

**Report of the Joint Governmental Study Group  
for strengthening economic relations  
between Japan and Switzerland**

**January 2007**

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## I. Background

(1) Japan and Switzerland adhere to the universal values of democracy and rule of law as well as to the principles of market economy. Based on shared values and interests, in the economic area, Japan and Switzerland have a long-standing tradition of cooperation not only bilaterally, but also in multilateral fora, such as the World Trade Organization (WTO) and the Organisation for Economic Co-operation and Development (OECD).

(2) Since 1995, bilateral economic consultations between the Japanese and Swiss governments have been held on a regular basis. In the framework of those consultations and in other bilateral contacts, strengthening of the economic relations between the two countries was discussed regularly. Since 2003 two separate feasibility studies on a possible bilateral comprehensive Free Trade Agreement (FTA) were carried out respectively by Japan External Trade Organization (JETRO) and the State Secretariat of Economic Affairs (SECO). The two studies were finalized and exchanged in spring 2004.

(3) The launch of a joint study to seek ways to strengthen economic relations between Japan and Switzerland was first addressed at the Japan-Switzerland Summit Meeting of 12<sup>th</sup> October 2004 in Tokyo between Prof. Dr. Joseph Deiss, then President of the Swiss Confederation, and Mr. Junichiro Koizumi, then Prime Minister of Japan. The launch of the Joint Governmental Study for strengthening economic relations between Japan and Switzerland was then decided upon at the Summit Meeting between Mr. Junichiro Koizumi, then Prime Minister of Japan and Mr. Samuel Schmid, then President of the Swiss Confederation, on 18<sup>th</sup> April 2005.

(4) The Joint Study Group (hereinafter referred to in this report as “the JSG”) held five meetings: 31<sup>st</sup> October and 1<sup>st</sup> November 2005 in Tokyo, 27<sup>th</sup> and 28<sup>th</sup> February 2006 in Berne, 29<sup>th</sup> and 30<sup>th</sup> May 2006 in Tokyo, 21<sup>st</sup> and 22<sup>nd</sup> August 2006 in Berne, and 20<sup>th</sup> and 21<sup>st</sup> November 2006 in Tokyo. On the Japanese side, director-level representatives from the Ministry of Foreign Affairs (MOFA), the Ministry of Finance (MOF), the Ministry of Agriculture, Forestry and Fisheries (MAFF) and the Ministry of Economy, Trade and Industry (METI) composed the co-chair group. JETRO participated as an observer. On the Swiss side, representatives from the SECO assisted by experts from other concerned ministries composed the delegation. The lists of participants are attached to this report (Annex).

(5) Given the bilateral nature of the initiative, the JSG did not address the issue of a FTA or Economic Partnership Agreement (EPA) between the European Free Trade Area (EFTA) and Japan. The JSG took note of the unique nature of Japan-Switzerland trade structure in the trade between Japan and the EFTA States.

## II. Overview

(1) Both Japan and Switzerland are strongly committed to the multilateral trade framework and see FTAs and EPAs as complementary, not alternative to its further development. By following WTO rules regarding regional trade agreements, FTAs/EPAs can be building blocks for the development of the world trade system.

(2) Japan's EPA policy is based on the "Basic Policy towards Further Promotion of Economic Partnership Agreements (EPAs)," approved by the Council of Ministers on the Promotion of Economic Partnership on 21<sup>st</sup> December 2004. Japan has been promoting comprehensive EPAs, the scope of which surpasses trade in goods and services. The comprehensive EPAs include a broader range of issues such as investment, intellectual property, government procurement, improvement of business environment and cooperation.

(3) The Stockholm Convention of 1960, establishing the EFTA and the bilateral FTA concluded in 1972 between Switzerland and the European Community continue to be important pillars of Swiss foreign economic policy. A dense network of additional sector-specific agreements with the EU, complementing the FTA concluded in 1972, ensures that Switzerland, as a non-member of the EU, continues to be an attractive location in Europe for industry, trade, and finance. Today, Switzerland's network comprises seventeen FTAs. The scope of recent Swiss FTAs, concluded especially with partners outside the Euro-Mediterranean area, is comprehensive, similar to the one of Japanese EPAs. Over 80% of Switzerland's foreign trade is covered by FTAs, and FTAs are currently being negotiated or examined with a considerable number of other trading partners.

(4) Japan and Switzerland share similar interests in upholding high standards in different economic policy areas, such as investment and protection of intellectual property rights, as well as cooperation in such fields as tourism and science and technology. Cooperation between Japan and Switzerland is particularly close also in the field of agriculture, as both countries attach a high importance to the multifunctionality of agriculture.

(5) Japan is a key trading partner of Switzerland. Japan has been ranking first in Asia as a destination of Swiss exports for many years and currently ranks third worldwide after the EU and the United States. According to Swiss trade statistics *SWISSIMPEX (Federal Customs Administration)* in 2005, Switzerland exported goods worth 5.9 billion CHF (about 522.3 billion JPY) to Japan and imported goods worth 3.0 billion CHF (about 265.6 billion JPY) from Japan. According to Japan's *Trade Statistics* in 2005, Japan exported goods worth 237.7 billion JPY (about 2.7 billion CHF) to Switzerland and imported goods worth 557.1 billion JPY (about 6.3 billion CHF) from Switzerland.

(6) Important export items from Switzerland to Japan are chemical and pharmaceutical products, watches and jewellery as well as machines and instruments. Japan exports to Switzerland mainly vehicles and related transport

equipment, machines, and chemical and pharmaceutical products. Generally, traded goods consist of high value added products. Trade in agricultural products is small between the two countries. Since the mid-1990s, the trade balance has been turning increasingly positive towards Switzerland.

(7) Regarding trade in services, according to Japan's *Balance of Payments* as of the end of 2005, Switzerland ranks 15th in the list of Japan's major trading partners for services. In 2005, Japanese providers sold services of 129.3 billion JPY (about 1.5 billion CHF) to Swiss consumers and Swiss providers sold services of 243.7 billion JPY (about 2.8 billion CHF) to Japanese consumers. Since the mid-1990s, the balance of payment of trade in services has been constantly positive towards Switzerland.

(8) In the area of investment, according to *International Investment Position* of Japan as of the end of 2005, Switzerland with 265.9 billion JPY (about 3.0 billion CHF) of investment ranks 8th among foreign direct investors in Japan, after the United States, the Netherlands, France, Germany, Canada, the United Kingdom and Hong-Kong. On the other hand, Japanese companies invested 102.1 billion JPY (about 1.2 billion CHF) in Switzerland. According to *International Investment Position* of the Swiss National Bank, Swiss companies invested 7.7 billion CHF (about 681.6 billion JPY) in Japan, and Swiss companies already provided jobs to more than 36,000 employees in Japan. On the other hand, Switzerland hosts 1.1 billion CHF (about 97.3 billion JPY) of Japanese direct investments.

Note: Currency conversion referring the IMF rate in 2005: 1 CHF=88.52 JPY

### **III. Summary of Discussions**

#### **1. Trade in goods**

The JSG shared the view that a possible FTA/EPA between Japan and Switzerland should be fully consistent with Article XXIV of the General Agreement on Tariffs and Trade 1994 (GATT), given that improvement of market access for trade in goods including tariff elimination and reduction is an important element to strengthen economic relations between the two countries.

Note: More than 70% of Japanese exports to Switzerland were subject to Swiss customs duties, while less than 20% of Swiss exports to Japan were subject to Japanese customs duties in 2005.

#### **(i) Industrial goods (HS chapters 25 to 97)**

(1) The JSG shared the mutual understanding that both Japan and Switzerland are highly developed countries and therefore tariffs imposed on all industrial products should be eliminated in principle. However, both sides also took note of their respective sensitivities regarding a few products.

(2) In this regard, the Japanese side stressed the sensitivities on items including leather, leather products, and footwear due to historical and social reasons, as well as the sensitivities on refined salt.

(3) The Swiss side expressed the sensitivities of a few items relevant for Swiss agricultural policy within HS 25-97 (a few products out of HS 35 and 38).-

(4) The JSG took note of the sensitivities of both sides and confirmed that the treatment of these items would be discussed in the negotiations on a possible FTA/EPA between Japan and Switzerland.

**(ii) Agriculture (HS chapters 1 to 24)**

(1) The JSG deepened understanding on the efforts of increasing food self-sufficiency ratio and the structural reform of agriculture in Japan, on agricultural policy reform and enhancing relative competitiveness of agricultural products of Switzerland and on the present state of agricultural trade between the two countries.

(2) The JSG recognised that both countries share many features in agriculture and agricultural policy and take the same position as G10 member countries in WTO negotiations. Moreover, from the viewpoint of ensuring food security and securing the benefits of the multi-functionality of agriculture, the JSG confirmed that sufficient attention should be given to the importance of striking a balance between agricultural trade and the sound development of domestic agriculture.

(3) The JSG noted indicative export interests in the area of agriculture, forestry and fisheries expressed by both sides.

(a) The Japanese side expressed its export interests in such products as ornamental fish (e.g. golden carp), fish-liver oil and their fractions, *seishu* (fermented beverage) and *shochu* (distilled alcoholic beverage). In addition, the Japanese side referred to presently leading export items to Switzerland such as pasta (e.g. instant noodle), rice cracker (e.g. *arare*, *senbei*), soy sauce, fermented soybean paste (e.g. *miso*) and waters (e.g. soft drink). It also referred to apples and pears as examples of prospective export items to Switzerland.

(b) The Swiss side expressed its export interests in such products as live cattle, cheese, fruit, coffee and coffee preparations, pectin, sugar confectionery, chocolate and other food preparations, preparations for infant use, jams, fruit jellies and marmalades etc., food preparations of vegetable protein, and wine.

(4) The JSG also recognised that both countries have sensitive areas in agriculture, forestry and fisheries as follows.

(a) The Japanese side drew attention to its sensitive products, including those in relation to Swiss export interests, such as milk and dairy products; rice and rice products; wheat, barley and their products; cane and beet sugar; sugar confectionery; starch; chocolate and other food preparations (containing cocoa) ; jams and fruit jellies etc. and wine. In addition, the Japanese side referred to examples of generally sensitive areas such as beef, pork and their products; citrus; pineapple and its related products such as canned ones; tomato puree; fruit preparations; main target species of Japanese coastal and off-shore fisheries (e.g. horse mackerel, mackerel, sardine, squid and seaweed) and internationally managed species (e.g. tunas and bonitos); vegetable oil and wood based panels (HS44).

(b) The Swiss side expressed its sensitivities regarding cereals, fruits, vegetables, sugar and the products derived thereof; meat (beef, pork and poultry,

including canned meat and sausages); feed grains and other feeding stuffs; soft drinks and wine.

(5) The JSG confirmed the understanding that, based on relevant policies of both sides, practical and flexible approaches should be taken in the negotiations of a possible FTA/EPA between Japan and Switzerland in the area of agriculture, forestry and fisheries.



### **(iii) Rules of origin**

(1) The JSG acknowledged the importance of the following points in deciding the rules of origin: (a) preventing circumvention of goods from third countries, (b) not creating unnecessary hindrance to trade, (c) applying rules impartially, neutrally and consistently, (d) ensuring transparency, clarity and predictability, and (e) creating rules that are easy to understand for users and simple to implement for the governments. The JSG also shared the view that, in determining the rules of origin, the characteristics of products, the structure of industry and the impact on bilateral trade and investment should be taken into account.

(2) The Japanese and Swiss sides presented in the JSG their approaches regarding preferential rules of origin used in their existing FTAs/EPAs.

(3) The Japanese side explained the rules of origin in the agreements concluded with Malaysia and Mexico. The rules consist of two main parts: rules for origin determination, and certificates of origin and related customs procedures. With regard to the latter, the Japanese side raised the following three points. First, the certificates of origin should be issued by the competent governmental authority or its designees of the exporting country. Secondly, the customs authority of the importing country may request information relating to the origin of the goods from the competent governmental authority of the exporting country on the basis of a certificate of origin, where the former has reasonable doubt as to the authenticity of the certificate of origin or the accuracy of the information included. Lastly, if the customs authority of the importing country is not satisfied with the outcomes of the request for checking, it may request the exporting country to conduct a verification visit.

(4) The Swiss side explained its system of rules of origin, which was developed in the European context. The Swiss side also pointed out that, since 1997, it has participated in the system of pan-European cumulation of origin, covering over 30 countries (the EU, the other EFTA States, Bulgaria, Romania and Turkey) that allows for free use of originating material throughout the region. The extension of this system to Mediterranean countries started in 2005, and will proceed step by step. In the end, over 40 countries will use the same rules of origin and benefit from the possibilities of bilateral and diagonal cumulation.

(5) The European rules consist of two main parts:

(a) General rules that identify the basic principles: products need to be either "wholly obtained" or "sufficiently worked or processed" in the country concerned in order to be considered originating and to be eligible for preferential tariff treatment within the free trade area. They also include rules on administrative co-operation.

(b) List rules: a product-by-product list of criteria required for products to be granted originating status, such as change in tariff heading (a product is considered originating in the exporting country if it has been sufficiently transformed in that country to be classified under a different heading in the

Harmonized System), sufficient processing (the origin is determined in terms of specific processing operations necessary to give the product its current characteristics) and value added criterion (the origin is determined in terms of the value that has been added to the product in the exporting country), subject to provisions concerning minimal operations.

(6) The Swiss side explained that for FTA negotiations with countries outside the European/Mediterranean context, based on pertinent experience, the EFTA States updated the European model by using simplified and less restrictive list rules, by introducing enhanced possibilities for outward processing and by using the “Invoice Declaration” as proof of origin. In addition, the possibility of splitting up of consignments in third countries was included in the direct transport rule. The Swiss side mentioned that the most recent EFTA FTA with Korea contains all these trade facilitating elements, making the operation easier for both exporters/importers and involved national administrations.

(7) The Swiss system regarding approved exporters, comprising a declaration of origin by approved exporters in an invoice for consignments above a certain value, and verification procedures was discussed in detail. The Swiss system presents new concepts to Japan and this would become a policy challenge to Japan. Therefore, the JSG noted various possible difficulties in an attempt to fill the gap between the Japanese and Swiss systems. As for the introduction of the invoice declaration by approved exporters on the Japanese side, the JSG noted that further consideration would be necessary in order to make any decision whether or not to adopt such a new system.

(8) As a basis for considering the introduction of a new scheme, with regard to acceptance of exports of Swiss goods with invoice declaration of originating status by approved exporters, the Japanese side insisted on the necessity of ensuring several elements: the administration of the Swiss system of approved exporters, verification mechanism, information about approved exporters, presence of customs officials of the importing country at the verification visits conducted by the exporting country, the right to deny preferential tariff treatment when the response to a request for verification is insufficient, exchange of detailed information such as reasoning on verification results and related documents and establishment of appropriate communication channels in urgencies. The Swiss side understood Japan’s above mentioned concerns, and assured the Japanese side that it would take necessary steps in order to deliberate on this new concept and to solve in a workable way the problems that Japan would face in addressing this policy challenge.

(9) With regard to other possible differences between the Japanese and Swiss approaches, the JSG noted that the main differences are in the rules concerning verification procedures and certification of origin. The Swiss side indicated that its legal system does not foresee on-site verifications by authorities of the importing country. In addition, the JSG noted that the assessment of the Swiss certification system would have an implication for Japan’s consideration on a possible simplification of rules of origin system for Japanese exporters. However,

concerning most of the remaining issues regarding the rules of origin, there are no or only minor differences between the two approaches.

(10) The JSG also discussed the issue of the work and process necessary to acquire an originating status, including the product specific rules, on which some differences between the Japanese and Swiss models have been noted. The JSG confirmed that, without substantial transformation in Switzerland, Japanese products exported to Switzerland would not enjoy preferential treatment based on Pan-European or Pan-Mediterranean rules of origin. Equally, the JSG also confirmed that, without substantial transformation in Switzerland, EU products exported to Switzerland would not enjoy preferential treatment based on a possible FTA/EPA between Japan and Switzerland.

#### **(iv) Customs procedures**

(1) The JSG took note of the Japanese and Swiss customs procedures, bearing in mind that customs procedures would help ensure the full benefits of trade liberalisation resulting from a possible FTA/EPA between Japan and Switzerland.

(2) Both sides shared the view that in order to achieve an efficient customs service, customs procedures need to be transparent, user-friendly, simple and harmonised with international standards to the extent possible. Both sides shared mutual understanding that provisions on administrative co-operation and customs procedures of a possible FTA/EPA should be compatible with the existing national legislation in both countries.

(3) The JSG furthermore emphasized that cooperation between the customs authorities including exchange of information would facilitate trade flows while ensuring effective law enforcement at the border with improved risk management. The establishment of a proper follow-up mechanism of the cooperation would contribute to effective implementation and operation of customs legislations.

## **(v) Trade disciplines**

(1) Japan and Switzerland explained their respective approaches on the trade disciplines (anti-dumping and countervailing measures as well as safeguard measures) and shared their respective experiences in their past FTA/EPA negotiations. The JSG concluded that the provisions on trade disciplines in a possible FTA/EPA between Japan and Switzerland should be modelled on the WTO rules.

(2) With regard to anti-dumping measures, the Japanese side explained that no specific legal provisions, which would change the rights and obligations under the WTO agreements, are contained in the texts of existing Japanese EPAs. On the other hand, the leaders, upon signing the EPAs, have issued Joint Statements, which affirm their commitment to prevent the abusive use of anti-dumping measures and to continue the cooperation in the WTO negotiations.

(3) Switzerland's approach to anti-dumping and countervailing measures in its FTAs has been to rely on WTO rules, complemented in some instances with provisions providing for additional consultations and other WTO-plus elements aimed at avoiding or minimizing the need to take recourse to restrictive trade measures.

(4) As for bilateral safeguard measures, the JSG confirmed that approaches of both sides are based on the WTO rules and have a high degree of commonality. The JSG shared the view that provisions on bilateral safeguard measures are important as a “safety net” of a bilateral trade agreement.

**(vi) Standards and conformity assessment, and mutual recognition**

(1) The Japanese and Swiss sides respectively explained the present status of implementation of existing Mutual Recognition Agreements (MRAs). With regard to MRAs in general, the Japanese and the Swiss sides demonstrated merits and demerits of the traditional mutual recognition and the mutual cross-border designation of conformity assessment bodies. Furthermore, both sides acknowledged the importance of the cost-effectiveness of mutual recognition mechanism in light of the experience of both countries in this area.

(2) The JSG took note of the good and productive cooperation and framework set up between the Ministry of Health, Labour and Welfare (MHLW), Japan, and Swissmedic, the Swiss Agency for Therapeutic Products in the area of therapeutic products (Pharmaceuticals and Medical Devices), which deals with both execution/implementation of the existing arrangements as well as discussions on additional areas of cooperation. For pharmaceuticals, two arrangements are in place (Good Laboratory Practice (GLP) and Good Manufacturing Practice (GMP)) which are currently being updated (references to current legislation, contacts, etc.). Ongoing consultations between MHLW and Swissmedic in pharmaceuticals and medical devices will be continued, through their direct dialogue.

## 2. Trade in services

(1) Both Japan and Switzerland have a highly developed services sector accounting for a large part of their GDP. In multilateral and bilateral trade negotiations, Japan and Switzerland have an ambitious stance and are aiming at further opening up services markets. Both countries have recently implemented reforms in their services sectors, which contributed to economic growth and enhanced welfare.

(2) In light of the above, the JSG noted that a possible FTA/EPA between Japan and Switzerland could bring about a comprehensive and high standard framework for bilateral trade in services. This would provide business with a more open, stable and predictable environment. Furthermore, Japan and Switzerland could use such a bilateral agreement when negotiating with other partners as a benchmark, both overall and in respect of specific issues of key interest for Japanese or Swiss business.

(3) Each side presented options based on the approaches in previous FTA/EPA negotiations. The JSG noted that the General Agreement on Trade in Services (GATS) framework represents a possible common basis. Taking GATS as a starting point for negotiations of a possible FTA/EPA between Japan and Switzerland and further liberalisation would ensure consistency among various sets of international obligations while providing added value to the business community.

(4) GATS and bilateral services agreements contain general provisions on rules on the one hand and lists of specific commitments on the other hand. As far as the general provisions are concerned, a possible FTA/EPA could improve the GATS disciplines. Such areas include licensing and qualification requirements and procedures, services standards, recognition, as well as general rules in key sectors like finance and telecommunication.

(5) Commitments on services can be listed either according to a positive list approach (like the GATS schedules) or a negative list approach (lists of non-conforming measures). In their existing bilateral agreements, Japan and Switzerland have so far used both approaches. When determining the most promising approach for negotiations on a possible FTA/EPA between Japan and Switzerland, both countries would consider the merits in terms of achievable level of commitment, transparency and legal certainty.

(6) Both sides pointed out that negotiations on a possible FTA/EPA between Japan and Switzerland represent an opportunity to put a strong emphasis on sectors of particular interest for Japanese and Swiss business, such as distribution, computer, telecommunication, certain audio-visual services, finance and logistics services. The same applies to horizontal measures regarding, in particular, the establishment of a commercial presence, where specific interests were identified.

(7) In this context, with regard to the nationality and residential requirements for board members of Swiss companies, a question of major concern

for Japanese companies doing business in Switzerland, the Swiss side stated that in recently concluded FTAs (e.g. Republic of Korea), Switzerland was able to show flexibility and committed not to applying these nationality requirements and to possibly relaxing the residential requirements for the companies of its FTA partners. Given the relevance of the matter for Japanese companies, the Swiss side expressed its readiness to offer the non-application of these nationality requirements and possible relaxation of residential requirements for board members of Japanese companies in Switzerland vis-à-vis Japanese nationals, both for services and non-services sectors in principle. The mutual understanding of both sides is that a satisfactory outcome regarding these matters should be aimed at in the negotiations of a possible FTA/EPA between Japan and Switzerland.

(8) The JSG shared the view that negotiations of a possible FTA/EPA should be comprehensive, address a wide range of needs and aim at an open and predictable environment reflecting high standards regarding rules and the level of commitments, going beyond the GATS. The JSG was of the view that the GATS negotiating principle of no a priori exclusion of any services sector should be common ground of negotiations on a possible FTA/EPA between Japan and Switzerland, bearing in mind also the conformity to the conditions set out in Article V of the GATS.



### 3. Investment

(1) The JSG acknowledged international investment as a key driving force for economic growth and competitiveness. While Japan and Switzerland are important investors in foreign markets, the JSG noted that ample scope remains for further expanding bilateral cross-border investment.

(2) The JSG concurred that international agreements which include substantive investment provisions are an effective way to increase overall investment (including investment in services) as well as the flow of capital, technologies and know-how between the parties. By granting rights of establishment and by strengthening investment protection, such agreements enhance investment opportunities and reduce risks. Complementing the existing multilateral investment instruments of the OECD and the WTO, an FTA/EPA containing comprehensive investment provisions would enhance the framework conditions for private investment, thereby contributing to employment and growth.

(3) Both Japan and Switzerland have concluded or are negotiating a number of international agreements which contain substantive provisions on investment. The JSG noted that these agreements show a high degree of commonality, including a broad, asset-based investment definition, non-discrimination in both the pre- and post-establishment phase of investment, high standards of investment protection, negative listing of non-conforming measures as well as effective investor-to-state dispute settlement procedures. Therefore, the JSG was of the view that a strong common basis exists on which negotiations on a possible FTA/EPA between Japan and Switzerland could build with the aim of providing an improved framework for investment.

(4) In addition, the discussions in the JSG deepened mutual understanding on the following issues: the interface between the services and investment parts of FTAs/EPAs that Japan and Switzerland have recently concluded respectively, performance requirements, the so-called "umbrella" clause, future non-conforming measures and prior consent to investor-state dispute settlement.

(5) The JSG also noted that the promotion of inward investment is seen as a high priority by both countries. The JSG deepened understanding on respective investment promotion programs such as "Program for the Promotion of FDI in Japan (\*1)" of Japan and "Location: Switzerland Japan Program" of Switzerland. The JSG shared the view on the need to take measures in broad areas to further facilitate and promote the investment activities of the private sector through these programs.

(\*1) This program was succeeded by "Program for Acceleration of FDI in Japan," which was newly decided in June 2006.

#### **4. Government procurement**

(1) The JSG noted that there was broad common ground between Japan and Switzerland with regard to government procurement. Both countries are members of the WTO Government Procurement Agreement (GPA). The importance of the basic principles of non-discrimination, fairness and transparency has been underlined by both sides. The JSG shared the view that, between Japan and Switzerland, basic principles of the GPA are the common ground and that the GPA should serve as a reference in the field of government procurement.

(2) Japan presented a comprehensive view of its position on the GPA and of its approach regarding voluntary measures. These measures consist of a lowering of specific thresholds in the goods and services sectors as well as of procedural improvements, such as the extension of the time period for tendering.

(3) Switzerland indicated that substantial provisions (leading to concrete market access opportunities equivalent to those of the GPA) have been adopted in the EFTA-FTAs with Chile (2004) and Mexico (2001). It presented the negotiation clauses which have been adopted in some of its other FTAs. The negotiation clause aims at giving the parties the opportunity to negotiate if a party agreed with a third party to grant a higher level of market access. Switzerland furthermore explained the clause foreseeing an accelerated entry into force of enhanced GPA commitments ("early harvest") in the EFTA-Korea FTA.

## 5. Intellectual Property Rights (IPR)

(1) IPR play an essential role in the economies of both Japan and Switzerland, and the protection of IPR is given high priority in both countries. The JSG concluded that the highest level of IPR protection such as in the field of anti-counterfeiting and anti-piracy cooperation should be pursued in a possible FTA/EPA with a distinctive part, which would satisfy the standards suitable for advanced IP nations.

(2) Both sides shared their respective experience of promoting the protection of IPR in their past FTA/EPA negotiations. The Swiss side, in its explanation on the areas which are not fully harmonised by existing multilateral agreements, placed an emphasis on the protection of biotechnological inventions and medical devices as well as on the compensatory term of protection for pharmaceuticals and plant protection products. In addition, the Swiss side pointed out the importance of a strong level of protection of undisclosed information in a possible FTA/EPA. As for geographical indications, the JSG took note of the differences in the respective positions of Japan and Switzerland on how to deal with this matter in multilateral fora and in FTAs/EPAs including a possible EPA/FTA between Japan and Switzerland.

(3) Both sides expressed their strong concern on the global proliferation of counterfeits and pirated goods, and acknowledged that collective efforts are required for resolving this issue. The Japanese side presented its proposal on a possible international legal framework to prevent counterfeits and pirated goods. The Swiss side in reply expressed its intention to actively participate in discussions of the legal framework proposed by Japan. The JSG concluded that essential elements of the legal framework should be incorporated into a possible FTA/EPA, as appropriate.

## 6. Movement of natural persons

(1) The JSG considers the movement of natural persons to be an important aspect of a possible FTA/EPA between Japan and Switzerland. The JSG shared the view that in the field of movement of persons a modern bilateral framework that suits the needs and situation of Japan and Switzerland would facilitate business relations and bring benefits to businesses on both sides.

(2) The JSG noted substantial common ground between Japan and Switzerland regarding their policy on the movement of natural persons. Both countries, when negotiating FTAs/EPAs, focus on specific categories of persons in professional and technical fields, and both are dealing only with temporary entry and stay, not covering permanent access to the labour market.

(3) In existing FTAs/EPAs with third countries, Japan's approach is to address the movement of natural persons in a comprehensive manner, which covers a wide range of issues and needs, according to the laws and regulations in Japan. In its EPAs, an independent chapter on movement of natural persons has been introduced where Japan has made commitments on a wide range of categories such as short-term business visitors, intra-corporate transferees, investors and natural persons who engage in work on the basis of a personal contract with public or private organisations in Japan.

(4) In its FTAs, Switzerland so far covered movement of natural persons in the context of services, using the same scope and categories as in its GATS commitments including categories such as business visitors, intra-corporate transferees, contractual service suppliers as well as installers and maintainers.

(5) Switzerland has also concluded bilateral trainee agreements with several countries and explained the outline of the agreements to the Japanese side. The term “trainees” in the trainee agreements of Switzerland usually applies to trained professionals between 18 and 35 years old who are remunerated in accordance with wages and working conditions of the host country. The Japanese side responded that the “trainees” explained by the Swiss side do not fulfill the requirements of the current statuses of residence of Japan such as “Trainee” or “Engineer.”

(6) The JSG concurred that bilateral negotiations on a possible FTA/EPA would be an opportunity for Japan and Switzerland, according to their economic interests, to undertake commitments on a broad range of categories of persons. The JSG also shared the view that these commitments should take into account the requirements of national policies and legislations regarding the movement of natural persons. Covering all sectors of the economy (both services and non-services sectors), a possible FTA/EPA would represent an opportunity to bring added value for businesses of both sides.

(7) According to the Swiss migration policy, priority of admission is given to EU/EFTA nationals, and the admission and recruitment of non-EU/EFTA nationals are limited to qualified individuals and specialists. In addition, for non-EU/EFTA nationals, numerical ceilings are applied in issuing short-term and

annual residence permits. The Swiss side stated that these numerical ceilings are not applied to nationals of Swiss FTA partners (e.g. Republic of Korea), who fall under one of the specific categories of natural persons covered by the FTA. The mutual understanding of both sides is that such numerical ceilings will not be applied to Japanese nationals covered by a possible FTA/EPA, if an FTA/EPA is concluded between Japan and Switzerland.

## 7. Competition policy

(1) Both Japan and Switzerland attach great importance to an effective competition policy and consider themselves bound by the OECD Recommendations in this field.

(2) Both sides shared the view that anti-competitive practices might impair the benefits resulting from the liberalisation of trade and investment, and that such practices are incompatible with the proper functioning of an FTA/EPA. The JSG concluded that provisions to avoid these activities should be included in a possible FTA/EPA between Japan and Switzerland. The JSG also confirmed that these provisions should be elaborated with due regard to the existing national legislations.

(3) The JSG noted that the competition chapters in FTAs/EPAs concluded by Japan have pursued an approach where two types of agreements co-exist; a basic agreement which includes fundamental provisions and an implementing agreement which includes detailed provisions on cooperation between competition authorities. Switzerland in its FTAs has pursued an approach that combines procedural and some basic substantial provisions. Both approaches rely on national competition law and other relevant legislations.

(4) Both Japan and Switzerland recognised the usefulness of cooperation between competent authorities in order to prevent and to take appropriate measures against trade-distortive anti-competitive practices. Japan has concluded several specific cooperation agreements in the field of competition policy, while Switzerland has not, so far, made use of such instruments.

## 8. Improvement of business environment

(1) To facilitate and expand business activities in both Japan and Switzerland, the JSG shared the view on the need to further improve their respective business environments taking into account the surveys carried out by JETRO and the Embassy of Switzerland in Japan.

(2) JETRO presented the result of a survey of 70 Japanese companies operating in Switzerland which was conducted from May to July 2006. JETRO emphasized the following three points as main requests from Japanese business circles.

- Simplification and acceleration of the process of obtaining work and residence permits in Switzerland
- Abolishment or relaxation of the nationality and residential requirements for board members of the Swiss-registered companies (based on Article 708 of the Code of Obligations which stipulates that the majority of board members must be Swiss citizens with domicile in Switzerland)
- Social security agreement between Japan and Switzerland to avoid double payment

(3) The Embassy of Switzerland in Japan presented the result of a survey which was conducted in May and June 2006, encompassing approximately 100 Swiss companies operating in Japan. The following points were raised as requests from Swiss companies in Japan.

- Lowering of tariffs
- Harmonisation of regulations with international standards (e.g. safety standards and product approval)
- Simplification and clarification of regulations (e.g. import procedures and licensing rules)
- Facilitation of temporary work and stay, regarding intra-company transferees and trainees.

As other points of interest, MRA, social security agreement, exchange of young persons/young professionals and the revision of the existing taxation treaty were mentioned.

(4) The JSG took note of the concerns of Japanese companies in Switzerland and Swiss companies in Japan. The JSG shared the view that these issues should be discussed on the basis of more detailed information through various channels between Japan and Switzerland.

As for social security, the Swiss side expressed its readiness to enter into further discussions on an agreement with Japan concerning the posting of workers from one country to the other in order to avoid the payment of social security contributions in both countries. The JSG recognised the need for predictable and efficient procedures relating to work and residence permits.

## 9. Cooperation

The JSG also explored possible ways of deepening cooperation between Japan and Switzerland in the following areas:

(1)Science and Technology: Japan and Switzerland are leading countries in the science and technology field. Since 1994, four Japan-Switzerland Round Table Meetings on Science and Technology Cooperation have been held. The envisaged Science and Technology Cooperation Agreement between Japan and Switzerland will be a key in promoting cooperation between the two countries in such fields as exchanges of experts and researchers, exchange of information, and joint research projects. The Japanese side expressed its expectation that the procedures toward the signing of the Agreement on the Swiss side could be accelerated.

(2)Tourism: The number of Japanese visitors to Switzerland is about twenty times as many as that of Swiss visitors to Japan. The JSG took note of such a significant imbalance. Both sides exchanged information on their respective domestic measures to promote tourism. The Japanese side presented its efforts to attract more foreign tourists under the “Visit Japan Campaign,” as well as the existing frameworks of partnership such as more than ten sister cities and three railway partnerships. Both sides recognised the importance of further promoting such cooperation, including an exchange of information and experience between the Japan National Tourist Organization (JNTO) and Switzerland Tourism (ST). Japan and Switzerland showed their interests in the potential for bilateral cooperation in the area of “Agriculture and Tourism.”

(3)Promotion of Japanese and Swiss Food Culture: The Japanese side introduced its activities to promote Japanese food culture in the world, covering mainly Asia and extending to North America and Europe, and referred to the possibility of launching such activities in Europe, where Switzerland has a geographical advantage as the centre of Europe as well as a host to many international organisations. The Swiss side noted with interest these projects for promoting Japanese food culture in Switzerland. The Swiss side introduced its approach in the field of geographical indications for agricultural products. The Swiss side expressed its interest in promoting geographical indications in support of marketing of Swiss food products.

(4)Fight against Money Laundering: Both sides explained their efforts and measures to fight against money laundering. The JSG shared the view that international cooperation in the field of fight against money laundering, including increased bilateral information sharing, is indispensable and of increasing importance in the globalised world. In this context, both sides welcomed the efforts by their experts to explore a possible framework for exchanging information related to money laundering and terrorist financing in order to further enhance their cooperation.

(5)Mutual Legal Assistance in Criminal Matters: The Swiss side put emphasis on the importance of efficient mutual legal assistance in criminal matters especially for countries such as Japan and Switzerland which have internationally



important financial centres. The Swiss side expressed its interest in exploring the possibility of formalising the cooperation between Japan and Switzerland in the field of mutual legal assistance in criminal matters in the form of an instrument exceeding the existing declaration of reciprocity of 1937 and being able to counter the threats posed by international crime more effectively. To this end, the Swiss side proposed to discuss the issue in a meeting involving mutual legal assistance experts/practitioners of the two countries. Both sides shared the view on increasing importance of further cooperation between Switzerland and Japan in order to combat international crime through efficient mutual legal assistance in criminal matters, and welcomed the discussions involving their experts to explore the possibility of developing a framework for facilitating cooperation between the two countries in this field.

In addition, issues such as air transport were mentioned in the JSG.

## 10. Institutional issues and dispute settlement

(1) Both sides explained their respective approaches regarding institutional issues and dispute settlement, and shared their respective experiences in their existing FTAs/EPAs. The JSG noted that these agreements show a high degree of commonality.

(2) In the FTAs/EPAs concluded by Japan and Switzerland, joint committee is a main institutional element. It meets at senior officials' level and has functions such as the following:

- to review the implementation and operation of the Agreement;
- to consider and recommend amendments to the Agreement;
- to supervise and coordinate the work of sub-committee;
- to adopt operational procedures and any necessary decisions;
- to address other issues relating to trade and economic relations (Swiss FTAs).

(3) The FTAs/EPAs concluded by Japan and Switzerland also contain provisions on dispute settlement which comprise consultation and arbitration mechanisms. The contracting parties of these agreements are required to endeavour to resolve problems of interpretation and application of the agreement through consultations between the contracting parties, but in case no mutually acceptable solution is reached, it is possible for each side to have recourse to a binding arbitration procedure. Both sides indicated that they have never resorted to an arbitration procedure in their respective FTAs/EPAs, but shared the view on the usefulness of including such provisions as a last resort.

(4) The JSG concluded that a possible FTA/EPA between Japan and Switzerland should equip itself with both a consultation mechanism and, in case where consultations could not settle the difference of views, a dispute settlement mechanism independent from that of the WTO. The JSG shared the view that provisions on institutional issues and dispute settlement should be kept as simple as possible.

#### IV. Simulation study on the economic effects of an Economic Partnership Agreement

(1) A Japanese expert (\*1) reported on the simulation study on the economic effects of a possible FTA/EPA between Japan and Switzerland using a Computable General Equilibrium (CGE) model.

(2) It was suggested in the simulation study that a possible FTA/EPA would be mutually beneficial to both countries. With regards to macroeconomic benefits, a possible FTA/EPA would provide relatively larger benefits to the Swiss economy, while in absolute terms Japan's benefits could be larger. Depending on the assumptions, the simulation study also demonstrated that neither Japan nor Switzerland would lose in the area of agriculture, forestry and fisheries.

(3) The JSG took note of these results of the study and acknowledged that the simulation was conducted under certain assumptions and limitations inherent to the model and the available data (e.g. the conversion method of the Swiss specific tariffs into ad valorem equivalent and the fact that liberalisation of investment and trade in services were not taken into account in the simulation). The JSG recognised that the benefits under the simulation of a possible FTA/EPA might be greater if the liberalisation and facilitation of investment and trade in services were accounted for in the simulation.

(\*1) Kenichi KAWASAKI, Special Fellow, Economic and Social Research Institute, Cabinet Office

## V. Conclusion and Recommendations

(1) Based on the discussions at five meetings in total, the JSG reached the following conclusion:

A comprehensive FTA/EPA between Japan and Switzerland, which would be the first of its kind between Japan and a European country, would significantly contribute to further strengthening economic relations between Japan and Switzerland. It would not only foster trade in goods and services, but also enhance investment opportunities. It would further improve the competitiveness of Japanese companies in the Swiss market and that of Swiss companies in the Japanese market, including vis-à-vis competitors from other countries benefiting from preferential conditions. In addition, a comprehensive FTA/EPA would represent a platform for further strengthening, deepening and extending the already well established cooperation between Japan and Switzerland in many fields. A possible FTA/EPA should be WTO-consistent, and wherever possible, should seek to be WTO-plus.

(2) The JSG identified especially the following as benefits of a possible FTA/EPA:

- Trade in goods can be facilitated by reducing customs duties imposed on more than 70% of Japanese exports to Switzerland and about 20% of Swiss exports to Japan.
- High level commitments of both countries are expected in the areas of investment and trade in services.
- The highest level of the IPR protection, on which both countries put critical importance, can be pursued, in fields such as anti-counterfeiting and anti-piracy cooperation.
- Improved business environment can be achieved, through, for example, non-application of nationality requirements and possible relaxation of residential requirements for company board members, and non-application of numerical ceilings in issuing temporary residence permits for certain categories of persons.

(3) Japan and Switzerland deepened understanding on their approaches in respective FTAs/EPAs in such areas as customs procedures, trade disciplines, standards and conformity assessment, government procurement, movement of natural persons, competition policy, improvement of business environment and dispute settlement. The JSG understands that the Swiss system of invoice declaration made by approved exporters would be a policy challenge to Japan.

(4) In addition, topics like tourism, science and technology, promotion of food culture, fight against money laundering, mutual legal assistance in criminal matters, mutual recognition in the field of conformity assessment, and avoidance of double social security contribution were also raised in the discussions of the JSG, in which the potential of further consideration by the two countries in broader areas was recognised. In particular, the JSG welcomed the discussions to explore a possible framework in order to enhance cooperation between the two

countries in the field of fight against money laundering and mutual legal assistance in criminal matters.

- (5) Based on the conclusion above, the JSG recommends that negotiations on an FTA/EPA between Japan and Switzerland be launched as soon as possible, and be conducted within a reasonable period of time while taking into consideration the ongoing negotiations of FTAs/EPAs by the respective countries. The JSG recommends that the negotiations of a possible FTA/EPA should be comprehensive, and aim at high level results not only in the area of trade in goods, but also in those of investment and trade in services as well as IPR protection.

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