



Customs Flash Belgium

EU and Japan announce political agreement on bilateral Free Trade Agreement

Introduction

On Thursday 6 July 2017, Prime Minister Shinzo Abe of Japan, President of the European Council Donald Tusk and European Commission President Jean-Claude Juncker announced that the two trading powers reached a general political agreement on the EU-Japan Free Trade Agreement (FTA).

Negotiations for an EU-Japan FTA were officially launched in 2013. Over the last few years, these negotiations came to a near standstill following disagreements between the parties, trade-averse sentiments among the public and an internal deadlock on decision competencies between the Commission and EU member states. A number of recent developments in and outside the EU have reinitiated talks and accelerated the pending trade deal.

A root cause behind the renewed enthusiasm for increased trade cooperation are the reactions of European, Asian and South-American countries against the United States' anti-trade rhetoric under the Trump administration. The new course taken by the U.S. has pushed other regions to maintain belief that increased and closer cooperation is in their best mutual interest.

This political development runs parallel with the EU's cautious victory with CETA's provisional entry into force and the

favourable decision by the European Court of Justice regarding the pending EU-Singapore FTA (both topics were discussed in earlier customs flashes).

Both Japan and the EU capitalised on this newly found enthusiasm by organising a new set of negotiation rounds in 2017, resulting in the 6 July 2017 political agreement.

The FTA will be the world's largest free trade agreement, covering almost 30% of the world's economic output.

What does this political agreement mean?

The fact that a political agreement has been reached does not mean that the EU-Japan FTA is set to enter into force any time soon. This milestone is more of an indication that more than 90% of the issues have been covered and that the agreement's conclusion is near.

Negotiators have been able to reach consensus on most of the important topics in the agreement. A few delicate matters such as investment protection and regulatory cooperation still need to be agreed upon and some details will need further discussion. Nonetheless, the announcement is a strong signal that both parties are confident that said issues should not stand in the way of reaching a final agreement in the very near future.

A conclusion will introduce the ratification process. First, the agreement text will be published and translated from English to all official EU languages as well as Japanese. The text will subsequently require approval by the Japanese government and the Council of the EU, followed by ratification in the Japanese and European parliaments. Depending on what is agreed with respect to investment protection and dispute settlement, ratification by EU Member states may be a condition.

Facts

The EU currently exports over EUR 58 billion worth of goods and EUR 28 billion worth of services to Japan. Japan itself exports EUR 66 billion worth of goods to the EU and almost EUR 20 billion worth of services.

EU exports to Japan mainly consist of vehicles, machinery, pharmaceuticals and medical instruments. The main exports from Japan to the EU consist of machinery, vehicles, medical instruments and chemicals. The value of tariffs paid on European imports to Japan today runs up to EUR 1 billion per year.

At this point, no official agreement text is available yet since not all provisions have been agreed upon. The current information available originates from several sources released by the European Commission and the Japanese Ministry of Foreign Affairs.

The Economic Partnership Agreement, as the FTA will be called, will ensure and regulate the following areas between the EU and Japan:

- Market access for goods, services and investments in respective territories
- Protection of geographical indications
- Procurement rights
- Breaking down non-tariff measures
- Harmonised rules on intellectual property rights

The EU-Japan FTA will remove almost all customs duties for imports on both sides. This will especially benefit European producers of food products since Japan today imposes import duties of nearly 40% on beef, up to 30% on chocolate, 15 % on wine and up to 40% on cheese. Additionally, the agreement will have Japan recognise and protect over 200 European foods and beverages as specially certified delicacies. These changes should give a significant boost to EU exports of processed foods.

At the same time, the agreement will most probably allow the EU to continue applying higher product or food safety standards than those applicable in Japan. This will protect European producers, but will keep the burden on Japanese exporters high. Japan would benefit from the elimination of high EU tariffs on vehicles (10%), electrical machinery (up to 14%) and agricultural products such as rice and sugar.

Both Japanese and European economic operators suffer from non-tariff barriers to trade in each other's markets. Said barriers include national legislation imposing specific technical requirements for products, and various regulations in the automotive, chemical and food processing sectors. Both parties also maintain lengthy and non-transparent access procedures, making it difficult for foreign traders to do business.

The agreement should tackle these non-tariff measures by making rules more harmonised, more transparent and linking technical product requirements to international standards. The EU tries as much as possible to use the same blueprint for these rules as the one implemented in other recent FTAs with South Korea, Canada and Vietnam. More clear and less burdensome procedures should also help smaller businesses profit from international trade opportunities.

The services chapter establishes rules that prevent both parties from discriminating against or blocking each other's providers from their services market. Exceptions will be made for public services such as health care or state education. Service liberalisation will not take place immediately upon the agreement's entry into force, but with specific transition periods per sector.

The European Court of Justice (ECJ) confirmed in its Opinion on the EU-Singapore FTA that investment belongs to the negotiating mandate of the EU and not that of Member states. The Commission is making use of its exclusive competence to establish rules on investment access between the EU and Japan for private investors.

When it comes to intellectual property protection, both the EU and Japan already have well-established rules. The agreement would, on the one hand, mutually recognise both protection

systems, but on the other, it would make some amendments to bring rules more in line with international standards.

Other recurring topics implemented by the EU into other FTAs as well as this one are chapters on:

- Environmental protection and sustainable development rules (which are equally important topics for both parties)
- Ratification of the International Labour Organisation's Convention
- Corporate social responsibility

As with the CETA and EU-Vietnam FTA, the Commission is working on including an investment court system in the agreement. For investor dispute settlement procedures, the ECJ had ruled that this is a shared competence between the EU and the Member states on the European side. It is not yet clear how this system will be included in the final text since it can be a factor for the Commission on whether it will have to present the agreement as 'EU only' or mixed (with Member states veto power).

What does it mean for you?

EU and Japanese economic operators with active or planned businesses in the other territory will be given a tool to optimise their supply chains and increase business opportunities between the two parties. Nowadays, FTA benefits extend far beyond the traditional lowering of duties and create a level playing field for companies operating in different markets. The benefits are a combination of monetary savings, increased competitiveness and simplification of doing business.

What to do?

Deloitte's Customs and Global Trade team will continue to follow up on the latest developments regarding the EU-Japan FTA.

Companies can prepare with an FTA review. Deloitte can (re)assess the use of trade preferences, determine where the new FTA can add value to a company's trade processes and address potential supply chain optimisations.

It should be noted that once the EU-Japan FTA enters into force, EU companies aiming to benefit from this agreement and issue preferential statements of origin for their exports to Japan will have to register under the new REX (Registered Exporter) system.

Contacts

If you have any questions concerning the items in this alert, please contact your usual tax consultant at our Deloitte office in Belgium or:

- Fernand Rutten, frutten@deloitte.com, + 32 2 600 66 06
- Famke Schaap, fschaap@deloitte.com, + 32 2 600 69 09
- Tom Verbrugge, tverbrugge@deloitte.com, + 32 2 600 66 20
- Tom Cachet, tcachet@deloitte.com, + 32 2 600 66 58

For general inquiries, please contact:
bedeloittetax@deloitte.com, + 32 2 600 60 00

Be sure to visit us at our website:
<http://www.deloitte.com/be/tax>



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