



Federation of German Industries · 11053 Berlin, Germany

Seiner Exzellenz dem Präsidenten  
der Europäischen Kommission  
Herrn Jean-Claude Juncker  
Rue de la Loi 200 / Wetstraat 200  
1040 BRÜSSEL  
BELGIEN

**Prof. Dieter Kempf**  
President

*Date*  
8 September 2017

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Dear President Juncker,

The Federation of German Industries (BDI) strongly supports the Commission's efforts to conclude a free-trade-agreement (FTA) with Japan swiftly and for the mutual benefit of both the European Union and Japan. Even though not all relevant provisions that have been agreed upon so far are transparent and accessible, the assessment of the German industry is generally positive. Apart from benefitting both our economies, the agreement promises to send a strong signal in support of free trade at a time when such a commitment from leading trading nations is direly needed.

In light of these benefits we would like to point once again to an important issue, i.e. the chapter on investment protection. Investment protection remains significant. But as it has become clear, our Japanese partners do not agree to the Investment Court System and consider it a "deal-breaker". We understand that the Commission cannot compromise on this matter as the agreement on investment protection reached in the context of CETA has become the new standard. The German industry also supported reforms in the context of the TTIP negotiations and accepted a permanent investment court.

Based on the opinion of the ECJ from May 2017 with regard to the FTA with Singapore, we strongly advocate that future agreements should be split into an EU-only FTA which would be negotiated and ratified solely at the EU-level, and a separate treaty on investment protection. This increases the capacity of the EU to act dynamically and reliably. For the conclusion of FTAs, the European Parliament and the Council of the EU as co-law-making bodies will ensure the necessary democratic legitimacy. We would be in favour of such an arrangement in the sense of a division into an FTA and a Bilateral Investment Treaty already with regard to the EU-Japan-FTA for its swift conclusion and ratification.

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In order to ensure acceptance at the level of member states, more transparency should be provided during the remaining negotiations with Japan in order for stakeholders to be able to take part in consultations and express their interests.

I hope for your support in this matter and stand ready for an exchange.

Yours sincerely,

Art.4.1(b)

This letter was also sent to:

- Commissioner Cecilia Malmström
- Federal Chancellor Angela Merkel
- Federal Minister for Economic Affairs and Energy Brigitte Zypries