

Brussels,

Dear Professor Kempf,

Thank you for your letter of 8 September in which you express support for the Commission's efforts aimed at finalising the EU-Japan Economic Partnership Agreement (EPA). President Juncker has asked me to reply to you on his behalf.

I fully concur with you that the conclusion of the EPA negotiations will be a major achievement. As well as the intrinsic economic value of the agreement and the considerable gains in terms of growth and jobs that it will bring to Europe it will also send a strong message against protectionism. The EU negotiating team is now in quasi-permanent contact with their Japanese counterparts with the objective of finalising the negotiations by the end of December 2017. The next steps will be the legal scrubbing and the translation of the text of the agreement. Once completed, this will allow for the approval process to start.

On the issue of investment protection, there is still no agreement on the whole chapter, as the issue of investment dispute resolution remains fully open. The EU has tabled its proposals for a reformed investment court system in the negotiations with Japan. The EU continues to insist that there can be no return to the old-style ISDS and that under no conditions can old-style ISDS provisions be included in the agreement. More discussions will be required to arrive at a conclusion on this in the next months.

I take note of your suggestion regarding a possible split between an EU-only FTA and a separate treaty on investment protection. Building on Opinion 2/15 of the Court of Justice of the European Union, the European Commission is working on identifying, in consultation with the Council and the European Parliament, the best architecture for EU trade agreements. I trust that this process will lead to a satisfactory outcome for EU investors.

Finally, I agree with you on the importance of transparency in trade negotiations. Many measures were taken in the course of the negotiations to inform, not only the Council and the European Parliament but also the general public, notably via the publication of reports after each round of negotiations and with the publication of many texts on the date of the announcement of the Agreement in Principle on 6 July 2017. I also welcome that on 13 September 2017, EU Member States agreed to publish the negotiating directives for the EU-Japan EPA (the "mandate"), a move that the European Commission had recommended already many times in the past.

Prof. Dieter Kempf
President, BDI, Federation of German Industries

Let me use this opportunity to thank you for the continued support that your organisation has shown over the years to the EU trade policy and in particular to the conclusion of the EU-Japan EPA negotiations.

Yours sincerely,

Cecilia Malmström

