

BUSINESSEUROPE



THE DIRECTOR GENERAL

Mr Karel De Gucht
Commissioner
European Commission
Rue de la Loi, 200
B-1049 Brussels
BELGIUM

12 November 2012

Dear Commissioner,

BUSINESSEUROPE is following discussions on the negotiating directives for a free-trade agreement between the European Union and Japan. To ensure that industry and services priorities are fully covered in a potential negotiation the level of ambition of the negotiating directives must be high for all market access issues.

In view of the upcoming European Council meeting, where this issue might also be addressed, we would like to highlight that any potential FTA would have to mirror at least the levels of ambition and comprehensiveness found in the EU-Korea agreement. The EU should take the time that is needed to finish the preparatory work and choose to start the negotiations at a time that best suits the EU's economic interests.

In a context where Japan already has low industrial tariff levels, the effective removal of non-tariff and regulatory issues must be given particular attention in the negotiating directives. Free trade with Japan will only be possible if the envisaged agreement is able to eliminate tariffs and non-tariff barriers alike. Clear roadmaps for the elimination of NTBs within reasonable timeframes should be implemented. Furthermore, the removal of NTBs should not be limited to those outlined in the scoping exercise but should include also the other significant barriers which impede the access of EU industries and services providers to the Japanese market.

A selection of very significant NTBs identified is described in detail in an annex to this letter and can be summarised as follows:

- **Manufacturing (including processed foods):** EU industries face numerous technical barriers to trade – notably related to the recognition of standards and conformity assessment and to opaque administrative and regulatory decisions.
- **Procurement:** Opaque bidding processes and undefined technical and legal criteria restrict access for European firms.
- **Services:** Numerous restrictions and regulatory privileges afforded to Japanese firms limit access for EU companies across a wide range of sectors. This also affects trade in goods.



- **Investment:** Legal barriers to foreign investment, notably through mergers and acquisitions rules, prevent EU access to the market for both investment and trade.
- **Competition:** Enforcement of competition rules can be weak which enables Japanese firms to block access to the market for EU companies. This notably restricts opportunities for private-sector procurement.
- **Intellectual property:** Restrictive handling of trademark and patent applications by the respective authorities.

By clarifying the roadmaps for removing these barriers in the negotiating directives, the EU will ensure that FTA negotiations can advance towards creating a level playing field between our two economies. Concerns remain in the European business community regarding the Japanese administration's commitment and ability to really open up the Japanese market by removing long-standing barriers to trade and investment.

BUSINESSEUROPE would like to be consulted on the progress made with Japan on these important issues throughout the process to ensure that barriers are effectively removed in a way that enables companies to trade and invest in Japan. The progress of negotiations should be evaluated not only one year after its opening but regularly with close involvement of member states and business. If Japan does not show sufficient willingness to deliver, the negotiations should be suspended or cancelled.

Considering the need to reach a balanced FTA, that is to say, an agreement which includes a very ambitious chapter on non-trade barriers, the revision of the results of the on-going negotiations should take place every year and include a consultation process with the member states.

If this ambitious and comprehensive approach is pursued, more open trade and investment will provide genuine economic benefits to both the EU and Japan. I hope that you will take the issues into account in the negotiating directives.

This letter has also been sent to Mr Herman Van Rompuy, President of the European Council, and to Mr José Manuel Barroso, President of the European Commission.

Yours sincerely,

Philippe de Buck