

Prospective EU-Japan free trade agreement

OVERVIEW

Negotiations on an EU-Japan Free Trade Agreement (FTA) were officially launched in March 2013. There have been 17 rounds of negotiations to date, with the latest taking place at the end of September 2016, in Brussels. Although there is strong political will to conclude the agreement as early as possible, whether the FTA can be finalised by the end of 2016 remains to be seen.

The deal with Japan, the EU's second largest trading partner in Asia, is expected to enhance trade and investment relationships between the two parties. European companies, especially those in the food, feed and processed food sectors, will benefit from improved access to the Japanese market, mainly through the reduction both of tariffs on specific goods as well as existing regulatory and non-tariff barriers.

The Trade Sustainability Impact Assessment for the EU-Japan FTA indicates that the EU-Japan FTA and the Trans-Atlantic Trade and Investment Partnership (TTIP) agreement, involving the EU and the United States, would result in similar levels of economic gains for Europe. Moreover, the EU-Japan FTA may balance the potentially negative effects of the Trans-Pacific Partnership (TPP) agreement, which counts Japan among its members, on the EU.



Free trade agreement between the European Union and its Member States, and Japan

Committee responsible: International Trade (INTA)
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Introduction



With around [127 million](#) inhabitants and gross domestic product (GDP) of [US\\$4.1 billion](#), Japan was the world's third largest national economy in 2015. On consumption, the Japanese market is almost equal in [size](#) to that of China, and the rate of private spending in Japan is almost double the rate in China. Japan is also comparable to China as a foreign direct investor, with global foreign direct investment (FDI) outflows of 8.4 % (Japan) and 8.6 % (China). Consequently, the Japanese market offers significant opportunities for EU business interests. In a wider context, intra-regional trade in the Asia-Pacific region has

increased three-fold, while the share of European Union (EU) and United States (US) trade amongst TPP members¹ has nearly halved since 2000. Therefore, for the EU, intensifying trade and investment relations with Japan, a signatory to the TPP agreement, is part of a broader strategy of strengthening economic cooperation in the changing regional environment.

Indeed, in its new [trade strategy](#), published in 2015 and entitled 'Trade for All – Towards a more responsible trade and investment policy', the European Commission recognised that the Asia-Pacific region is crucial to European economic interests, and considered strengthening economic ties with Japan as a strategic priority for the EU.

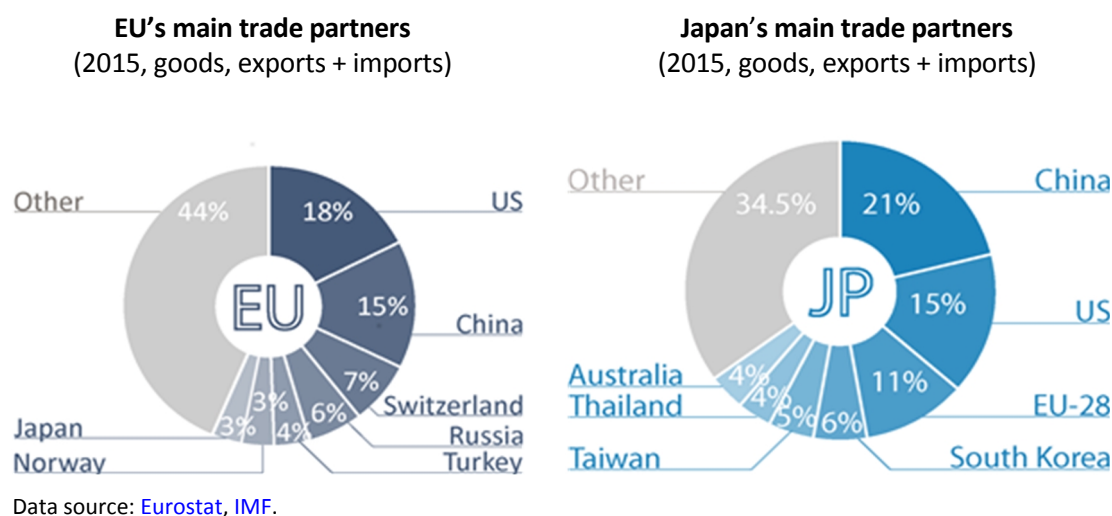
On the Japanese side, Prime Minister Shinzō Abe's economic programme of 2013, known as '[Abenomics](#)', identified three strategic priorities, known as 'policy arrows'. The third arrow is aimed at enacting structural reforms, including the promotion of economic partnerships. In line with this objective, Japan is pursuing its interests in a number of bilateral and plurilateral [trade negotiations](#), with FTAs – termed economic partnership agreements (EPAs) in Japan – either in effect or currently being negotiated.

Existing situation

Bilateral trade and investment relations

Together, the EU and Japan, two of the world's major economies, account for approximately [one third](#) of global GDP. In 2015, Japan was the [sixth](#) largest destination market for EU exports of goods and it was the [seventh](#) largest supplier of EU imports. The EU is Japan's third largest trading partner in goods.

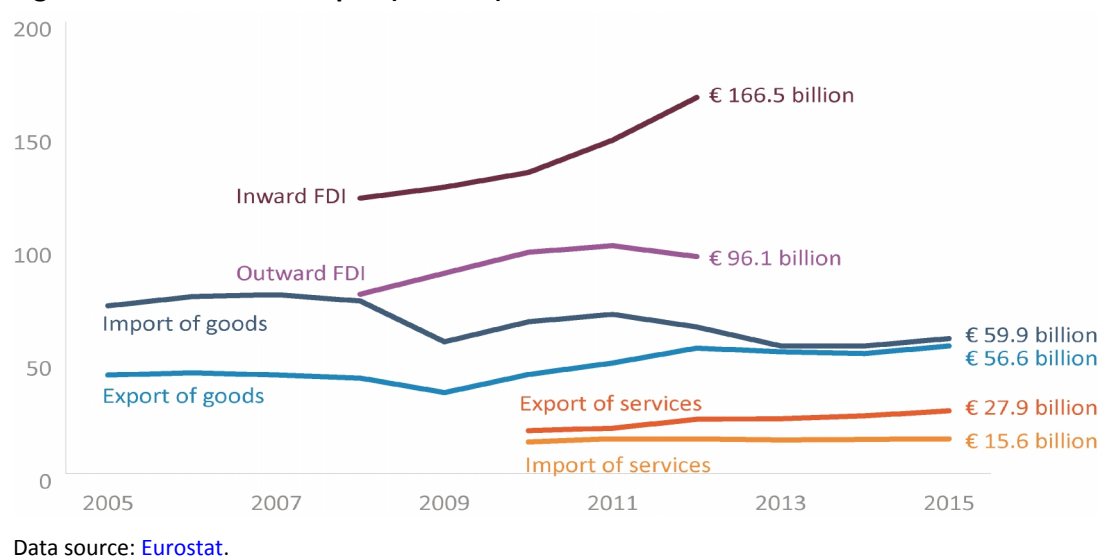
However, even though EU exports of goods to Japan increased in absolute terms, Japan's [share](#) in the EU's trade of goods is declining, especially regarding imports. In 1999, 10.2 % of Europe's total imported goods were from Japan. In 2015, Japan's share

Figure 2 – Main EU and Japanese trade partners, 2015

decreased to 3.5 %. In the same year, the share of EU exports to Japan accounted for 3.2 % of the total EU export of goods; in 1999 this figure was 5.3 %.

In the past, Japan benefited from significant surpluses in the trade of goods with the EU. Trade figures have recently become considerably more balanced, owing to EU export performance and decreasing EU imports. Total trade in goods between the EU and Japan accounted for €116.5 billion in 2015, with a trade deficit on the EU side of €3.3 billion.

In 2015, the EU exported €27.9 billion of services to Japan, while imports of services from Japan amounted to €15.6 billion. Consequently, the EU recorded a surplus of [€12.3 billion](#) in 2015, an upward trend from €4.9 billion in 2010. In 2015, Japan accounted for 3.4 % of total EU external trade in services.

Figure 3 – EU trade with Japan (€ billion)

The EU has in general invested less in Japan than in other developed economies; the EU's outward FDI stocks represented 1.9 % (€96.1 billion) of the total in 2012.

Conversely, Europe accounted for approximately [23 %](#) of Japan's outward FDI stocks in 2012, representing Japan's second largest destination by share.

The changing EU-Japan trade patterns can be explained by [various factors](#), such as changes in the traditional global trade flows due to the economic rise of emerging market economies, the increasing importance of regional trade integration, the proliferation of intra-Asian FTAs, and the negative effects of non-tariff measures (NTMs)² on market access in Japan. The decline in Japanese exports of industrial goods to the EU may also be [due to](#) investment by the Japanese automotive and electronic sector in Europe as a way to circumvent EU tariffs.

Obstacles to trade and investment

Compared to the EU, the Japanese market has always been [more closed](#). This is partly [due to](#) the particular characteristics of the Japanese economy and society, such as the local business culture, and consumers with strong domestic preferences, but mainly because of the large number of regulatory and other 'behind the border' obstacles.

Average tariffs on goods are low both in the EU and in Japan (3.8 % for both partners in 2012). However, important exceptions remain in certain sectors. Exports in agricultural products and processed food are exposed to relatively high EU and Japanese tariffs, but European exporters face particularly high tariff barriers in Japan. In general, tariffs are relatively low for industrial goods. Nevertheless, tariffs remain high for items such as textiles, clothing and footwear in Japan, and for automotive products and electronic appliances in the EU.

Comparative elements

In parallel to the ongoing negotiations, the two parties have become parts of a complex network of bilateral and regional trade initiatives. The largest initiative in which the EU is currently involved is the Transatlantic Trade and Investment Partnership ([TTIP](#)). Here, negotiations with the USA are still ongoing. In the meantime, Japan has signed the Trans-Pacific Partnership (TPP) agreement, which is in the ratification stage and includes 12 countries, among them the USA. These free trade agreements, as well as the other trade agreements currently under negotiation or already concluded, such as the EU-Korea FTA and the EU-Canada Comprehensive Economic and Trade Agreement ([CETA](#)), have an impact on the pace and outcome of the EU-Japan FTA negotiations. For instance, in the last few years, Japan has prioritised concluding the TPP before furthering its negotiations with Europe. In this way, for example, based on the outcome of TPP, Japan is better able to define its objectives in the ongoing EU-Japan FTA negotiations regarding agricultural issues. On the other hand, the EU was able to [orientate](#) its position on investment disputes in line with the position it held during the TTIP negotiations.

EU negotiation objectives

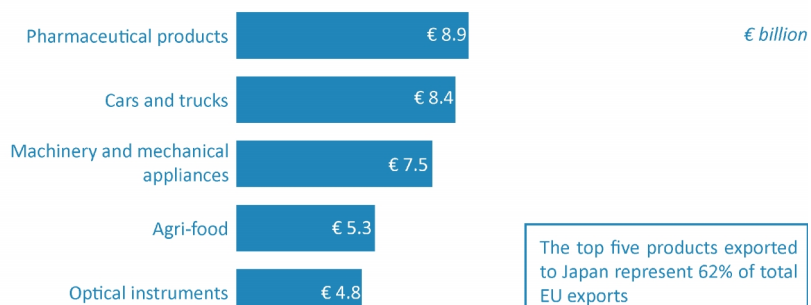
In November 2012, the Council [approved](#) the European Commission's mandate to negotiate the EU-Japan FTA. The Council stated that the objective is 'an agreement that would provide for the progressive and reciprocal liberalisation of trade in goods, services and investment, as well as rules on trade-related issues and the elimination of non-tariff barriers.' The Council approved the negotiating mandate on the condition that, before launching the formal negotiations, Japan would eliminate various non-tariff barriers. According to a [statement](#) by Karel De Gucht, Trade Commissioner at the time, the EU negotiating directives required a strict parallelism between the elimination of

Japanese non-tariff barriers and tariff reductions on the EU's part. A review clause was also included in the mandate, indicating that one year after the negotiations kicked off, the Commission would report on Japan's progress on the roadmaps agreed upon in the scoping exercise. Should the Commission find implementation unsatisfactory, negotiations would be suspended. The roadmaps relate to the elimination of non-tariff barriers and to government procurement issues. A safeguard clause dealing with the protection of sensitive EU sectors was also included in the mandate.

At the same time the Council authorised the launch of negotiations with Japan on the political framework agreement (Strategic Partnership Agreement).

Figure 4 – Top 5 products in EU-Japan trade

TOP 5 products exported to Japan (€ billion)



TOP 5 products imported from Japan (€ billion)



Data source: [Eurostat](#).

EU's main areas of interest

EU interests are focused on a few specific areas. A significant part of the negotiations is dedicated to the reduction of regulatory and of non-tariff barriers, which present the main obstacles for the EU. Several key EU exporting sectors are affected, including chemicals, automotive, processed food, and medical devices, as well as telecommunications and financial services. Moreover, there are significant barriers both to FDI and in the area of public procurement. Tariff liberalisation is also an important objective, particularly in sectors where tariffs are still high, such as processed foods, agricultural products and motor vehicles. Better access to the opportunities offered by Japan's public procurement market (including the railway sector), as well as to the service and investment sector is an outstanding issue. Finally, protection of intellectual property rights, and geographical indications in particular, is also of considerable interest to the EU.

Counterpart's position

According to the information available on the [website](#) of the Ministry of Foreign Affairs of Japan, the main areas of interest for Japan are the elimination of high tariffs on industrial products and the regulatory problems Japanese companies face in Europe. The Ministry of Economy, Trade and Industry includes a [third](#) point on its website, the 'movement of persons and other barriers'. The first objective can be explained by the fact that import tariffs are comparatively high for the most important Japanese export items, mainly cars, car components and electronics. For example, tariffs can reach [10 %](#)

for cars and 14 % for electrical machinery, placing these products at a disadvantage on the European markets compared to competing South Korean products. With the EU-Korea FTA, Korean exporters benefit from the liberalisation of tariffs in these sectors. Japanese firms also complain about non-tariff barriers on EU markets, such as differences in the regulatory systems and technical standards, for instance in the automotive, chemical and food processing sectors. Another issue of interest is investment. According to one [study](#), almost all investment related agreements concluded by Japan, such as the TPP, include provisions for an investor-state dispute settlement (ISDS)³ procedure.

Parliament's position

The European Parliament (EP) closely followed the scoping exercise and the negotiations from the very outset. In May 2011, the European Parliament adopted a [resolution](#) on EU-Japan trade relations. The EP stressed that it supports the idea of a free trade agreement between the EU and Japan, and noted that Japanese commitments on the removal of non-tariff barriers and obstacles to market access in public procurement are a precondition for opening the negotiations. In June 2012, the European Parliament adopted a [resolution](#) on EU trade negotiations with Japan. In this resolution, the EP requested that the Council deny approval to launch the negotiations until the EP adopted its position on the proposed negotiating mandate. In its [resolution](#) of October 2012, the European Parliament concluded that the significant potential of the EU-Japanese commercial relationship has remained unfulfilled, mainly due to the negative effects of Japanese non-tariff barriers on market access opportunities for European businesses. The EP called on the Council to authorise the Commission to open negotiations for the FTA, based on the results of the scoping exercise and clear targets. Moreover, the Parliament also presented a series of recommendations on the Commission's negotiating directives. In April 2014, the European Parliament published a [resolution](#) including its recommendation on the negotiations of the EU-Japan Strategic Partnership Agreement, calling for the timely conclusion of the talks to provide a long-standing framework for a stronger relationship between the two partners. A [delegation](#) of the European Parliament's Committee on International Trade, headed by the INTA Committee chair, Bernd Lange (S&D, Germany), visited Japan in November 2015. The members of the delegation noted that a trade agreement could be hugely beneficial for both economies.

Advisory Committees

In October 2014, the European Economic and Social Committee (EESC) adopted an [opinion](#) on the role of civil society in the EU-Japan FTA. The EESC was in favour of an EU-Japan FTA, but stressed that the economic, social and environmental impact in Europe should be assessed and that if needed, mitigating measures should be taken. It put forward a series of recommendations, underlining for example the importance of addressing non-tariff barriers to trade, and preserving environmental, social, health and cultural standards. The EESC requested the inclusion of a chapter on trade and sustainable development, to ensure a key monitoring role for civil society. It also recommended that each partner should establish a domestic advisory group, and that a joint consultative body should be set up in the framework of the agreement.

Preparation of the agreement

In 2009, Ecorys⁴ and the Swedish Board of Trade both produced economic studies analysing the potential impact of trade liberalisation between the EU and Japan. The

Copenhagen Economics [study](#) assessing the trade and investment barriers between the EU and Japan was undertaken for the European Commission and published in 2010. The Commission presented an [Impact Assessment Report](#) in 2012, in advance of the decision to request a negotiating mandate for an FTA. The [Trade Sustainability Impact Assessment \(Trade SIA\)](#) published in 2016 analyses the potential economic, social, human rights and environmental impacts of the agreement.

Negotiation process and outcome

Negotiation process

It was [agreed](#) to start the preparations for both a bilateral trade agreement and a political framework agreement at the 20th EU-Japan Summit in May 2011. To this end, a scoping exercise⁵ was conducted to define the scope of coverage and the level of ambition of the trade agreement. During the [exercise](#), the parties established an ambitious negotiation agenda. They also agreed on roadmaps for the removal, in the context of the negotiations, of a number of non-tariff trade barriers, and on opening up the Japanese rail and urban transport market to EU suppliers. The Japanese party accepted that tariffs can be phased out only in parallel to the removal of regulatory barriers.

The scoping exercise concluded in May 2012, and the Commission [asked](#) the Council to authorise the opening of the talks on the EU-Japan FTA the following July. The European Parliament supported the opening of negotiations by adopting a resolution in October 2012. Based on the negotiating directives adopted by the Council on 29 November 2012, the negotiations were officially launched in March 2013, and the first round of negotiations was held in April 2013. In accordance with the negotiating directives, the Commission [reviewed](#) the negotiation process one year after the beginning of the negotiations and it was decided to [continue](#) the talks.

Since the start of the negotiations, steps have been taken towards the implementation of the various roadmaps. The parties have exchanged market access offers on trade in goods, services, investment and public procurement, and discussions to consolidate the text of the chapters are advancing. Moreover, the EU has communicated two lists of non-tariff measures to Japan, which address the concerns of Member States and European companies active in Japan. In [June 2015](#), the Japanese Diet adopted a law on the protection of geographical indications (GI), in order to recognise GI-like protection for agricultural products.

At the EU-Japan leaders' meeting, held in May 2016, European Commission President Jean-Claude Juncker, together with Japanese Prime Minister Shinzō Abe, expressed hope for the rapid conclusion of the negotiations. During the G7 summit in Ise-Shima (Japan), also held in May 2016, the political leaders of Japan, the EU, France, Germany, Italy and the UK, in a [joint statement](#) on the EU-Japan FTA, reaffirmed their 'strong commitment to reach agreement in principle as early as possible in 2016'.

The free trade agreement is being negotiated in parallel with the EU-Japan Strategic Partnership Agreement, with the two creating a strengthened overall framework for bilateral relations.

Scope of the negotiations

To accommodate the different interests, balanced compromises need to be made. For example, [agriculture](#) is a contentious issue between the parties. The EU is ready to consider options for the treatment of sensitive Japanese products, such as sugar and

rice, while it strives for better market access for its products, for example wine and cheese. On the other hand, Japan expects that the EU will lower its tariffs in certain manufacturing sectors, such as machinery and electronics, which are main export areas for Japan. The negotiations are complicated by the strict parallelism of the objectives of the two parties: liberalisation of tariffs for Japan and the dismantling of Japanese non-tariff barriers for the EU. On the basis of the last two available reports of the negotiating rounds of [29 February-4 March](#) and [11-20 April 2016](#), the negotiations are conducted in 14 working groups which cover the areas of a) market access, b) regulatory issues and non-tariff barriers; and c) trade rules. For various chapters, much has been achieved regarding the consolidation of the negotiating texts, and several interim outcomes have already been reached, for instance on car safety standards. On the other hand, difficult issues remain to be tackled – for example, the issue of animal welfare is likely to be contentious. Regarding technical barriers to trade, the chapter on marking and labelling has been finalised. On the subject of competition, the antitrust and mergers chapter may be considered as provisionally closed. Positive results were also achieved concerning certain articles of the section on sanitary and phytosanitary measures, and several chapters regarding services, such as the cross-border trade in services text, were close to conclusion. Progress was made in the Trade and Sustainable Development chapter (see box). As regards investment, the EU delegation presented the EU's new approach on the right to regulate, and made reference to the TTIP and CETA texts. The EU proposal for an Investment Court System (ICS) was also discussed.

According to the press agency, Agence Europe, at the 17th round of negotiations, which were held at the end of September 2016, promising progress was made towards reaching the final stages of talks. However, there is more to be done, especially in sensitive areas such as tariffs, including the agricultural and food sector, services, public procurement, non-tariff barriers and geographical indications. The aim of speeding up the negotiations and reaching a rapid conclusion was reaffirmed by Trade Commissioner Cecilia Malmström and the Japanese Minister of Trade and Economy in September 2016.

The changes the agreement would bring

The three studies analysing the potential impact of trade liberalisation between the EU and Japan (by Ecorys, the Swedish Board of Trade and Copenhagen Economics) [suggest](#) that the EU will not reap significant benefits from the liberalisation of tariffs, even when it is coupled with modest NTM reduction. Considerable benefits to the EU require significant NTM reductions in addition to reductions in tariffs.

Trade and Sustainable Development (TSD) Chapter

Article 1 on context and objectives, Article 14 on domestic advisory groups, and Article 7 on timber have been closed, with an additional five articles close to completion. As regards Article 3 on labour, there has been a halt owing to the sensitive reference to the ratification of fundamental ILO (International Labour Organization) conventions. Articles 16 and 17 on TSD-specific dispute settlement mechanisms continued to pose the most significant problem. In April 2016, the Panel of Experts mechanism was again addressed in detail. The EU called on Japan to put forward counter-proposals so as to clarify any of Japan's concerns. As the latest report indicates, the Japanese partner presented a proposal related to the TSD chapter's dispute settlement mechanism, but in the EU's view, the proposed approach was not satisfactory.

Although the reference to the principle of sustainable development in the EU FTAs appeared in the [1990s](#), a separate TSD chapter addressing labour and environmental issues was included for the first time in the EU-South Korea FTA which came into force in 2011. EU FTA law is

evolving to strengthen this chapter. For instance, while the early European Community (EC) agreements (such as association agreements and FTAs) contained dialogue and cooperation-only provisions, under the EU-Cariforum EPA an additional monitoring provision appeared for the first time. Later, the EU-South Korea agreement introduced a two stage dispute settlement process: consultation, and setting up a panel of experts to help to find a solution. In the meantime, the provisions on trade and environment dialogue were also reinforced into fully fledged commitments. However, mainly because of EU opposition, the chapter is not yet inserted under the scope of the state-to-state dispute settlement mechanism, and there are no sanctions for violation of the rules. This aspect is one of the grounds for strong criticism of the agreement. Other concerns are related, for instance, to the selection process for civil society representatives taking part in the domestic advisory groups, and to the enforceability of civil society representatives' comments, and of the panel of experts' recommendations. In its resolution of October 2012, the European Parliament demanded that a 'robust and ambitious' chapter on sustainable development be included in the FTA. In [answer](#) to a parliamentary question in August 2016, Trade Commissioner Cecilia Malmström confirmed the EU's intention to conclude an ambitious TSD chapter in the EU-Japan FTA.

The impact assessment report presented by the Commission in 2012 estimated that, depending on the different FTA scenarios, EU exports to Japan would increase by 22.6 % to 32.7 %, and Japanese exports to the EU would increase by 17.1 % to 23.5 %. It predicted GDP increases for the EU of 0.34 % to 1.9 %, again depending on the various FTA scenarios.

According to the Trade Sustainability Impact Assessment (SIA) of 2016, the EU-Japan Free Trade Agreement would generate a larger aggregated GDP growth than that expected for the EU-Korea FTA. In the long term, the FTA is expected to boost the EU economy by 0.76 % of GDP, under a symmetrical scenario. In the EU, 55 % of all export gains would come from the food, feed and processed food sector, while in Japan, 47 % of all export gains would be registered in the motor vehicles sector. Export gains in the service sector are assessed at 5 % for the EU and 1 % for Japan. With regard to the Member States, the Netherlands, France, Italy, Denmark and Spain are currently amongst the largest exporters of food and feed to Japan. According to the Trade SIA, liberalisation in the agriculture and processed food sectors might change traditional trade patterns, and the gains may not necessarily reflect those of today.

Since the 2012 impact assessment, the [Trans-Pacific Partnership](#) agreement has been concluded. Once implemented, it is likely that it will adversely affect the European economy by diverting trade and investment from the non-TPP countries. Several studies, including the 2012 European Centre for International Political Economy (ECIPE) [policy brief](#), have underlined the strategic importance of an FTA between the EU and Japan, and of the TTIP between the EU and the USA. These agreements would provide similar gains for the EU, having a macroeconomic impact ranging from 0.1 % to 2 % each, and could mitigate any adverse effects of the TPP. Other regional free trade agreements could negatively influence EU-Japan trade relations, such as the Regional Comprehensive Economic Partnership (RCEP),⁶ which is currently under discussion.

Stakeholders' views

The idea of an EU-Japan FTA has been met with mixed [reactions](#) from industry. The EU-Korea FTA took effect in July 2011. Subsequently, there was a rapid increase in the number of imported cars in the EU. Therefore, the European automobile industry, especially French and Italian [car manufacturers](#), fear a similar increase in the import of Japanese cars, and are sceptical about easier access to the Japanese market for European businesses. They have also expressed concern regarding the non-tariff

barriers applied by Japan in certain areas, including specific safety and environmental standards, and regarding the existence of an 'ultra-light' car category which is produced for the Japanese domestic market and benefits from a tax break. Other sectors, such as the [agri-food](#), [chemical](#), [pharmaceutical](#) and ICT (information and communications technology) industries, supported the initiative to conclude the agreement, considering it a key opportunity for market access and trade liberalisation.

In September 2016, in a [joint letter](#), major representatives of both European and Japanese businesses called for the conclusion of the agreement as early as possible in 2016. The Japanese trade unions and the European Trade Union Confederation (JTUC-RENGO and ETUC) published a [joint statement](#) on the EU-Japan FTA, asking for a commitment from the EU and Japanese negotiators to achieve an agreement that contributes to the creation of quality jobs, sets up a monitoring mechanism, including social partners and civil society, and protects workers.

In the process of finalising the European Commission's impact assessment report from 2012, the stakeholder input and feedback was also analysed and taken into account. The 2016 Trade Sustainability Impact Assessment contains a chapter on stakeholder consultations. The European Economic and Social Committee was partly involved in carrying out this extensive consultation, which was conducted at multiple levels. For example, for the purpose of the study, four surveys were made to assess the impact of the FTA on social and human rights, as well as on the environment. An additional survey evaluated the impact of the FTA on SMEs.

Signature and ratification process

Once the negotiations are concluded and the final text adopted, the agreement will enter into force following the approval and ratification procedure established for international trade agreements, with the European Parliament having to give its consent to conclusion for the EU.

EP supporting analysis

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Endnotes

- ¹ On 4 February 2016, the Trans-Pacific Partnership (TPP) agreement was signed by 12 countries: Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, the United States of America, and Vietnam.
- ² '[All non-price and non-quantity restrictions on trade in goods and services. This includes border measures (customs procedures etc.) as well as behind-the border measures flowing from domestic laws, regulations and practices]' (Source: [Assessment of barriers to trade and investment between the EU and Japan](#), Copenhagen Economics, 2009).
- ³ ISDS allows foreign investors and companies to bring governments to court inter alia for state actions that result in direct or indirect expropriation of an investment.
- ⁴ Ecorys is an international company providing research, consultancy and management services. For more information, see the Ecorys [website](#).
- ⁵ 'The scoping exercise is a series of informal dialogues with the other country (countries, if the agreement is inter-regional) on the broad lines of what could be the content of the negotiations between the parties.' (Source: A guide to: EU procedures for the conclusion of international trade agreements, EPRS, forthcoming).
- ⁶ The Regional Comprehensive Economic Partnership (RCEP) is a regional free trade agreement between the members of the Association of Southeast Asian Nations (Brunei, Burma/Myanmar, Cambodia, Indonesia, Laos, Malaysia, the Philippines, Singapore, Thailand and Vietnam) and six other countries: Australia, China, India, Japan, South Korea and New Zealand.

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