

The EU-Japan Economic Partnership Agreement from the European Parliament's Perspective: A Landmark Agreement beyond Trade

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This article examines the EU-Japan Economic Partnership Agreement (EPA) from the perspective of the European Parliament. In particular, it argues that the impact of this landmark agreement goes well beyond trade, sending a strong signal at a time of rising protectionism. The article describes the content of this 'new generation' agreement as well as its strategic, economic and sustainability relevance. The European Parliament played a supportive role throughout the negotiations but also took a demanding stance. In December 2018, the European Parliament approved the EPA and the agreement must now deliver on its potential to benefit both citizens and businesses.

1. The EU-Japan EPA in the context of a new global trade order

The negotiations for an EU-Japan Economic Partnership Agreement, which started in March 2013, took place for some years in the shadow of the Transatlantic Trade and Investment Partnership (TTIP) and the

Transpacific Partnership (TPP) talks.¹ However, the context for international trade policy has dramatically changed since the beginning of 2017. The United States' (US) withdrawal from TPP and the *de facto* freeze of TTIP talks reinforced the EU's and Japan's shared objective to strike a trade agreement.

The EU-Japan EPA, which was politically concluded in July 2017, a day before the G20 Summit in Germany, is a joint statement in favour of cooperation and a rules-based trade order at a time when confrontation is on the rise. The EU and Japan - two big economies that together cover nearly a third of world gross domestic product (GDP), almost 40% of world trade, and over 600 million people - are showing through this EPA that the way forward is cooperation and a more inclusive and regulated globalisation, not trade wars that have no winners. Both parties are defending high levels of environmental, social, food safety, and consumer protection standards, rather than lowering or rolling back such standards. The EU-Japan EPA is, in sum, a clear response to the protectionist agenda of US President Donald Trump.

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¹ Kleimann, David (2015). 'Negotiating in the Shadow of TTIP and TPP: The EU-Japan Free Trade Agreement', German Marshall Fund of the United States, June, from <http://www.gmfus.org/publications/negotiating-shadow>

The US retreat into an 'American First' strategy left a large vacuum in the economic diplomacy in the world. This is an opportunity for the EU and Japan to advance their trade interests and approaches in global trade.

The EU-Japan EPA is, indeed, a vital piece of the EU trade agenda jigsaw. The conclusion of the trade negotiations with Japan and the strengthening of the EU's presence in the Asia-Pacific region were clearly set as priorities in the European Commission's October 2015 communication, 'Trade for All – Towards more responsible trade and investment policy.' The EU uses trade as a means to promote key EU values and principles as well as to encourage sustainable development. Japan is a like-minded partner of the EU as both share fundamental values, namely democracy, human rights, and the rule of law, as well as a strong commitment to sustainable development and a rules-based World Trade Organisation (WTO) system. This agreement with Japan is the EU's most ambitious trade agreement and, therefore, it certainly advances the EU's approach to global trade by setting high standards, promoting sustainable development, curbing protectionist pressures, and maintaining the rules-based economic order in the face of numerous challenges.

Trade policy has also been a centrepiece of Prime Minister Abe's economic strategy and it has been used as leverage for necessary domestic structural reforms (the so-called third arrow of 'Abenomics'), including reforms in the agricultural sector. Against the background of President Trump's trade politics, Japan decided to further pursue high quality economic partnerships, successfully concluding the EU-Japan EPA and leading the multilateral TPP-11 agreement in 2018.² The EU-Japan EPA is an essential component

for 'Abenomics' and it can also be helpful for the Japan-United States trade dialogue, as it sets new standards and can create incentives for the return of the US to multilateral trade agreements. Moreover, this agreement provides the groundwork for high quality free trade agreements (FTAs) in the Asia-Pacific region, namely for the Regional Comprehensive Economic Partnership (RCEP) negotiations, which include China.³

The EU-Japan EPA is, in this sense, a landmark agreement that goes well beyond trade and the relations between the EU and Japan.⁴

2. The EU-Japan EPA: Content and unfinished businesses

The EU-Japan EPA is the most important bilateral trade agreement ever concluded. The outcome of December 2017 is a 'new generation' FTA that covers better market access for goods, services and public procurement, regulatory cooperation and the modernisation of trade rules, intellectual property rights, corporate governance, and sustainable development. The EPA does not include the protection of investment, on which negotiations are still ongoing for a future investment agreement, nor does it include cross-border data flows, even though personal data can now be safely transferred between the EU and Japan based on strong data protection guarantees.

2.1. Key elements of the agreement

When the agreement enters into force, more than 90% of the EU's exports to Japan will be duty free. Once the EPA is fully implemented, we will see 99% of EU tariff lines and 97% of Japanese tariff lines liberalised.

² Suzuki, Hitoshi (2017). 'The New Politics of Trade: EU-Japan', *Journal of European Integration*, 39:7, 875-889.

³ Solís, Mireya and Urata, Shujiro (2018). 'Abenomics and Japan's Trade Policy in a New Era', *Asian Economic Policy Review*, 13, 106-123.

⁴ Frenkel, Michael and Walter, Benedikt (2017). 'The EU-Japan Economic Partnership Agreement: Relevance, Content and Policy Implications', *Intereconomics*, November/December, 52:6, 358-363.

The EU and Japan agreed to abolish tariffs for chemicals, plastics, cosmetics, textiles, and clothing. Tariffs will be removed on Japanese industrial products, notably for automobiles and car parts, general machineries, and electronics. The agreement will ultimately remove 100% of tariffs on industrial products in both directions. Moreover, around 85% of agri-food products will also be allowed to enter Japan duty-free, providing significant export opportunities for EU agri-food products such as wine, beef, pork, and cheese. Processed agricultural products such as pasta, chocolates, biscuits, and tomato sauce will also benefit from the elimination of customs duties.⁵ Japanese consumers can, therefore, enjoy such goods at lower prices. There are, nonetheless, safeguards to the most sensitive products through duty-free quotas, reduced duties, or staging periods. Customs duties of Japan's export priority products, including fisheries products, beef, and tea, will also be eliminated,⁶ while rice and seaweed are excluded from tariff liberalisation. In addition, the EPA ensures mutual protection of Geographical Indications (GIs): 56 of Japan's GIs, such as Kobe beef and Japanese sake, and 205 EU GIs, including 11 GIs from my country, Portugal, where Porto wine is produced.

Moreover, the EPA includes market access commitments in cross-border services, including postal, maritime transport, telecommunications, and financial services. The agreement also facilitates trade in services by including provisions on the movement of people for business purposes, which covers, for example, intra-corporate transferees, business visitors, and contractual service suppliers.

The agreement also deals with public procurement, granting the EU access to the procurement of 54 'core cities' in Japan and removing existing obstacles to

procurement in the railway sector. In turn, the EU grants Japan improved access to procurement by towns and cities and has agreed to a partial opening of procurement in the sector of overland and urban railways.⁷

Furthermore, the agreement addresses many non-tariff measures (NTMs) that constituted a concern for EU companies, namely on motor vehicles, food additives, medical devices, textiles labelling, pharmaceutical products, and cosmetics. It also contains high requirements in the area of sanitary and phytosanitary measures, which reduces compliance costs and creates a more predictable regulatory framework for both the EU and Japan. Progress made by Japan in this respect, even before the entry into force of the agreement, was remarkable and must be acknowledged as an important contribution to the successful outcome of the negotiations.

Finally, the EPA represents a further deepening of trade agreements with the introduction of new chapters and provisions, such as those on climate change, corporate governance, small and medium-sized enterprises (SMEs), and sustainable agriculture.

2.2. Unfinished businesses: Investment protection and data flows

The negotiators originally intended to include an investment protection chapter in the EPA, but the issue was later decoupled for two main reasons. First, after a long debate in the EU on the major flaws of the private Investor-State Dispute Settlement mechanism (ISDS), namely in the context of the trade and investment agreement with Canada (CETA), the European Commission's proposal is now the establishment of an Investment Court System (ICS). ICS is, in fact, a public arbitration

⁵ European Commission (2018). 'Key Elements of the EU-Japan Economic Partnership Agreement', December 12, from http://europa.eu/rapid/press-release_MEMO-18-6784_en.htm

⁶ Ministry of Foreign Affairs of Japan (2018). 'Japan-EU EPA', December, from <https://www.mofa.go.jp/files/000013835.pdf>

⁷ Hilpert, Hanns Günther (2017). 'The Japan-EU Economic Partnership Agreement: Economic Potentials and Policy Perspectives', *Stiftung Wissenschaft und Politik (SWP) Comments*, 49, from https://www.swp-berlin.org/fileadmin/contents/products/comments/2017C49_hlp.pdf

mechanism and should be seen as a stepping stone for a future Multilateral Investment Court. However, the EU and Japan could not yet reach an agreement regarding the investor dispute settlement mechanism. Second, the Opinion of the European Court of Justice on the EU-Singapore FTA of May 2017 clarified that investment protection is a shared competence of both the EU and its Member States.⁸ This led to a natural split between the EPA ('EU-only' agreement) and the investment part (which will be a future 'mixed agreement'), taking into account the two different ratification processes in the EU.⁹ Negotiations for an EU-Japan Investment Protection Agreement therefore continue and the European Parliament, which is strongly against the old-fashioned private ISDS, will closely follow any new developments.

Given the growing importance of the digital economy for growth and jobs, it is of the essence to have rules on cross-border data flows that are fit for the future. The EU-Japan EPA does not include, however, cross-border data flows provisions because, at the time of the conclusion of the negotiations, the EU was still discussing the right balance between the need for easier flow of data and strong privacy safeguards. The EPA foresees, nonetheless, a 'rendez-vous clause' whereby the EU and Japan undertook to assess the situation and discuss data flows within three years after the agreement enters into force. In the meantime, and as a complement to the EPA, companies can now benefit from the recently adopted

adequacy decision that allows personal data to be transferred safely between the EU and Japan.¹⁰

3. Why it matters: a landmark agreement beyond trade

The relevance of the EU-Japan EPA was much highlighted during the ratification process in the European Parliament. This EPA is a joint effort by the EU and Japan to shape globalisation, drive sustainable growth and set high standards in international trade.¹¹

3.1. EU-Japan: reinforcing bilateral ties, shaping globalisation

The EPA, together with the Strategic Partnership Agreement (SPA), definitely opens a new chapter in the long-standing EU-Japan relations. This partnership will go, however, well beyond the bilateral exchanges. At a time of serious protectionist challenges to the international order, the EU's and Japan's common interests and mutual trust make this partnership truly strategic.

Today's economic ties between the EU and Japan are solid. For the EU, Japan is the second largest investor and the sixth largest trading partner. Nonetheless, trade between the EU and Japan only represents 1.1% of world trade,¹² showing the underdeveloped potential of bilateral trade. The EU and Japan both need to maximise their growth potential while ensuring that it benefits all citizens.¹³ The EPA clearly opens new

⁸ Court of Justice of the European Union (2017). 'The Free Trade Agreement with Singapore Cannot, in its Current Form, be Concluded by the EU Alone', May 16, from <https://curia.europa.eu/jcms/upload/docs/application/pdf/2017-05/cp170052en.pdf>

⁹ 'Mixed agreements' must be ratified by both the EU and the individual Member States following their own national procedures, which often requires the approval of national parliaments and regional parliaments. Trade agreements that cover issues under the exclusive competence of the EU only requires the completion of the EU ratification procedure, that is to say, the approval by the Council and ratification by the European Parliament.

¹⁰ European Commission (2019). 'European Commission Adopts Adequacy Decision on Japan, Creating the World's Largest Area of Safe Data Flows', January 23, from http://europa.eu/rapid/press-release_IP-19-421_en.htm

¹¹ European Political Strategy Centre (2017). 'EU-Japan: Advanced Economies Shaping the Next Stage of Inclusive Globalisation', July, from <https://ec.europa.eu/epsc/sites/epsc/files/epsc-brief-eu-japan-economic-partnership-agreement.pdf>

¹² Jean, Sébastien (2017). 'Japan-Europe, the Unnoticed Megadeal', October, from <http://www.cepii.fr/blog/bi/post.asp?IDcommunique=570>

¹³ European Political Strategy Centre, *Ibid.*

opportunities for economic growth, employment, business competitiveness and innovation as the economies of the EU and Japan are complementary.¹⁴ It will also strengthen EU's presence in Asia and Japan's political and economic profile in the EU.

Moreover, given the combined influence of the EU and Japan, the EPA will contribute to global rule-making and standard-setting in international trade.¹⁵ The agreement is, therefore, very important to help set high labour, environmental, and consumer standards in international trade, as well as shape an inclusive globalisation and uphold the multilateral rules-based trade order.

The European Parliament, in particular the International Trade Committee and the Delegation for Relations with Japan, which has existed since 1979, will continue to follow and nourish this important bilateral cooperation. This cooperation includes parliamentary dialogue on areas such as trade, environment, technology, and innovation.

3.2. Exploring the economic potential of the EPA

There are several studies about the economic impact of the EU-Japan EPA. Although estimates should always be taken with a pinch of salt, the potential of the agreement is clearly positive in terms of GDP, income, trade, and employment. According to the Trade Sustainability Impact Assessment of 2016, the long-term GDP increase for the EU is estimated to be 0.76% and bilateral

exports should grow by 34%.¹⁶ With regard to the Japanese economy, the EPA is estimated to increase real GDP by approximately 1% and employment by approximately 0.5% (approximately 290,000 jobs).¹⁷

The removal of trade barriers (tariffs, NTMs and regulatory cooperation) is expected to benefit both the EU and Japan, particularly in the food, feed and processed food, manufacturing, chemicals (including pharmaceuticals), business services, and motor vehicle sectors.¹⁸ No sector is foreseen to experience noticeable losses. 14% of the welfare gains should stem from tariffs, the remaining 86% from NTMs reform, with the services sector account for more than half of gains.¹⁹

The largest gains for the EU are to be found in the agri-food sector, whose exports could increase by 294%. For the EU, considerable export opportunities are foreseen in industries such as agriculture, beverages, textiles, and leather products, which have high rates of SME participation in trade.²⁰ The agreement has the potential to benefit SMEs for this reason, but also thanks to a dedicated chapter that will provide transparency about market access to the benefit of smaller companies. For Japan, the main gains are expected in the manufacturing and the services sectors. Benefits are to be expected in particular in the motor vehicle sector, followed by minerals and glass, machinery and equipment (including medical, precision and optical instruments), and

¹⁴Lee-Makiyama, Hosuk and Poidevin, Alice (2018). 'The EU-Japan EPA: Freer, Fairer and More Open Trading System', Policy Brief 10/2018, European Centre for International Political Economy, from https://ecipe.org/wp-content/uploads/2018/12/ECI_18_PolicyBrief_EU-Japan-EPA_10-2018_LY05.pdf

¹⁵Katakami, Keiichi (2016). 'Guest editorial - The Japan-EU Relationship: A True Partner Based on Mutual Trust', *Eur. Foreign Affairs Rev.*, 21(2), 159-163.

¹⁶Lee-Makiyama, Hosuk and Messerlin, Patrick et al. (2016). 'Trade Sustainability Impact Assessment of the Free Trade Agreement between the European Union and Japan', London School of Economics, from http://www.tsia-eujantrade.com/uploads/4/0/4/6/40469485/tsia_final_report.pdf

¹⁷Ministry of Foreign Affairs of Japan, *Ibid.*

¹⁸Lee-Makiyama, Hosuk, *Ibid.*

¹⁹Okubo, Toshihiro and Kimura, Fukunari, et al. (2018). 'Quantifying the EU-Japan Economic Partnership Agreement', *Keio-IES Discussion Paper Series*, 2018-015, Keio University, from <https://ies.keio.ac.jp/upload/pdf/en/DP2018-015.pdf>

²⁰Sapir, André and Chowdhry, Sonali (2018). 'The EU-Japan Economic Partnership Agreement', September 28, Bruegel, from http://bruegel.org/wp-content/uploads/2018/10/EXPO_STU2018603880_EN.pdf

chemicals.²¹

This agreement is economically balanced, so it has received broad support from European and Japanese businesses. We know, nonetheless, that the agreement will not be able to eliminate all the challenges of trade relations. This concerns notably informal barriers to market access in Japan, which includes a business culture with high entry costs, such as language skills and trusting networks of contacts.²² With the entry into force of the agreement on 1 February 2019, it is now crucial that stakeholders get to know the content of the agreement, so that businesses and consumers can reap the benefits of this comprehensive and balanced agreement.

3.3. A step forward on sustainable development

Trade is more than boosting growth and jobs. Trade agreements should also increase the well-being of citizens and upgrade social, environmental, and consumer standards. In these hard times for trade and international cooperation, the EU and Japan are taking the lead towards a more responsible way of dealing with globalisation. Two of the world's biggest economies show it is possible to deliver ambitious and comprehensive FTA agreements that are mutually beneficial and create opportunities for businesses, while also better protecting consumers, raising standards, and protecting labour rights and the environment.

The EU-Japan EPA has three fundamental elements in terms of sustainability. First, the EU and Japan recognise the importance of enhancing the contribution of trade and investment to the Sustainable Development Goals in its economic, social, and environmental dimensions. Second, the agreement includes a commitment to implement effectively the Paris Agreement on

climate change and other environmental multilateral conventions. Japan also undertook to work towards the ratification of the two outstanding International Labour Organisation (ILO) core conventions (on discrimination and on the abolition of forced labour). Third, the EPA also includes chapters on SMEs (enabling smaller companies to access information and benefit from the agreement), corporate governance (based on the G20 and OECD's principles), and on sustainable agriculture and the sustainable use of natural resources (which foresees cooperation mechanisms for rural development, safe food for consumers, and fighting illegal fishing and illegal logging).

Before the ratification of the EPA by the Japanese Diet and the European Parliament, Japan established an interministerial framework to deal with the implementation of sustainable development commitments in the EPA, including the ratification of the ILO core conventions. This shows Japan's commitment to sustainable development, which is also a key issue for the EU. Although the European Parliament sees room for improvement regarding the enforcement and the effectiveness of trade and sustainable development provisions in trade agreements - at the request of the Parliament a review clause was included to this effect- the EU-Japan EPA is clearly a step forward on sustainable development.

4. The role of the European Parliament

The European Parliament has significantly increased its powers in EU trade policy with the Lisbon Treaty, which requires the Parliament to be regularly updated by the European Commission during the negotiations and to give consent to any trade and investment agreement negotiated. The rejection

²¹Directorate General for Trade of the European Commission (2018). 'The Economic Impact of the EU-Japan Economic Partnership Agreement', July, from http://trade.ec.europa.eu/doclib/docs/2018/july/tradoc_157116.pdf

²²Angelescu, Irina (2018). 'EU-Japan Partnership Agreements Herald a New Era of Closer Cooperation', January 29, *European Council on Foreign Relations*, from https://www.ecfr.eu/article/commentary_eu_japan_partnership_agreements_herald_new_era_of_closer_coopera

of the Anti-Counterfeiting Trade Agreement in 2012 has particularly increased the European Parliament's influence in EU trade negotiations. The European Parliament followed very closely the trade negotiations with Japan from the very beginning and took a demanding position towards the negotiators. The final agreement was then fully discussed and it culminated in a positive vote for the EPA as well as a resolution that expresses the European Parliament's recommendations for the good implementation of the agreement.

4.1. A demanding stance from the start

The European Parliament was always supportive of the trade negotiations with Japan, but it also had a demanding stance towards the negotiators.²³ In October 2012, the European Parliament adopted a resolution²⁴ expressing its views on the EU mandate for the negotiations, notably calling for a 'one year-review,' in which the EU would need to assess Japan's progress on the elimination of NTMs. This evaluation was, indeed, carried out and negotiations continued for three more years.

The European Parliament scrutinised these negotiations through a dedicated monitoring group of the International Trade Committee for Japan, which I chaired as Rapporteur for the EPA. Over the past years, 28 meetings of the Japan monitoring group took place, regularly meeting with the European Commission, but also with European and Japanese business associations as well as representatives of trade unions and civil society. The European Parliament

had three main requests during the negotiations: first, more transparency about the negotiations and greater involvement of civil society in the process; second, no lowering of EU standards, notably on environment, labour, food safety and consumer protection, and respect for the right to regulate; and third, the outcome needed to meet the interests of both citizens and businesses.

The content of the EPA, its relevance, and the priorities set out by the European Parliament (that were particularly focused on sustainable development), were all very important elements in the deliberations ahead of the European Parliament's vote.

4.2. Ratification and implementation recommendations

After the conclusion of the EPA negotiations in 2017, the European Parliament analysed the agreement and heard from as many stakeholders as possible ahead of its final vote. In September 2018, as Rapporteur of the European Parliament for the EU-Japan EPA, I presented a draft recommendation for the approval of the EPA and a draft resolution accompanying the consent of the agreement. After numerous debates, the European Parliament approved the EU-Japan EPA on 12 December 2018 by a large majority (71% of favourable votes).²⁵ The Japanese Diet also approved the agreement in December 2018, allowing for its entry into force on 1 February 2019.

The European Parliament also adopted a resolution that gives recommendations for the monitoring and the implementation of the agreement.²⁶ This is

²³Silva Pereira, Pedro (2017). 'EU-Japan: Do's and Don'ts for a Successful Agreement', June 15, Borderlex, from <https://pedrosilvapereira.pt/article/eu-japan-do-s-and-don-ts-for-a-successful-agreement>

²⁴European Parliament (2012). 'European Parliament Resolution of 25 October 2012 on EU Trade Negotiations with Japan', from <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2012-0398+0+DOC+XML+V0//EN>

²⁵European Parliament (2018). 'European Parliament Legislative Resolution of 12 December 2018 on the Draft Council Decision on the Conclusion of the Agreement between the European Union and Japan for an Economic Partnership', from <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P8-TA-2018-0504&language=EN&ring=A8-2018-0366>

²⁶European Parliament (2018). 'European Parliament Non-Legislative Resolution of 12 December 2018 on the Draft Council Decision on the Conclusion of the Agreement between the European Union and Japan for an Economic Partnership', from <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2018-0505+0+DOC+XML+V0//EN&language=EN>

politically significant as the European Parliament could not adopt such a resolution at the time of the vote on CETA. The resolution highlights the importance of: first, monitoring the proper implementation of the agreed removal of NTMs, the commitments made on public procurement, and the management of tariff-rate quotas for agricultural products; second, promptly establishing SME contact points and a website containing information about the agreement and market access; and third, transparency and stakeholders' involvement in the regulatory cooperation committee. Regarding sustainability, the European Parliament in particular calls for: first, progress from Japan towards the ratification of the two outstanding ILO core conventions; second, the speedy set-up of a domestic advisory group that will monitor the implementation of the TSD chapter; and third, both parties making good use of the review clause in the chapter on trade and sustainable development to improve the enforceability and effectiveness of labour and environmental provisions.

The EU-Japan EPA is a very important trade agreement and it will now be crucial to swiftly implement the agreement as well as involve civil society during all steps. The European Parliament will continue to do its part to ensure that the agreement delivers on its potential to the benefit of both citizens and businesses.

Conclusion

The EU-Japan Economic Partnership Agreement is a landmark agreement that enters into force at a time of growing inward-looking protectionist pressures. The answers of the EU and Japan to the challenges of globalisation are global standard-setting and better cooperation. This agreement between two of the world's biggest economies is, in this sense, a treaty against trade war.

The EU-Japan EPA is a 'new generation trade agreement that does not only cover the elimination of tariffs but also many beyond-the-border measures, creating opportunities for economic growth and employment in the EU and Japan. It is also the most ambitious trade agreement ever concluded by the EU regarding sustainable development, with several innovative elements, including a commitment to the Paris Agreement on climate change.

The European Parliament played a supportive role throughout the negotiations but also took a demanding stance. The International Trade Committee of the European Parliament fully debated the content of the final agreement in all detail, and considered its importance from the strategic, economic, and sustainable development points of view ahead of the final vote. In December 2018, the European Parliament approved the EU-Japan EPA by a large majority, conscious that the agreement has great potential in shaping globalisation according to our shared rules and values, driving sustainable growth, and setting high standards in international trade.

The most important bilateral trade agreement ever concluded must now be a gold standard in terms of implementation. The European Parliament expects nothing less than a swift implementation of the EU-Japan EPA, with the involvement of civil society, and to the full benefit of citizens and businesses.

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