



## Internal Market, Industry, Entrepreneurship and SMEs DG

**Daniel Calleja**  
**Director-General DG GROW**

### 17<sup>th</sup> Annual meeting of the EU-Japan Business Round Table

*Palais d’Egmont, Place du Petit Sablon, 1000 Brussels*  
*28 April 2015, 14h15-17h15*

#### **BRIEFING NOTE**

**Scene setter / Context:**

*The BRT remains the same i.e. a dual body with on the one side rather passive Japanese members under the strong influence of METI and on the other side the Europeans, a bit frustrated by a certain opposition to progress and lack of a clear vision about the role of the BRT.*

*They have put on the agenda of the annual meeting: the FTA and the Regulatory Cooperation. They are worried with both topics. They expect a lot out of the FTA while fearing a great reluctance from the Japanese side for an ambitious agreement. At this stage of the negotiations, they lack information and this opens the door for all sorts of conjectures. Regarding the Regulatory Cooperation they fear that Japan will use the DG GROW-METI agreement to escape to any commitments in the FTA.*

*Regarding the FTA, Japan continues to call for an agreement in principle by the end of 2015. The EU side is not opposed but insist that the level of the ambition must be right i.e. substance is more important than timing.*

*The Japanese side insisted heavily for having high EU representatives attending the BRT and they were successful. However, on the Japanese side the level of representativeness is much lower. They managed to have a handover ceremony with President Juncker on 29 April.*

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## **1. STEERING NOTE**

### **The organisation of the event**

- You will be attending the “Joint Session with the authorities” where you will deliver a speech of 5 minutes after the Parliamentary Vice-Minister from METI, Mr Yoshihiro SEKI. (The level of Mr Seki is equivalent to yours).
- The participation of Mr Demarty was initially foreseen and agreed but he has been called to Strasbourg. He is replaced by Ms M. Asenius, HoC of Ms Malmström. Ms Asenius will also deliver a speech.
- Out of the 49 BRT members (EU +Japan), 13 are not participating and 11 are represented.
- After the different speeches, BRT members will ask questions to the authorities of both sides. You will reply to the questions relevant to DG GROW (answers are included in your briefing);

### **Key issues for you to know in the FTA context**

DG GROW has three main objectives as regards the FTA with Japan:

- a) to ensure that there will be a strong and binding regulatory commitment from Japan (to solve existing non-tariff measures (NTM) and prevent the raising of new ones), primarily in the automotive sector and then in other sectors such as electronics, chemicals or medical devices. To this end we must have technical annexes in the FTA. Until now, Japan refuses to include this kind of annexes into the FTA. For us, this is a condition *sine qua non*. Japan is mainly interested in obtaining the total liberalisation of the tariffs on cars. Our position (as stated in the Mandate) is that unless we obtain full guarantees as regards the regulatory aspects /NTM, there will be no tariff elimination (the Mandate foresees the parallel elimination of NTM and tariffs). The automotive sector represents 14% of our total imports from Japan, about € 8 billion.
- b) an improved access to the Japanese market for the processed agricultural products (Paps). Japanese tariffs on agri and Paps are extremely high. Until now Japan has made nearly no concessions on those products and keeps saying that it will be very difficult. Paps represent 4,1% of our exports to Japan or €3 billion i.e. as much as all exported agri products
- c) an improved market access for our services and a truly open tendering for public procurement contracts including a reciprocal opening of the railways market.

### **Content of your speech**

- Your speech is focussed on the recently agreed Regulatory Cooperation initiative between METI and DG Grow which has raised a great interest on both sides as well as fears within the EU industry.

The “demarche” of DG GROW and METI has raised fears among the EU business community. For instance, the concern of the European automobile industry is that this

METI/DG Growth initiative may weaken the provisions on Non-Tariff Measures in any FTA. Japan, led by the Ministry of Foreign Affairs (MOFA), is strongly opposed to including within the FTA any provisions which would constrain the future regulatory actions of the Japanese government. The MOFA is deaf to the argument that such constraints would apply equally to the EU. It would suit Japan very well if regulatory cooperation were taken out of the FTA and put in a non-binding dialogue between METI and DG GROW, as this would in effect resurrect the old *Regulatory Reform Dialogue* which proved so toothless in the past.

It will also touch upon how we see the future of the BRT which as you know is a recurrent issue as far as BRT's members are concerned. You will ask for their continuous support to the FTA process as well as their contribution to the regulatory cooperation initiative. You will also invite them to come with concrete proposals of industrial cooperation which could then be supported by the Commission either through the EU-Japan Centre or e.g. the Partnership Instrument .

**The FTA process and the message to be likely delivered by Ms Asenius**

There is a shared ambition to accelerate on-going FTA negotiations whose conclusion, hopefully before the year ends, would be mutually beneficial for both parties.

However, quality is more important for us than speed. Some of the issues currently being negotiated under the FTA would complement the broad ambitions of the Abenomics' "third arrow" aimed at structural reform.

A rapid conclusion of the negotiations with an ambitious outcome between leading world economies could set a positive example for other countries.

The EU-Japan Summit is coming up quickly (29<sup>th</sup> May) and if Japan is determined to reach an agreement in principle by the end of the year, then such an occasion should not be missed. We should use the time ahead to unblock the most difficult areas that are preventing us from reaching an ambitious outcome.

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## 2. PROGRAMME

### 3. SPEECH / ANSWERS TO QUESTIONS FROM THE BRT

Chairmen, Ladies and Gentlemen,

- I am pleased to be again within your assembly as the role of the Business Round Table is of major importance for the construction of a potentially promising political and economic bilateral relationship between the EU and Japan.
- Since we met last year, the new Commission has been very active and important proposals have been adopted or will be adopted still this year.
- The Commission has already presented the **Energy Union**. In May, we will come forward with a **Digital Single Market** strategy.
- Later this year, we will propose an **Internal Market Package** to improve the functioning of the Single Market and stimulate growth.
- To increase access to finance, we will propose a **Capital Markets Union**.

- Finally, we will propose a new **Trade and Investment Strategy** to promote access to third country markets and the protection of European investments abroad.
- One of the overriding principles of those initiatives is to **boost jobs, growth and investments**.
- In this context, multilateral as well as bilateral trade agreements contribute to the European strategies towards more growth, towards more competitiveness for our industry, towards more jobs.
- This is why we **fully support the on-going FTA negotiations** with Japan. An ambitious FTA between the EU and Japan would be clearly mutually beneficial for both parties.
- At this stage we are **concerned by the lack of progress in several key areas**. In these areas we consider that we are still far from a satisfactory outcome and from the high level of ambition which should apply across the board to all

sectors covered by the agreement. These areas need substantially more work and time is running.

- This is in this context that we (DG GROW and METI) have agreed to continue and to further develop our **regulatory cooperation**.
- The objective is to improve the business environment for EU and Japanese industries and service providers. This tool of regulatory cooperation **aims at preventing potential regulatory hurdles** in all areas which fall now under our remit.
- Our cooperation can take place at different stages of our respective legislative process and the earlier the better to avoid potential damageable discrepancies as well as help solve existing problems.
- I believe that enhanced regulatory and industrial cooperation should allow us to cover all issues in a forward-looking manner, and will allow us to effectively avoid the creation of new non-tariff

barriers in our bilateral trade in goods, services and on our procurement markets.

- It is however **crucial to ensure that all already existing**, and sometimes very long standing non-tariff **barriers** in these areas **are primarily addressed within the FTA.**
- In short, regulatory and industrial cooperation can **complement but not substitute** the FTA negotiations.
- The Regulatory Cooperation concluded between DG GROW and METI is a step in the right direction but it is not the unique solution to address our regulatory issues.
- We have to continue the identification of suitable issues/policy areas for bilateral cooperation where there is a mutual interest in working together.
- Such an approach could be supported by a **broader vision of the cooperation and enlarged to industrial cooperation projects.** Both processes being mutually supportive.



- We are **open to your suggestions** and we very much hope that we can count on your support and contributions.

Number of words : 539

*EU-Japan Business Round Table annual meeting, 28 April 2015*

*Joint Session with the Authorities*

## **EU-SIDE QUESTIONS AND COMMENTS TO THE AUTHORITIES**

**From:** [REDACTED], Airbus  
**To:** Both sides' Authorities  
**Title:** Future roles of the EU-Japan Business Round Table

*Question: "For several years the BRT's attention was much focused on debating the concept of an FTA, then on its negotiation. I understand that the negotiation is progressing and may be concluded by our next annual meeting. A new era will open. As an advisory group to the European Commission and the Government of Japan, we wish to know what kind of advice the Authorities on both sides would expect from us in that new and fast approaching era."*

Reply : The conclusion of the FTA does not mean that the BRT will have no more roles to play. Primarily, the FTA is not yet concluded. Then it will take time before it enters into force. Then we will rely on the BRT to do the promotion of the FTA and to inform us in case of problems with the practical implementation or the non-compliance with the FTA.

In addition, the Recommendations of the BRT which go beyond the FTA context will remain useful for the Commission to fully assess the environment in which EU and Japanese businesses operate on our respective markets.

**From :** [REDACTED], Bayer (for Working Party B)  
**To :** Both sides' Authorities  
**Title :** Shortening the review times of plant protection & biotechnology products

*Question : "Could both sides' authorities please respond to the following BRT Recommendation?"*

*Shorten the overall review time for new applications/product registrations via a PARALLEL review of toxicology and residue chemistry, which are currently SE-QUENTIALLY conducted. Furthermore, Increase resources both in the administrative*

*and technical reviewer areas in order to achieve a shortening of the review time under growing requirements on safety."*

**Reply :** Regulation (EC) No 1107/2009, the new legal framework for the risk assessment of active substances in plant protection products provides for a parallel assessment of the active substance and for those Minimum Residue Levels (MRL) supported by appropriate data by the applicant.

The same legislation obliges EU member States to provide sufficient resources to comply with the obligations of the legislation.

Moreover, the Commission regularly monitors the European Food Safety Authority with respect to a timely achievement of its tasks and, so far, no noteworthy delays occurred in the process of parallel assessment of active substances and their MRLs.

**From:** ██████████, BusinessEurope  
**To:** Both sides' Authorities  
**Title:** Regulatory cooperation

*Question: The European business community and in particular BusinessEurope has been asking to introduce a mechanism in the EU-Japan EPA/FTA that ensures regulators on both sides will cooperate in the future with the aim of preventing regulatory divergences. Is this request being considered in the negotiations?*

**Reply :** This is more a question for DG Trade, however I know this is the case. A Regulatory Cooperation chapter is foreseen within the FTA and is currently being negotiated.

**From:** ██████████, BusinessEurope ( TRADE )  
**To:** Both sides' Authorities  
**Title:** EU-Japan FTA/EPA, TTIP and TPP

*Question: Both the EU and Japan are involved in two other major trade negotiations TTIP and TPP. How to ensure that our companies active in all the three major markets (EU, Japan and US) will benefit from a more conducive trade and investment environment as a result of these negotiations?*

**Reply:** These are of course first two separate negotiations with Japan and with the US each being negotiated in their own right, and each offering different benefits but for globally active

companies which are present in all three markets having both FTAs will be good.

In fact these two agreements pursue similar objectives: we want to reach comprehensive and ambitious agreements with a substantial level of liberalisation in key areas such as trade in goods, trade in services and public procurement and one which effectively tackles non-tariff measures that hinder trade and ensures necessary protection of our geographical indications.

These FTAs overall also present an opportunity for us to jointly develop 'state of the art' rules on issues such as, competition, state owned enterprises, sustainable development, energy and raw materials, which could provide impetus to the multilateral rule making process. So, if we succeed in negotiating ambitious and comprehensive commitments in these areas this will certainly lead to a more conducive trade and investment environment with these two major partners.

**From:** ██████████, Cosylab  
**To:** Japanese Authorities  
**Title:** Framework Agreement in public procurement bidding

*Question: "In my line of work (engineering services), we often make public procurement before the exact scope of the work is known. In the EU, this is solved by means of a Framework Agreement, in which the tenderer is selected based on technical and organisational qualifications and on a quote of hourly rate. I was told that Japan does not have such a mechanism. is this correct and if yes, what is the closed public procurement mechanism in Japan?"*

*Explanation: Foreign SMEs are disadvantaged as they compete on the basis of quality. Domestic SMEs can much easier take the risk with dumping prices. The loser is the procuring office, getting low quality for the lowest price.*

**From:** ██████████, Cosylab  
**To:** Both sides' Authorities  
**Title:** Other side's SMEs in public R&D projects

*Question: "Entering overseas markets is particularly challenging for SMEs. I wonder if you have statistics on the number of SMEs involved in government sponsored R&D projects (EU SMEs in Japanese projects and Japanese SMEs in EU projects). Do you plan any measures to increase the number of such SMEs?"*

**Reply :** In order to increase the Japanese participation in H2020 (also industry), the Horizon 2020 National Contact Point (NCP) in

Japan – the EU-Japan Centre for Industrial Cooperation – and our support project, the FP7 BILAT project JEUIPSTE, play an important role in providing guidance, practical information and assistance on all aspects of participation in Horizon 2020, also to SMEs.

JEUIPSTE has over the last months in its innovation workshops invited both European and Japanese companies, including SMEs to network and establish cooperation partnerships. Through the help desk services of JEUIPSTE, a number of enquiries have been received from SMEs, especially European SMEs trying to find partners from Japan. The areas include those relevant to the recent EU-Japan coordinated call on aeronautics, industrial technologies, specialized robotics (e.g. demining robots with potential application in harsh environment with high radiation in Fukushima), ICT, among others.

Background:

In Europe, it is difficult to find statistics on SME participation, particularly since the SMEs usually are not that visible and they are usually active only by servicing a bigger industrial player.

In Japan, there are an estimated 2000 European companies. They constitute around 37% of all foreign companies and they are responsible for 45% of all Foreign Direct Investment into Japan. European companies have the highest R&D expenditure in Japan. 15 %, or 300 of all European companies conduct R&D activities in Japan, accounting for 90 % of all foreign R&D expenditures in Japan (70% in transport equipment, 18% in pharmaceuticals and 3,7% in ICT). In Japan, SMEs, if they did take part in collaborative R&D projects, they are not usually very visible. In terms of ICT, Luxembourg has been very active in promoting participation by Japanese startups in their ICT Spring events (<http://www.ictspring.com/japan-ict-spring-europe-2014/>). Although most of them have been business oriented, there could be partnerships in R&D formed through the interaction with European SMEs.

With regard to EU-Japan industrial R&D cooperation in general, we see an interest at both sides – depending on the area. The first coordinated calls under the framework programme (FP7 and Horizon 2020) launched together with Japanese ministries and agencies confirm this interest. Since 2011, there have been 7 successfully launched coordinated calls (2 in ICT, 2 in Critical Raw Materials/manufacturing, 2 in Aeronautics and 1 in Energy), resulting in more than 20 joint projects. Furthermore, there are coordinated calls planned to be launched soon. Many of the companies represented at the EU-Japan Business Round Table are involved in our coordinated calls with Japan, such as the one from 2012 in aeronautics, which was launched together with METI (the Ministry of Economy, Trade and Industry in Japan).

**From:** ██████████, Cosylab  
**To:** Both sides' Authorities

**Title: Effects of Quantitative Easing on trade for SMEs**

*Question: "We all support "Quantitative Easing" and the fight against deflation. However, when in the past such drastic measures were taken (first in Japan then in the Eurozone), a fast decay of the exchange rate followed. Companies can adapt to currency fluctuations with reasonable efficiency, but not to such fast changes. Did anyone foresee this in advance and are there any studies that measured and analysed the specific short-term effects on the stability of trade, particularly for SMEs, which are much more vulnerable?"*

**Reply:** Indeed, Quantitative Easing is a heterodox instrument of monetary policy and the actual impact of this measure in the short term, as the question says, and in the longer term, as some economists have indicated, are uncertain.

However, the current situation and the risk of economic stagnation call for extraordinary measures. QE has worked well in the US. Our Japanese friends can tell us more about their experience. In general, results of QE so far seem to be encouraging.

Finally, QE, like other monetary policy measures are adopted by the ECB in the Euro area and we cannot give details about their assessments of impacts, that must have balanced different kinds of effects on different segments of the economy.

**From:** ██████████, Dassault Systèmes (on behalf of Dassault Systèmes and the Fives Group)

**To:** Both sides' Authorities

**Title:** Advanced Manufacturing

*"There are currently many initiatives in Europe on the future of manufacturing such as "Industrie du futur" in France, "Industrie 4.0" in Germany, and "Advanced Manufacturing" at the EU level. Japan and the EU have built strong partnerships between their industrial leaders. We believe that there is a great opportunity to cooperate on the industry of the future. This could take the form of a platform gathering industrial leaders, industry associations and institutional representatives, to build a common vision of the industry of the future, and identify areas of collaboration to achieve this vision."*

**Reply :** Our task force on clean advanced manufacturing draws together the various trends that offer opportunities to modernise manufacturing sectors. It brings together public policy actions that are necessary to be taken by the European Union for companies to fully and timely benefit from these opportunities to let jobs and wealth grow in the Union.

The task force treats the digitalisation of manufacturing as a very promising and prominent trend in this regard. We have recognised that the digitalisation of manufacturing is a topic not only for individual companies, but for the entire supply chain. The worldwide extent of supply chains entails that certain public policy actions cannot unfold the beneficial effects of the digitalisation of manufacturing, if they are taken with a view on our respective internal markets only.

An exchange between Japan and the European Union as very strong partners in trade and investment in manufacturing could serve to identify issues significant for international policy that emerge from the digitalisation and other trends in clean and advanced manufacturing.

Indeed, the new edition of the action plan on regulatory co-operation between Japan and the European Union expresses the intention to deepen our dialogue on policies for advanced manufacturing with a view to concrete measures.

**From:** ██████████, EBC  
**To:** Both sides' Authorities  
**Title:** Regulatory Cooperation paper

*Question 1: "How would other ministries and Directorate Generals be included when the competence is shared or when the competency is not with METI or DG GROW?"*

*Question 2: "What structure would this initiative have? Would it be merely a discussion forum or would its decisions be enforceable, meaning there would be formal negotiations? We would like to avoid a repetition of the Regulatory Reform Dialogue, which was a discussion forum that led to few concrete changes."*

**Reply :** Question 1. Within the Commission we are used to cooperate between services /Directorates. The Regulatory cooperation document foresees already the involvement of other departments e.g. Trade or Justice; Those departments have been involved in the finalisation of the text and are therefore in full agreement with has been finally agreed between DG GROW and METI .

Question 2. The structure remains to be defined. It will also depend upon what the FTA will foresee. In any case, DG GROW takes this process seriously and it is not our intention to

reiterate past experiences. Pending the adoption of the FTA , we intend to have regular meetings on a sector level.

**From:** ██████████, EBC  
**To:** Both sides' Authorities  
**Title:** FTA negotiations

**TRADE**

*Question 1: "What follow-up mechanisms do the authorities envisage to be put in place after the conclusion of the FTA/EPA? If so, would industry be involved or represented at such meetings?"*

*Question 2: "Would the authorities foresee a continued "negotiation" on issues that were not raised in the negotiations, both old and new?"*

*Question 3: "Could the authorities share some information regarding the parallel Strategic Partnership Agreement?"*

*Question 1: "What follow-up mechanisms do the authorities envisage to be put in place after the conclusion of the FTA/EPA? If so, would industry be involved or represented at such meetings?"*

**Reply:** In the FTA/EPA that we are negotiating with Japan we want to introduce a significant institutional part which will foresee effective mechanisms to allow for a regular dialogue between the two parties. The objective will be to ensure that the FTA/EPA will be implemented in an effective manner so as to deliver the maximal benefits for both parties. However, as we are not yet in the final stage of the negotiation for these elements it is too early to tell what mechanisms will be available for industry and civil society participants.

*Question 2: "Would the authorities foresee a continued "negotiation" on issues that were not raised in the negotiations, both old and new?"*

**Reply:** No we do not foresee a continue "negotiation" for issues that were not raised. But we certainly want mechanisms to be put in place in order both to discuss any issues that may arise regarding the implementation of the FTA and to discuss any new issues that could arise in order to prevent the apparition of new Non-Tariff Measures.

*Question 3: "Could the authorities share some information regarding the parallel Strategic Partnership Agreement?"*



Reply: Negotiations for the Strategic Partnership Agreement (SPA) and the FTA were launched in March 2013. The SPA will create a coherent legally binding overall framework for the EU's relations with Japan, structuring current cooperation and setting goals for future political, global and sectoral cooperation in a comprehensive international agreement.

We regard SPA and FTA as twin negotiations. Together these agreements hold the potential to lift our relations to a new strategic level, and to provide substantial political and economic benefits. To seize this potential we have to engage in intense negotiations and maintain the parallelisms of both processes.

Good press made in the SPA negotiations so far, in particular we have been able to close provisionally already a number of articles covering sectorial policy areas.

8th round of negotiations was held on 23 April in Tokyo at chief negotiators' level.

**From :** ██████████, Philips  
**To :** Both sides' Authorities  
**Title:** Regulatory cooperation

*Comment: "Regulatory cooperation is very important for all industries to grow their business in both the EU and Japan. We, as EBC and Philips, have been requesting the Japanese government to harmonise regulations for medical devices such as Quality Management System (QMS) and Good Clinical Practice (GCP). We have seen improvements in the QMS and GCP procedures through alignment with ISO, but we see that improvements are necessary at the operational level. We would expect actual implementation according to ISO versus partial implementation to realize actual improvement."*

Reply: We understood from recent contacts with the industry in Japan that good progress had been made through a substantial acceptance by PMDA of the standard ISO 13485 for QMS compliance and the release of clear information by PMDA on legal requirements on QMS and in particular on those requirements which are specific to the Japanese legislation (thus deviating from ISO 13485).

If you have any information to share with us, we are willing to help.

**From:** ██████████, Rolls-Royce  
**To:** Both sides' Authorities  
**Title:** Bilateral Aviation Safety Agreement

*Question: "The EU-Japan BRT has for many years advocated a bilateral aviation safety agreement (BASA) between Japan and the EU. This position was based on very positive experience the aerospace and aviation industry has had with similar agreements in place between the EU and the US, as well as between Japan and the US. Negotiations for a BASA between Japan and the EU are about to begin and we encourage both sides to dedicate the resources and focus required for a comprehensive and speedy agreement. Could the authorities please give us an estimate of the duration of the negotiations and comment on the role of maintenance (aftermarket services) in a future agreement?"*

Reply :

- The EC is satisfied with EU-Japan aviation safety cooperation. There is a smooth dialogue and technical sessions have been organised involving the Commission, the European Aviation Safety Agency (EASA) and Japan's Civil Aviation Bureau (JCAB).
- The Commission is very aware of the benefits that could be achieved through the establishment of a future arrangement for enhanced cooperation in the field of aviation safety (e.g. a Bilateral Aviation Safety Agreement – BASA)
- Preliminary discussions started in 2011 are continuing, the purpose of which is for EASA and JCAB to define and exchange information on technical elements that need to be assessed within each party's oversight system.
- The Commission is interested and committed to a process that could ultimately lead to the opening of formal negotiations of such a future cooperation arrangement.
- Based on preliminary discussions the Commission is engaged in the drafting of a negotiation authorisation request which it hopes to table for Member States' consideration soon.
- It is therefore not possible at this stage to give an answer on the possible duration of negotiations that have still to be launched. As for the role of 'Maintenance' in such a future arrangement, it would not be appropriate to pre-empt the outcome of the eventual

future negotiations, although traditionally the areas of aeronautical products certification and maintenance have formed the basis for such arrangements.

Background:

- January 2009 marked a turning point in EU-Japan aviation relations, when representatives of Japan's Ministry of Transport (MLIT) and the EC signed a "Record of Consultations", laying down the process for restoring legal certainty to bilateral air services agreement between Japan and EU Member States.
- At the occasions of the EU-Japan Summits in March 2011 and November 2013, President Barroso suggested exploring the possibility of a comprehensive EU-Japan air transport agreement.
- In parallel, in the field of Aviation Safety, based on the July 2011 conclusions of the EU-Japan Transport Dialogue and following a Japanese proposal to open negotiations for an Agreement on civil aviation safety (the so-called 'BASA'), preliminary discussions at technical level took place in Cologne in January 2012 between the European Aviation Safety Agency (EASA), the Civil Aviation Bureau of Japan (MLIT-JCAB) and the European Commission (DG MOVE- E3 Air Safety Unit). The aim of discussions was to explore the possible evolution of the EU-Japan relations, eventually towards the negotiation of a Bilateral Aviation Safety Agreement (BASA) as a next step in the cooperation in the area of aviation safety.
- From an EU perspective, the proper development of this process would constitute an important enabler for the Commission to obtain a mandate from the Council of the EU to start formal BASA negotiations with Japan.
- A follow-up meeting took place in June 2012 where the JCAB reiterated its desire to proceed. Taking note of this message and also reiterating its willingness in this regard, the EC noted that progress on a comprehensive aviation agreement had not progressed in parallel, which it indicated could impact the progress towards a BASA.
- In a third meeting with the Japanese (aviation) representative to the EU 21 June 2012 a clear message was received that Japan did not want to proceed with talks on a comprehensive aviation agreement, but were strongly in favour of proceeding with a BASA. Subsequent to this a clear instruction was given by the VP Kallas CAB – no progress on the comprehensive agreement, no progress on the BASA!
- This has been the LTT maintained in subsequent dealings with the Japanese, notably at the EU-Japan High-Level Transport (HLM) and High-Level Aviation Dialogue meetings held respectively on 25 October and 30 October 2012.
- In anticipation of the 2014 HLM and Aviation Dialogue (February 2014), the Japanese had through a variety of avenues passed the message that they were keen on re-starting the BASA related discussions, but had not acknowledged the counter-argument that COM would want to re-open discussions on a comprehensive agreement.
- An outcome of the 2014 HLM and Aviation Dialogue was to resume the stalled technical discussions towards a BASA. This being said, and notwithstanding the commitment made in this respect, for reasons beyond our control, the face-to-face meeting was delayed until 17-19 March 2015. In the interim actions have been taken to engage in relevant work associated with this process (exchange of documentation, communication, desktop analysis,...).

**From:** [REDACTED], Saint-Gobain  
**To:** Japanese Authorities

**Title: COP21 and the potential for higher levels of energy savings in the building sector in Japan**

*Question: "Thanks to available low and high technologies, energy demand and CO2 emissions in the building sector can be drastically decreased. But in order for that to happen, an effective regulatory and legislative framework is needed. In Japan, the mandatory energy conservation standard for newly constructed housing (<300m2) that should be implemented by 2020 is still very low compared to other developed countries. Energy consumption and CO2 emissions will therefore continue to increase despite high technologies' help. Will Japan address this issue in his Intended Nationally Determined Contributions for COP21?"*

**From:** [REDACTED] **Siemens**  
**To:** **Japanese Authorities**  
**Title:** **Railway infrastructure**

*Question 1: "What is the status and process to remove trade barriers between EU and Japan regarding railway infrastructure, to which degree, which timing?"*

*Question 2: "For Joban Local line Thales has been awarded to provide the CBTC system (Masstransit). What are the next opportunities to come being open to international suppliers?"*

**From:** [REDACTED], **ThyssenKrupp**  
**To:** **Both sides' Authorities**  
**Title:** **Updates on the FTA negotiations**

*Question: "Seen from BRT Members, there is little transparency on the FTA negotiations. During the year we are mostly kept in the dark and getting little updating on what is going on. This makes it hard for us to support the process and make recommendations and contributions that fit the issues under discussion. We would appreciate a more frequent and detailed two way communication. Will the Authorities of the EU and Japan address this?"*

**Reply:** I do not agree with this. We keep the European industry regularly updated of the developments of the negotiations via a number of dialogues (meetings with Business Europe, sectoral industry dialogues, general meetings with the Civil Society to which industry is also present). Besides, we have a lot of bilateral meetings with either industry associations or interested companies and are always open to any requests we receive.

## **4. DEFENSIVES AND BACKGROUND INFORMATION**

### **4.1 DEFENSIVES**

***Q.: We should publicly announce that the end of 2015 is our joint and official deadline for the conclusion of the EU-Japan FTA negotiations or at least “an agreement in principle”. President Juncker already committed himself to this deadline during his bilateral meeting with PM Abe in the margin of the G20 Summit in Brisbane.***

- We are ready to work toward the goal of completing the talks by the end of 2015 provided that the negotiations accelerate further.
- It is also important to note that for us the substance, not the speed of the negotiations prevails. If the substance and the level of ambition are right, in conformity with our joint scoping paper, we will work with Japan to complete the FTA negotiations in that timeframe. However, we are not ready to sacrifice the substance and our key objective for this goal.
- If Japan aims at “an agreement in principle”, we need to know as soon as possible what exactly Japan has in mind. This would allow us to possibly work towards a common objective at the Summit.

***Q.: EU is shifting the goalposts, especially when it comes to non-tariff measures (NTMs), by submitting for instance the second list of NTMs. We have resolved so many NTMs on the EU’s request, which were included in the first list. However, we have seen no payment for this. We would like to see some down-payment in terms of car tariffs!***

- From the outset of the negotiations, we have indicated to Japan that the first list of NTMs was just an indicative one and the agreement by Japan to solve the barriers included in that list was a pre-condition to the launch of the negotiations, not their conclusion.
- We are committed to liberalising fully our tariffs, including car tariffs, provided that Japan delivers its part.
- We have never hidden that we would only be able to negotiate with Japan if the outcome would be of the highest quality, befitting trade relations between advanced economies. You only have to look at our agreement

with Canada and to our agenda with the US to see what we have in mind. We would not want to do less with Japan.

***Q.: The EU should adopt non-legislative policy measures to achieve the objective of opening public procurement markets internationally.***

- In its impact assessment on the proposal for a regulation 'International procurement instrument', the European Commission has carefully analysed all policy options, including a non-legislative approach. This option was, however, considered as non-appropriate as it would fail to address the lack of leverage on third countries to open up their public procurement market.

***Q.: The EU should adopt an effective mechanism to prevent the EU from arbitrarily excluding third-country goods and services from its public procurement market and to ensure legal stability and predictability for businesses.***

- The Commission proposal incorporates effective mechanisms to prevent any form of arbitrary measures. Possible restrictions would be limited, reasoned and based on the existence of restrictive policies and practices in the third country concerned. Where the EU has concluded an international agreement on public procurement, exclusion would only be possible where the goods and services concerned are subject to a specific market access reservation.
- The proposal will be amended in line with the priorities of the new Commission in order to simplify the procedures, shortening timelines of investigations and reducing the number of actors in implementation.

## **4.2 BACKGROUND INFORMATION**

### **4.2.1 Japan Economic outlook- March 2015**

The economy rebounded in Q4 as the negative impact of the VAT hike faded and the weakening of the yen and lower oil prices bolstered business sentiment. More recent economic data suggest that private consumption is now supporting growth, reflecting improvements in the labor market and rising wages. Against this backdrop, consumer confidence hit a six-month high in February. Moreover, despite moderating, the manufacturing PMI remained in expansion mode in March for the 10th consecutive month.

### **4.2.2 EU-JAPAN FTA/EPA – THE CURRENT STATUS**

The formal launch of negotiations took place on 25 March 2013 and so far nine rounds have taken place, with the 10th round taking place from 20-30 April in Tokyo. Progress during the last round was relatively limited on major issues, but still allowed for further consolidation of the negotiating text. The one year review clause took place in Council in June last year, resulting in agreement by Member States to continue negotiations with a view to completing them within 2015. Whilst the focus so far has been mostly on the two issues pertaining to the review clause (railways procurement and non-tariff barriers), some substantial progress has been achieved on other issues linked to GROW policies. The exchange of offers on services and investment took place last Summer, paving the way for substantial discussions.

The negotiations are likely to progress further in the coming months as Japan will probably be increasingly anxious to make progress in view of the Japan-EU Summit to take place on 29 May in Tokyo and, above all, in view of the repeated objective by PM Abe to conclude the negotiating process by the end of 2015. Japan has proposed that at least 5 rounds of negotiations should take place in 2015 with a possibility of having additional intersessional meetings to accelerate the talks further. At the same time, this frenzy of meetings would not be of any use if Japan continues to drag its feet - sometimes for transparently tactical reasons (like insisting on a long transition for tariffs on wine in order to protect its nascent wine industry!) - in a number of important areas of the negotiations. In the recent weeks it became clear that Japan is awaiting the finalisation of the Transpacific Partnership (TPP) before engaging with us in any meaningful tariff negotiations, especially on agricultural goods. Given the rather uncertain prospects of concluding the deal with the US/TPP in the run-up to the EU-Japan Summit, it remains unclear what Japan expects to be able to deliver for the Summit. We have been closely involved throughout the FTA negotiations, covering several areas of interest, beyond the railways roadmap: (other) public procurement, IPR, services (including domestic regulation, postal and professional services) and investment. A short state of play on these issues is included below:

- Public procurement: discussions are focused on market access, 'GPA+' rules and railways procurement, with the EU insisting on the introduction of truly open tendering for public procurement contracts in Japan.

- IPR: The EU is pursuing its offensive interests on copyrights by addressing shortcomings in the Japanese system as to the lack of a genuine right to equitable remuneration for performers and producers of phonograms, and by requesting a term of protection of life + 70 years. Meanwhile Japan has pushed for the introduction of additional measures for patented pharmaceuticals ("patent linkage"). A major source of friction relates to GIs, where a new law in Japan has been drafted granting Trademarks preference over GIs (likely under US pressure in TPP).

- Services: some progress has been achieved on domestic regulation and transparency. However there is still text consolidation to be done on key issues. The EU and the Japan are continuing the discussion of the Japan services and investment offer with a focus on the market access commitments, addressing all outstanding questions that EU has asked concerning the Japan offer. Several of them concerned sectors under GROW remit such as legal services or construction services.

- Postal services: some albeit very limited progress and still difficult items outstanding (anti-competitive practices, the definition of express delivery services (EDS), the non inclusion of EDS in the universal service obligation). On the latter, Japan has confirmed its very determined position on the ability to include or not express delivery services in the Universal Service Obligation (USO).

- Investment: some discussions without tangential progress on issues of disagreement such as certain protection standards and ISDS coverage.

- On market access, Japan is not really forthcoming. Japan would like a firm commitment from the EU side that cars will be liberalised at entry force of the agreement. Japan argues that it has already paid for such a commitment in solving a large part of the first list of the non-tariff measures (i.e. Roadmap). Although Japan requests a strong commitment from the EU on cars, it is not ready to move on agricultural and processed agricultural products. The parallelism between NTM and tariff dismantling remains an issue.

- On the front of the NTMs, progress is visible. As regards the second list of NTM tabled in December last year, surprisingly Japan is ready to discuss and visibly is already trying to find solutions. Nevertheless, as regards the car sector and the ad hoc annex to be part of the FTA, Japan refuses to discuss commercial vehicles as well as anything beyond the IWVTA.

- No text-based discussion has started on the TBT chapter where the parties continue their clarification exercise. Progress, if any, will be slow.

- As regards the rules of origin, discussions have notably started on the Product Specific Rules (PSR). There are clearly serious divergences. Japan has proposed very restrictive rules for AGRI products but very relax ones for industrial goods, both are not acceptable for the EU.



#### **4.2.3. EU-JAPAN TRANSPORT COOPERATION**

The EU and Japan provided for the establishment of the Industrial Dialogue in the Roadmap on Railways which was agreed between the EU and Japan in view of the



commencement of the FTA negotiations. The Roadmap defines a series of measures to be undertaken by Japan with a view to ensuring the reciprocal opening of the railways market, in particular by removing legal and technical barriers. The EU committed to lift the objections to the delisting of the three Japanese Railway companies from Japan's coverage under the GPA. It was then agreed that the Dialogue will be composed by representatives of the private and public sectors, meeting on an (bi-)annual basis to monitor mutual access in railways procurement markets and ensure mutual recognition of safety standards.

The operational modalities of the Dialogue are laid down in a Memorandum of Cooperation which was signed by both sides in September 2014. It stipulates that the objective of the Dialogue is to promote mutually beneficial cooperation and information exchange between the Participants to facilitate bilateral trade in the railway sector, including procurement and purchase by railway operators, both from a business and governmental perspective, to monitor mutual market access, to ensure better comprehension of the relevant markets and to facilitate mutual recognition of safety standards.

The agenda of the first meeting featured various topics of mutual interest: presentations of the respective railway markets, outlining the legislative requirements in the sector and technological trends. Explanations were given by EU and Japanese experts on the technical regulations in the railways sector, in particular on the respective safety standards. As one of the key purposes of the dialogue is to provide the opportunity to exchange information on a regular basis on the way EU and Japanese operators conduct their procurement, a workshop on market access to the respective railway markets (exchange of best practices and encounter difficulties) and on procurement procedures was organised.

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