationships and transactions among the new Japan Post companies are required to meet the regulatory obligations under the Banking Law and Insurance Business Law, including with respect to the arms-length rule, helping equalize regulatory treatment of the new Japan Post companies with that of other private financial companies.
- Affirming that as of October 1, 2007, deposit and reinsurance contracts from prior Japan Post accounts are subject to the same regulatory environment as other private sector financial companies to prevent cross-subsidization between pre-privatized accounts and the new Japan Post companies.
- Strengthening Financial Services Agency supervision of Japan Post Bank and Japan Post Insurance by assigning an additional Director and four staff members to supervise the privatization process that was initiated on October 1, 2007.
- Taking measures to eliminate perceptions that an implicit government guarantee exists for Japan Post Bank and Japan Post Insurance deposits and insurance products sold from October 1, 2007.
- Increasing transparency by providing opportunities for the private sector to air concerns over unequal treatment given to Japan Post Service's EMS service, a competitive service to those of private international express carriers.

DISTRIBUTION

- Eliminating overtime service charges and streamlining customs clearance process procedures by simplifying the application procedure for overtime service, thus making the customs declaration process smoother and more efficient.
- Revising the Customs Law to allow inclusion of authorized customs brokers in Japan's Authorized Economic Operators program, enabling declarations of cargo release and of duties and taxes to be filed separately.