



Trade Sustainability Impact Assessment of the Free Trade Agreement between the European Union and Japan

Final Report

Legal notice:

This report was commissioned and financed by the European Commission. The information and views set out in this report are those of the author(s) and do not necessarily reflect the official opinion of the Commission. The Commission does not guarantee the accuracy of the data included in this study. Neither the Commission nor any person acting on the Commission's behalf may be held responsible for the use which may be made of the information contained therein.

EUROPEAN COMMISSION

Directorate-General for Trade
Directorate C — Asia and Latin America
Unit C.1 — Far East

Contact: Timothée Sautter

E-mail: Timothee.Sautter@ec.europa.eu

European Commission
B-1049 Brussels

***Europe Direct is a service to help you find answers
to your questions about the European Union.***

Freephone number (*):

00 800 6 7 8 9 10 11

(*) The information given is free, as are most calls (though some operators, phone boxes or hotels may charge you).

More information on the European Union is available on the Internet (<http://www.europa.eu>).

Luxembourg: Publications Office of the European Union, 2016

© European Union, 2016

Reproduction is authorised provided the source is acknowledged.

PRINTED ON ELEMENTAL CHLORINE-FREE BLEACHED PAPER (ECF)

PRINTED ON TOTALLY CHLORINE-FREE BLEACHED PAPER (TCF)

PRINTED ON RECYCLED PAPER

PRINTED ON PROCESS CHLORINE-FREE RECYCLED PAPER (PCF)

Lead authors

Stakeholder consultations – Elitsa Garnizova, Philipp Lamprecht

Economic analysis – Hosuk Lee-Makiyama

Horizontal commitments – Stephen Woolcock

Sectorial analysis – Patrick Messerlin, Hosuk Lee-Makiyama

Environmental analysis – Duncan Brack, Stefania Lovo

Social analysis – Ken Heydon, Hosuk Lee-Makiyama

Additional analysis – Centre for Social and Economic Analysis (CASE), Philipp Lamprecht,
Michal Krol

Table of contents

| | | |
|-----|--|----|
| 1. | Abstract | 19 |
| 2. | Working methodology | 20 |
| 2.1 | Context of the negotiations | 20 |
| | Context of EU-Japan negotiations..... | 20 |
| | Overview of negotiations at the time of publication of this report | 21 |
| 2.2 | The purpose of the Trade Sustainability Impact Assessment (Trade SIA).. | 21 |
| 2.3 | The phases of the Trade SIA | 22 |
| | Inception phase (September 2014 – February 2015) | 22 |
| | Implementation phase (February 2015 – July 2015) | 22 |
| | Completion phase (July 2015 – December 2015)..... | 22 |
| 2.4 | Steering committee | 23 |
| 2.5 | Methodology | 23 |
| | The general approach | 23 |
| | The main indicators considered | 24 |
| 2.6 | Evidence | 25 |
| | Qualitative analysis and desk research | 26 |
| | Case studies | 26 |
| | Stakeholder panels..... | 27 |
| | Quantitative analysis and modelling..... | 27 |
| | Partial equilibrium (PE) modelling..... | 27 |
| | Decomposition analysis..... | 28 |
| | Import-source analysis | 29 |
| 2.7 | Sectoral aggregation used for the study | 30 |
| 2.8 | Formulation of policy recommendations..... | 31 |
| 3 | Stakeholder consultations..... | 32 |
| 3.1 | Overview of consultation strategy..... | 32 |
| 3.2 | Implementation of consultation plan | 33 |
| 3.3 | Steering Committee meetings | 33 |
| 3.4 | Civil Society Meetings | 33 |
| 3.5 | Stakeholder roundtables..... | 34 |
| | Attendance and logistics..... | 34 |
| 3.6 | Surveys..... | 35 |
| | Sector selection survey | 35 |
| | Social, human rights and environmental survey | 37 |
| | SME Survey..... | 38 |
| | Type of organisation who responded to the survey | 42 |
| | Location of headquarters and subsidiaries | 42 |
| | Trading and intention to conduct business in the EU/Japan | 43 |
| | Barriers and opportunities to trading in EU/Japan | 43 |

| | | |
|------|--|----|
| | Issues to be addressed by the FTA and potential negative effects of an agreement | 44 |
| 3.7 | Bilateral communication | 44 |
| 3.8 | Website..... | 45 |
| 3.9 | Other consultation channels..... | 47 |
| 3.10 | Policy Recommendations | 47 |
| 4 | Economic analysis | 48 |
| 4.1 | Introduction..... | 48 |
| | Europe’s strategy to reinforce the EU-Japan relationship | 48 |
| | The EU strategy corresponds to its long-term interests | 48 |
| | The challenge from TPP..... | 48 |
| 4.2 | The current baseline | 49 |
| | Confirming the improvement potentials in the EU-Japan trade | 49 |
| | Cross-effects from TPP – downgrading the EU baseline | 50 |
| | Stakeholder comments on competition on the Japanese market | 51 |
| 4.3 | The outcome of the FTA negotiations | 52 |
| | Emphasis and sequencing | 52 |
| | Tariffs | 53 |
| | Services trade..... | 53 |
| | Public procurement..... | 53 |
| | Investment provisions..... | 54 |
| | Technical barriers to trade (TBT), SPS and NTMs | 54 |
| | Intellectual property | 54 |
| 4.4 | The impact of the EU-Japan FTA | 55 |
| | Economic indicators..... | 55 |
| | The distribution of gains..... | 56 |
| | No impact on vulnerable groups or the informal economy in Europe | 57 |
| | Other social and environmental externalities for further analysis | 58 |
| | Impact on public finances – revenue forgone | 58 |
| | Other cross-cutting effects with other trade agreements and EU-Turkey customs union | 59 |
| 4.5 | Recommendations | 60 |
| | Conclusions | 60 |
| | Recommendations | 60 |
| | Flanking measures | 61 |
| 5 | Horizontal commitments..... | 62 |
| 5.1 | Introduction..... | 62 |
| | Supplementary information on commitments on non-tariff issues..... | 62 |
| 5.2 | Horizontal Regulatory Cooperation | 62 |
| 5.3 | Technical Barriers to Trade (TBT) | 64 |
| 5.4 | Sanitary and Phytosanitary Measures (SPS) | 67 |
| 5.5 | Customs..... | 69 |
| | Customs and Trade facilitation | 69 |
| | De minimis | 69 |
| | Risk assessment | 70 |

| | | |
|------|---|-----|
| 5.6 | Rules of Origin | 70 |
| 5.7 | Investment..... | 72 |
| | Definitions and duration | 72 |
| | Liberalisation provisions | 72 |
| | Standards of investment protection | 73 |
| | Expropriation and the ‘right to regulate’ | 73 |
| | Investor state dispute settlement/investment court system | 73 |
| | Costs of disputes..... | 74 |
| 5.8 | Public procurement..... | 75 |
| 5.9 | Geographical Indications and other Intellectual Property Rights issues | 80 |
| | Geographical Indications (GIs)..... | 80 |
| | Other IPRs | 81 |
| 5.10 | Trade Defence Instruments..... | 83 |
| 5.11 | Competition | 84 |
| 6 | Sectoral analysis: Food and feed (processed food)..... | 86 |
| 6.1 | Introduction..... | 86 |
| | Implications of the economic analysis | 86 |
| 6.2 | Beef..... | 87 |
| | The current baseline in Japan | 87 |
| | The current baseline in the EU | 88 |
| | Liberalisation scenarios and impact..... | 89 |
| 6.3 | Pork..... | 90 |
| | The current baseline in Japan | 90 |
| | The current baseline in the EU | 91 |
| | Liberalisation scenarios and impact..... | 91 |
| 6.4 | Dairy and Cheese products | 93 |
| | The current baseline in Japan | 93 |
| | The current baseline in the EU | 95 |
| | Liberalisation scenarios and impact..... | 96 |
| 6.5 | Beverages: Wine | 97 |
| | The current baseline in Japan | 97 |
| | The current baseline in the EU | 98 |
| | Liberalisation scenarios and impact..... | 98 |
| 6.6 | Beverages: Spirits | 99 |
| | The current baseline in Japan | 99 |
| | The current baseline in the EU | 100 |
| | Liberalisation scenarios and impact..... | 101 |
| 6.7 | Beverages: Waters | 101 |
| | The current baseline in Japan | 101 |
| | The current baseline in the EU | 103 |
| | Liberalisation scenarios and impact..... | 103 |
| 6.8 | Confectionery and bakery | 104 |
| | The current baseline in Japan: Bakery | 104 |
| | The current baseline in the EU | 105 |
| | The current baseline in Japan on bakery | 105 |

| | | |
|------|---|-----|
| | The current baseline in the EU | 106 |
| | Liberalisation scenarios and impact..... | 107 |
| 6.9 | Starch, sorbitol and inulin..... | 107 |
| | The current baseline in Japan | 107 |
| | The current baseline in the EU | 108 |
| | Liberalisation scenarios and impact..... | 108 |
| 6.10 | Conclusions, recommendations and flanking measures..... | 109 |
| | Conclusions – Results of partial equilibrium analysis indicate significant EU export opportunities | 109 |
| | Employment and social assessment..... | 110 |
| | Japan | 112 |
| | The impact of the TPP..... | 111 |
| | The results of the partial equilibrium analysis of liberalisation impact (see Annex 3)..... | 113 |
| 6.11 | Annex to the sectoral analysis ‘food and feed’ – A brief analysis of the tariff-rate quota as a liberalisation instrument..... | 113 |
| | Economic analysis | 113 |
| | Taking into account negotiating imperatives..... | 114 |
| 6.12 | Annex to the sectoral analysis ‘food and feed’ – The Japanese protection regime in the pork sector | 115 |
| 6.13 | Annex to the sectoral analysis ‘food and feed’ – An outline of the methodology of the partial equilibrium analysis..... | 117 |
| 7 | Sectoral analysis: Motor vehicles sector..... | 118 |
| 7.1 | Introduction..... | 118 |
| | Implications of the economic analysis | 118 |
| 7.2 | The current baseline | 119 |
| | Stabilisation in Europe and Japan | 119 |
| | Internal EU competition is shaped by local brands and locally manufactured PCs | 121 |
| | Extensive localised production by Japanese manufacturers | 122 |
| | Trade has not impacted EU overcapacities negatively | 123 |
| | Varying degrees of investment in R&D and loss of competitiveness..... | 124 |
| | Europe is increasing its export dependency while Japan’s is decreasing | 125 |
| | Trade balance is less meaningful as an indicator..... | 126 |
| | Impact of exchange rate fluctuations | 129 |
| 7.3 | The outcome of the FTA negotiations | 129 |
| | Common for the motor vehicle category: | 129 |
| | Examples of regulatory divergences in passenger cars (PCs)..... | 130 |
| | Examples of regulatory divergences on commercial vehicles (CVs) | 130 |
| | Examples of regulatory divergences on powered two-wheelers (PTWs) | 130 |
| 7.4 | The impact of the EU-Japan FTA | 131 |
| | 2012 Impact Assessment on exports and output | 131 |
| | Alternative impact assessments | 132 |
| | Comparison of the social and economic impact | 133 |
| | Environmental impact..... | 135 |
| 7.5 | Case study: FTA impact on Kei cars | 135 |

| | | |
|-----|---|-----|
| | The current baseline | 135 |
| | Preferential treatment of kei cars | 137 |
| | Potential impact of the FTA..... | 139 |
| 7.6 | Conclusions, recommendations and flanking measures..... | 140 |
| | The baseline factors pointing towards further internationalisation | 140 |
| | Impact on economic, social and environmental indicators..... | 140 |
| | Recommendations | 141 |
| | Flanking measures | 142 |
| 8 | Sectoral analysis: Railways | 144 |
| 8.1 | Introduction..... | 144 |
| | Implications of the economic analysis | 144 |
| 8.2 | The current baseline | 144 |
| | Baseline in the passenger rail services (PRS) | 145 |
| | Baseline in the rail supply industry (RSI)..... | 148 |
| | The EU-Japan bilateral trade in RSI products | 148 |
| | Japan and the EU in the world RSI trade | 151 |
| | Regulatory regimes in matter of norms and procurement | 153 |
| 8.3 | The outcome of the FTA negotiations | 155 |
| 8.4 | The impact of the EU-Japan FTA | 156 |
| | Potential impact in the RSI markets..... | 156 |
| | Potential impact in the PRS markets | 158 |
| | Market structures | 158 |
| | Recent economic performance | 161 |
| 8.5 | Conclusion, recommendations and flanking measures | 163 |
| | Conclusions towards industrial cooperation | 163 |
| | Flanking measures | 163 |
| 8.6 | A minor note on Civil aircraft/airspace sectors as well as ships and vessels sectors..... | 163 |
| 9 | Sectoral analysis: Pharmaceuticals (and related chemical products)..... | 165 |
| 9.1 | Introduction..... | 165 |
| | Implications of the economic analysis | 165 |
| 9.2 | The current baseline | 166 |
| | Demographics driving public health care costs | 166 |
| | Limited investment interaction between the EU and Japan..... | 167 |
| | Zero-tariffs and comprehensive cooperation | 167 |
| | Quasi-drugs..... | 168 |
| 9.3 | The outcome of the FTA negotiations | 168 |
| | Examples of regulatory divergences on generics and biosimilars | 169 |
| | Examples of regulatory divergences on vaccines | 169 |
| | Japanese pharmaceutical industry interests | 169 |
| | Quasi-drugs..... | 170 |
| | Chemicals | 170 |
| 9.4 | The impact of the EU-Japan FTA | 171 |
| | Negative impact on output and employment indicators are unlikely | 171 |

| | |
|--|-----|
| Impact on healthcare spending | 172 |
| Trade indicators, comparison to a PE model | 172 |
| 9.5 Conclusions, recommendations and flanking measures..... | 173 |
| Conclusions for a comprehensive preferential agreement | 173 |
| Recommendations | 173 |
| Flanking measures | 174 |
| 10 Sectoral analysis: Medical devices | 175 |
| 10.1 Introduction..... | 175 |
| Implications of the economic analysis | 175 |
| 10.2 The current baseline | 176 |
| Considerable trade, device “deficit” in Japan | 176 |
| Tariff protection..... | 176 |
| Lesser degree of regulatory cooperation in medical devices than in pharmaceuticals..... | 176 |
| High degree of SME participation..... | 177 |
| Considerable levels of supply-chain integration | 177 |
| 10.3 The outcome of the FTA negotiations | 177 |
| 10.4 The impact of the EU-Japan FTA | 178 |
| Tariffs | 178 |
| Regulatory issues | 178 |
| SMEs, import side and supply-chain benefits | 179 |
| Impact on healthcare spending | 179 |
| 10.5 Conclusions, recommendations and flanking measures..... | 180 |
| Impact on trade indicators and SME considerations | 180 |
| Impact on public health expenditure, consumer and social indicators... | 180 |
| Recommendation towards regulatory harmonisation and cooperation... | 180 |
| Flanking measures | 181 |
| 11 Sectoral analysis: business and financial services; retail and wholesale services with an impact on merchandise..... | 182 |
| 11.1 Introduction..... | 182 |
| Implications of the economic analysis | 182 |
| 11.2 The current baseline | 183 |
| Services market access in prior EU and Japanese FTAs..... | 183 |
| Low trading intensity in services overall. | 186 |
| Employment..... | 186 |
| Entry costs, and overly regulatory environment | 187 |
| The role of corporate profits and productivity..... | 187 |
| 11.3 The outcome of the FTA negotiations | 189 |
| Common issues for the services industry..... | 189 |
| Business services: Recognition of professional qualifications | 189 |
| Financial services | 190 |
| Retail and wholesale sectors | 190 |
| 11.4 The Impact on the EU-Japan FTA..... | 192 |
| 11.5 Conclusions, recommendations and flanking measures..... | 192 |

| | |
|---|-----|
| Conclusion –minor economy wide impact, no negative impact on employment | 192 |
| Recommendations | 193 |
| Flanking measures | 193 |
| 12 Social analysis | 194 |
| 12.1 Introduction..... | 194 |
| Implication of the economic and sectoral analysis..... | 194 |
| 12.2 The current baseline | 194 |
| Sectoral aspects and the impact of trade..... | 194 |
| Trade, Core Labour Standards and the Decent Work Agenda | 196 |
| The Treatment of Core Labour Standards and the Decent Work Agenda in the FTAs of the EU and Japan | 197 |
| Regulatory Sovereignty on Public Services, Social and Consumer regulations | 200 |
| 12.3 Outcome of the FTA negotiations | 201 |
| Possible Provisions on CLS in the EU-Japan Free Trade Agreement..... | 201 |
| Regulatory Sovereignty on Public Services, Social and Consumer regulations | 202 |
| 12.4 The impact of the EU-Japan FTA | 204 |
| General impact | 204 |
| The Impact on SMEs..... | 207 |
| The Impact on Consumers..... | 207 |
| 12.5 Case study: The gender gap | 208 |
| Current baseline..... | 208 |
| Outcome of the FTA negotiations..... | 209 |
| The impact of the EU-Japan FTA..... | 209 |
| 12.6 Human rights..... | 210 |
| 12.7 Conclusions, recommendations and flanking measures..... | 211 |
| Recommendations | 211 |
| Flanking measures | 213 |
| 13 Environmental analysis..... | 215 |
| 13.1 Introduction..... | 215 |
| Implications of the economic and sectoral analysis | 215 |
| 13.2 The current baseline | 215 |
| Overall environmental performance of Japan | 215 |
| Environmental regulation in Japan..... | 218 |
| Emissions..... | 219 |
| Power generation sector..... | 221 |
| Natural resources | 222 |
| Environmental goods | 223 |
| Decomposition of impact on CO ₂ emissions..... | 224 |
| Potential risk factors | 227 |
| Energy intensive sectors and power generation | 229 |
| Relevant findings from the academic literature..... | 230 |
| 13.3 The impact of the EU-Japan FTA | 231 |

| | |
|--|-----|
| Impact on environmental goods and services..... | 231 |
| Impact on resource use and efficiency | 231 |
| Impact on waste production | 232 |
| Regulatory provisions and interaction with Multilateral Environmental Agreements (MEAs) | 233 |
| 13.4 Case study: Timber | 233 |
| The current baseline | 233 |
| The promotion of legal and sustainable timber | 234 |
| Outcome of the FTA negotiations on promoting legal and sustainable timber | 236 |
| Import duties and non-tariff barriers..... | 237 |
| The impact of the EU-Japan FTA on bilateral trade..... | 238 |
| Impacts on global trade and forests..... | 240 |
| 13.5 Case study: Fisheries | 243 |
| Background | 243 |
| EU-Japan fishery trade..... | 243 |
| Outcome of the FTA negotiations and its impact | 244 |
| 13.6 Conclusions, recommendations and flanking measures..... | 245 |
| Conclusion towards cooperation in sustainable development | 246 |
| Recommendations and flanking measures | 246 |
| 14 Conclusions of the impact assessment..... | 248 |
| 14.1 The overall imperative of the agreement | 248 |
| 14.2 Conclusions of the economic impact: Competition from TPP | 248 |
| Impact on sectors | 248 |
| 14.3 Conclusions of the social impact: Positive for jobs and equality | 249 |
| 14.4 Environmental impact – negligible or positive impact | 250 |
| 14.5 Recommendations and flanking measures | 250 |
| Sequencing and priorities | 250 |
| Job creation and SMEs | 250 |
| Regulatory coherence and cooperation | 251 |
| Specific sectoral annexes | 251 |
| 15 References..... | 252 |
| 16 Annexes | 260 |
| 16.1 Sector selection survey | 260 |
| 16.2 Questionnaire on social, human rights and environmental impacts..... | 261 |
| 16.3 Survey for European SMEs (English) | 268 |
| 16.4 Survey for Japanese SMEs (Japanese)..... | 271 |
| 16.5 Sample of stakeholder newsletters | 275 |
| 16.6 Overview of civil society dialogue meetings..... | 278 |
| 16.7 Overview of roundtables for stakeholder consultation..... | 293 |

List of abbreviations

| | |
|----------|--|
| AEO | Authorised Economic Operator |
| AE | Approved exporter |
| ASEAN | Association of Southeast Asian Nations |
| AVEs | Ad-Valorem Equivalent |
| BASA | Bilateral Aviation Safety Agreement |
| CARMA | Carbon Monitoring for Action |
| CCIFJ | French Chamber of Commerce & Industry in Japan |
| CCILJ | Japanese-Portuguese Chamber of Commerce and Industry |
| CCMAA | Agreement on Customs Cooperation and Mutual Administrative Assistance in Customs Matters |
| CEFJ | Comité d'Echanges Franco-Japonais |
| CETA | (Canada - European Union) Comprehensive Economic and Trade Agreement |
| CFP | Common Fisheries Policy |
| CGE | Computable General Equilibrium |
| CIPA | Cyprus Investment Promotion Agency |
| CITES | Convention on International Trade in Endangered Species of Wild Fauna and Flora |
| CJK | China-Korea FTA |
| CLS | Core Labour Standards |
| CLT | Cross-laminated Timber |
| CoO | Certificate of origin |
| CSC | Chemical Substances Control Law |
| CSR | Corporate Social Responsibility |
| CTC | Change in Tariff Classification |
| CTIA | Comprehensive Trade and Investment Agreement |
| CV | Commercial Vehicle |
| DCCJ | Danish Chamber of Commerce in Japan |
| DDA | Doha Development Agenda |
| DIHKJ | German Chamber of Commerce & Industry and Commerce |
| DWA | Decent Work Agenda |
| EASA | European Aviation Safety Agency |
| EC | European Commission |
| EESC | European Economic and Social Committee |
| EEZ | Exclusive Economic Zone |
| EGA | Environmental Goods Agreement |
| EGS | Environmental Goods and Services |
| ENT | Economic Needs Test |
| EPA | Economic Partnership Agreement |
| ERTMS | European Railway Traffic Management System |
| ETUC | European Trade Union Confederation |
| EU KLEMS | Productivity in the European Union: A Comparative Industry Approach (EUKLEMS2003) |
| EU | European Union |
| FA | Fisheries Agency |
| FAP | Foreign Average Price |
| FDI | Foreign Direct Investment |
| FET | Fair and Equitable Treatment |
| FLEGT | Forest Law Enforcement, Governance and Trade |
| FOC | Flag of Convenience |
| FTA | Free Trade Agreement |

| | |
|-------------|---|
| FTAAP | Free Trade Area of Asia-Pacific |
| GATS | General Agreement on Trade in Services |
| GCP | Good Clinical Practice |
| GDP | Gross Domestic Product |
| GGI | Green Goods Initiative |
| GHG | Greenhouse gas |
| GHTF | Global Harmonization Task Force |
| GIs | Geographical Indications |
| GLP | Good Laboratory Practice |
| GMDN | Global Medical Devices Nomenclature |
| GMP | Good Manufacturing Practices |
| GPA | Government Procurement Agreement |
| GSIM | Global Simulation Model |
| GSP | Generalised System of Preferences |
| GTAP | Global Trade Analysis Project |
| ICH | International Council for Harmonisation |
| ICJ | International Court of Justice |
| ICT | Information and Communications Technology |
| ID | Individual Declaration |
| IEA | International Energy Agency |
| IEC | International Electrotechnical Commission |
| IJA | Ireland Japan Association |
| ILO | International Labour Organisation |
| IMDRF | International Medical Device Regulators Forum |
| IMF | International Monetary Fund |
| INDC | Intended Nationally Determined Contribution |
| IOE | International Organisation of Epizootics |
| IP | Intellectual Property |
| IPRs | Intellectual Property Rights |
| i-REERS | Industry-specific real exchange effective rates |
| ISDS | Investor-State Dispute Settlement |
| ISHL | Industrial Safety and Health Law |
| ISO | International Organisation for Standardisation |
| ISS | Independent Service Suppliers |
| IT | Information Technology |
| ITA | Information Technology Agreement |
| IUU fishing | Illegal, Unreported and Unregulated fishing |
| JCAB | Japan Civil Aviation Bureau |
| JCCC | Joint Customs Cooperation Committee |
| JDZB | Japanisch-Deutsches Zentrum Berlin |
| JECC | Japanese-Estonian Chamber of Commerce |
| JICC | Ireland Japan Chamber of Commerce |
| JPMA | Japan Pharmaceutical Manufacturers Association |
| JR | Japan Railway |
| KORUS | U.S.-Korea Free Trade Agreement |
| LMDI | Log Mean Divisia Index |
| LSE | London School of Economics and Political Science |
| LSEE | LSE Enterprise |
| M&A | Merger & Acquisitions |
| MD/IVDs | Medical devices and in-vitro diagnostics devices |
| MDD | Medical Devices Directive |
| MEAs | Multilateral Environmental Agreements |
| MFN | Most Favoured Nation |
| MHLW | Ministry of Health, Labour and Wealth |
| MLIT | Ministry of Land, Infrastructure, Transport and Tourism |
| MLRs | Maximum Level of Residues |

| | |
|-------|--|
| MRA | Mutual Recognition Agreement |
| MRI | Mitsubishi Research Institute |
| NAFTA | North American Free Trade Agreement |
| NCCJ | The Netherlands Chamber of Commerce in Japan |
| NTMs | Non-tariff measures |
| OC | Official Certification |
| OECD | Organisation for Economic Co-operation and Development |
| OIRA | US Office of Information and Regulatory Affairs |
| OSC | Operational Safety Clause |
| OTC | Over-the-counter |
| PAL | Pharmaceutical Affairs Law |
| PC | Passenger Car |
| PC | Personal Computer |
| PCCIJ | Polish Chamber of Commerce and Industry in Japan |
| PE | Partial Equilibrium |
| PEI | Environmental Performance Index |
| PEM | PanEuroMed |
| PIC/S | Pharmaceutical Inspection Cooperation Scheme |
| PMDL | Pharmaceutical and Medical Devices Law |
| PPC | Plant Protection Council |
| PR | Performance Requirements |
| PRS | Passenger Rail Services |
| PTW | Powered Two-Wheeler |
| QMS | Quality Management Systems |
| R&D | Research & Development |
| RCA | Revealed Comparative Advantage |
| RCB | Regulatory Cooperation Body |
| RCEP | Regional Comprehensive Economic Partnership |
| RCF | Regulatory Cooperation Forum |
| REACH | Regulation on Registration, Evaluation, Authorisation and Restriction of Chemicals |
| REI | Railway Equipment Industry |
| RFMOs | Regional Fisheries Management Organisations |
| RGF | Really Good Friends of Services |
| RKC | Revised Kyoto Convention |
| RoO | Rules of Origin |
| RVC | Regional Value Content |
| RWE | Roundwood Equivalent |
| SDoC | Self-Declaration of Conformity |
| SDR | Special Drawing Rights |
| SITC | Standard International Trade Classification |
| SME | Small and Medium Enterprise |
| SNCF | Société Nationale des Chemins de fer Français |
| SPS | Sanitary and Phytosanitary |
| STRI | World Bank Services Trade Restrictiveness Index |
| TAC | Total Allowable Catches |
| TAE | Total Allowable Efforts |
| TBT | Technical Barriers to Trade |
| TISA | Trade in Services Agreement |
| TiVA | Trade in Value Added |
| TPP | Trans Pacific Partnership |
| TR | Technical Requirement to impart origin |
| TSIA | Trade Sustainability Impact Assessment |
| TRIMs | Trade Related Investment Measures |
| TRIPS | Agreement on Trade-Related Aspects of Intellectual Property Rights |
| TTIP | Trans-Atlantic Trade and Investment Partnership |

| | |
|-------------|--|
| UKTI | United Kingdom Trade and Investment |
| UN COMTRADE | UN International Trade Statistics Database |
| UN | United Nations |
| UNCTAD | United Nations Conference on Trade and Development |
| UNECE | UN Economic Commission on Europe |
| UNIDO | United Nations Industrial Development Organisation |
| US | United States of America |
| USD | United States Dollar |
| USTR | United States Trade Representative |
| VAT | Value Added Tax |
| VC | Value Content for origin |
| VPA | Voluntary Partnership Agreements |
| WB | World Bank |
| WCO | World Customs Organisation |
| WIOD | World Input-Output Database |
| WIPO | World Intellectual Property Organisation |
| WITS | World Integrated Trade Solution |
| WTO | World Trade Organisation |

1. Abstract

The EU-Japan Free Trade Agreement (FTA) is designed to strengthen Europe's weakening economic relationship with Japan, the world's third largest national consumer market. Since the Trans-Pacific Partnership (involving Japan and the United States) was concluded in October 2015, the EU-Japan FTA is a necessity if Europe is to maintain market shares in Japan.

The economic gains from this agreement are of the same magnitude as a free trade agreement with the United States, and could lead to major increases in exports (notably in the food and feed, processed food sectors). There are also considerable benefits for consumers, business and employment from an effective liberalisation of both markets that encompasses tariffs and regulatory issues. These gains are more symmetrically distributed than earlier FTAs, and benefit groups that do not always stand to gain from trade liberalisation.

At the same time the environmental and social risks are negligible, or offset by new technologies and opportunities provided by the agreement. Even in sensitive sectors, such as the motor vehicle industry, no tangible employment losses are foreseen compared to a scenario in which there is no EU-Japan FTA.

2. Working methodology

2.1 Context of the negotiations

Context of EU-Japan negotiations

The EU-Japan FTA constitutes a key aspect of EU trade policy. Following the Global Europe strategy of 2006 as confirmed with the Trade, Growth and World Affairs of 2010, the EU is pursuing closer trade and investment cooperation with its strategic partners including Japan. The EU is the third largest trading partner of Japan, while Japan is the 7th largest trading partner of the EU. EU exporters and investors need to retain and enhance access to major trading partners if they are to compete and the EU economy is to benefit from the growth generated from international trade and investment. In time EU-Japan trade has been brought into broad balance thanks to a maturing of trade and investment relations as well as strong EU export performance in sectors such as services and there is every prospect of mutual gains from a well-designed trade and investment agreement.

In the case of Japan, regulatory and other behind the border issues such as rules, restrictions on competition and technical barriers to market access have long been more important than tariffs or other border measures. The Trade Sustainability Impact Assessment (Trade SIA) therefore pays particular attention to the scope and effectiveness of measures intended to address such restrictions in the current negotiations between the EU and Japan. This is particularly the case given that EU internal measures have tended to ensure the more effective elimination of behind the border measures than has been the case in Japan. The effects of an EU-Japan FTA will therefore depend in no small part on the effective removal of such non-tariff measures (NTMs) to international competition. The existence of NTMs affecting trade or limited competition is important in a number of key sectors, such as financial services, distribution, railway equipment as well as other key EU exporting sectors such as automobiles, machinery and pharmaceuticals. Horizontal rules, such as intellectual property protection, government procurement, competition and investment protection are important in this context. Such issues are also relevant to food exporters together with Japan's implementation of a system for agricultural and foodstuff geographical indications (GIs).

At the same time both the EU and Japan are seeking to reduce the environmental impact of economic growth and promote environmentally sustainable forms of production. Improved environmental performance should come from market-led trends towards the use of lower carbon intensive less polluting technologies as well as regulation. Whilst increased trade can result in increased use of resources it can also lead to a reduction in environmental impact when trade and investment enhances the use of technologies and processes that use fewer resources and produce less carbon. The Trade SIA therefore needs to assess the net effect of an FTA on the environment in the medium to long term.

With regard to social, labour and human rights Japan, as a developed market economy generally represents less of a concern than has been the case in trade negotiations with some of the EU's developing country trade partners. It is nevertheless important to assess compliance with core ILO conventions and Dignity of Work provisions throughout the Japanese economy, in other words also in the small and medium sized suppliers to the major producers.

Overview of negotiations at the time of publication of this report

The negotiations for a free trade agreement (FTA) between the EU and Japan began in late March 2013. At the time of this final report for the Trade SIA, twelve rounds of negotiations had been successfully concluded, and at the EU-Japan Summit in May 29th both parties reaffirmed the importance of concluding a comprehensive and ambitious agreement as soon as possible. The joint statement envisaged that the agreement will “address notably issues related to market access for goods, services and investment, procurement including railways, as well as those related to non-tariff measures and the protection of geographical indications as well as intellectual property rights.”¹

Japan is the world’s third largest economy outside of the EU in terms of GDP, yet only its seventh largest trading partner. Along with the Trans-Atlantic Trade and Investment Partnership (TTIP), it is one of the most ambitious bilateral endeavours of European trade policy to date. Considering that a significant part of the negotiations revolves around regulatory issues or non-trade measures, considerable amount of progress has been achieved in just slightly more than two years. Aside from the scoping work and the one-year review, the negotiations have resulted in several interim outcomes – perhaps most notably on car safety standards and the joint agreement on railway equipment. The analysis of the Trade SIA is closely linked with the ongoing negotiations and this report reflects on their current progress.

2.2 The purpose of the Trade Sustainability Impact Assessment (Trade SIA)

The EU-Japan Trade Sustainability Impact Assessment (Trade SIA) was conducted in support of negotiations of a comprehensive trade and investment agreement between the European Union and Japan. It was completed no later than at the final phase of the negotiations since the results feed into the negotiations and the decision making process.

The study provides an assessment of the potential economic, social, human rights and environmental effects resulting from trade and trade-related provisions of the agreement in the EU and Japan as well as third countries, including developing countries, and Turkey which is in a customs union with the EU. The outcome of the Trade SIA also includes recommendations on how to maximise the benefits of the agreement while ensuring the competitiveness of enterprises and preventing or minimising potential negative impacts.

In essence, it has two purposes:

- To integrate sustainability into trade policy by informing negotiators of the possible social, environmental and economic consequences of a trade agreement;
- To make information on the potential impact available to all actors.

In light of this, the Trade SIA complements the quantitative and qualitative analysis with input from stakeholders. The objective of the consultation process was not only to inform the Trade SIA and to ensure greater understanding and awareness among stakeholders of the Trade SIA methodology, but also to increase transparency and accountability.

The implementation of the Trade SIA proceeded in three phases: first an inception phase including the drafting of an inception report and a presentation to civil society and a

¹ European Commission, 2015. 23rd EU-Japan Summit, Tokyo, 29 May Joint Press Statement. Available at: http://europa.eu/rapid/press-release_MEMO-15-5075_en.htm

Steering Committee meeting in Brussels in February 2015. Second, the implementation phase, which included the delivery and presentation of the interim technical report in July 2015 and third, the completion phase.

Concerning the specific organisation of the work, the team divided the tasks into five work packages: economic analysis, social and human rights analysis, environmental analysis, sectoral analysis and communication. The implementation was organised in such way as to streamline the overall process, to maximise synergy effects between the tasks of the individual specialised parts of the team, and to facilitate constant monitoring of the progress.

2.3 The phases of the Trade SIA

Inception phase (September 2014 – February 2015)

The inception phase included the following key elements:

- Finalisation of the proposed approach to the study, including a presentation of the conceptual framework of the SIA;
- Drafting of the preliminary methodology;
- Assembly of a list of relevant and representative stakeholders;
- Development of a consultation plan, including how this was to be implemented through outreach to stakeholders;
- The conducting of a comprehensive literature review; a preliminary screening of key sustainability issues; and a preliminary overview of the horizontal and sectoral analysis.
- Outlining the expected outcome of further reports.
- A survey to guide the selection of one sector for in-depth study based on stakeholder's responses.

Implementation phase (February 2015 – July 2015)

During the implementation phase the team organised a series of roundtables in Brussels that were a very effective way to collect input from stakeholders as well as to disseminate information. The experts responsible for each of the work packages conducted desk research, supplemented by additional quantitative work. The interim technical report delivered during the implementation phase provided an update of the tasks accomplished and the main results achieved. This report addressed the work in progress and preliminary findings on the economic, social and human rights, environmental, and sectoral work packages. It also identified the final selection of sectors based on the criteria outlined in the inception report, among which was the feedback from stakeholders.

The interim technical report also included:

- An update on the implementation of the stakeholder consultation plan presented;
- Preliminary results from consultations with interested civil society organisations, consumer, social and environmental organisations, and business in both the EU and Japan; and an update on the responses received so far;
- The feedback received from various stakeholders through the channels created: website, email, Twitter, and Facebook.
- Overview of upcoming activities.

Completion phase (July 2015 – December 2015)

In the completion phase, the team finalised the analysis across all work packages, conducted an SME survey to assess the possible implications for SMEs, as well as organised a number of roundtables on the sectors selected for in-depth analysis. The final report includes:

- The aims and objectives of the Trade SIA in support of the EU-Japan negotiations;
- Methodology adopted for the study the selected elements (see the following section);
- The scenarios considered and associated assumptions and hypotheses;
- A final overview of potential social, human rights and environmental impact based on additional quantitative and qualitative exercises;
- Full results on the economic and sectoral impact assessments;
- Policy recommendations and flanking policy measures suggested;
- The results of the implementation of the stakeholder consultation plan; and
- Suggestions for future study and activities.

2.4 Steering committee

The European Commission appointed a Steering Committee to ensure the smooth implementation of the study. The inception report and future reports were presented to the Steering Committee for feedback on content, quality and accuracy. The following services were invited to participate:

- Secretariat-General (SG)
- Legal Service (SJ)
- Agriculture and Rural Development (AGRI)
- Budget (BUDG)
- Climate Action (CLIMA)
- Competition (COMP)
- EuropeAid Development and Cooperation (DEVCO)
- Economic and Financial Affairs (ECFIN)
- Employment, Social Affairs and Inclusion (EMPL)
- Energy (ENER)
- Internal Market, Industry, Entrepreneurship and SMEs (GROW)
- Environment (ENV)
- Eurostat (ESTAT)
- Home Affairs (HOME)
- Justice and consumer affairs (JUST)
- Maritime Affairs and Fisheries (MARE)
- Mobility and Transport (MOVE)
- Health and Food Safety (SANTE)
- Taxation and Customs Union (TAXUD)
- European External Action Service (EEAS)

2.5 Methodology

The general approach

The EU-Japan Trade SIA builds on the Impact Assessment conducted by the Commission in 2012 that accompanied the process up to the opening of negotiations on the FTA between the European Union and Japan. It adopts and extends the methodological framework described in the EC's Handbook for Trade Sustainability Impact Assessments. The Trade SIA process included a public online consultation. Stakeholder input was considered in the implementation of the methodology. The Trade SIA also complements

the existing analysis and quantitative studies by assessing the wider potential economic impact of the FTA on trade, output, welfare, wages and employment. It also enhances the existing studies by looking more closely at the likely impact on competitiveness, social, environmental and human rights.²

The main indicators considered

Table 1 provides an overview of the sustainability impact assessment indicators chosen for this Trade SIA analysis. The indicators are based on important sustainability themes, as outlined in the TSIA methodology and the Handbook for Trade Sustainability Impact Assessment.³ Building on this information, certain additional themes and indicators have been selected.

² For background on the human rights analysis, see the guidelines on the analysis of human rights impacts in impact assessments for trade-related policy initiatives, available at:
http://trade.ec.europa.eu/doclib/docs/2015/july/tradoc_153591.pdf

³ European Commission, 2006. Handbook for Trade Sustainability Impact Assessment. Available at:
http://trade.ec.europa.eu/doclib/docs/2006/march/tradoc_127974.pdf

Table 1 Sustainability impact assessment indicators

| <i>Sustainability dimensions</i> | <i>Theme</i> | <i>Indicator</i> |
|------------------------------------|------------------------------------|--|
| <i>Economic/ Sectoral analysis</i> | Economic performance | GDP; exports (as contribution to GDP) |
| | Trade | Export; import; turnover (imports + exports) |
| | Income | Employment, wages, real GDP growth per capita |
| | Market attractiveness | FDI stock; FDI flow; business environment; localised production |
| | Trade competitiveness | Revealed comparative advantage (RCA, Balassa index); exports |
| | Consumer welfare and detriment | Consumer prices (rents, imports), product quality, consumer choice (import as proxy for increased product variety) |
| <i>Social analysis</i> | Employment | Employment |
| | Income | Real wages |
| | Healthcare costs | Public expenditure; healthcare cost as share of GDP |
| | Income equality | Workforce participation rate; unemployment; Gini coefficient; wage gap (gender) |
| | Labour standards | Level of compliance with ILO conventions |
| | Regulatory environment | Regulatory sovereignty; human rights compliance |
| | Consumer welfare and detriment | Consumer standards, protection or safety |
| <i>Environmental analysis</i> | Biodiversity | Level of protection of threatened species, use of fertilizers and pesticides in agriculture |
| | Regulatory environment | State of environmental regulations; environmental stringency; Interaction with MEAs |
| | Strength of regulatory environment | State of environmental regulations/ environmental stringency |
| | Environmental quality | CO ₂ emissions; GHG emissions (CH ₄ and N ₂ O); Energy intensity by sector; Resource use and efficiency: level of deforestation; trade in illegal timber; trade of fish products; waste intensity |
| | Energy, resource efficiency | Energy intensity by sector; resource use and efficiency; market size of environmental goods |

2.6 Evidence

The analysis for each of the work packages (economic, social and human rights, environmental and sectoral analysis) is structured in five elements:

1. **Introduction:** identification of the linkages to and from other chapters and background factors that may have an influence on the analysis and the public debate.
2. **Baseline:** an analysis of the baseline on which the FTA is being negotiated. The baseline draws on the CGE modelling conducted in the context of the Impact Assessment (see 4.1 under the economic analysis) and where appropriate brief examination of the theoretical underpinning and empirical experience of the effects of trade liberalisation in the context of EU-Japan trade. This examination draws on the work of international bodies (World Bank, IMF, OECD etc.) and on the academic literature.
3. **Expected outcome:** an analysis based on a detailed examination of relevant provisions in other recent FTAs concluded by the EU and Japan, as

well as other precedent setting FTAs under negotiation or awaiting ratification (e.g. TPP). The analysis of the expected outcome also draws on stakeholder consultation.

4. **Impact assessment:** an assessment of impact of the likely outcome of the FTA, informed by feedback from stakeholders (for detailed description, see stakeholder consultations described in chapter 3).
5. **Recommendations:** to address the impact where necessary, with special attention to the challenges faced by SMEs.

The analysis is based on trade statistics from the import reporting countries (Eurostat and Japan Ministry of Finance) because these sources have the advantage of consistency. UN COMTRADE is also used when consistency between the both sources are needed, e.g. for estimation of trade balance.

Qualitative analysis and desk research

Desk research was a key element of the methodology during the research phase of the Trade SIA. Numerous cited expert sources, academic literature, specific relevant studies, as well as international agreements, regulations and policy statements were considered.

A common general approach was used for each of the different sections. This included an initial focus on stakeholder feedback as a means of informing the analysis of the Trade SIA. The approach also emphasised the concerns of SMEs, and included environmental and social aspects. This approach was also used for the sectoral studies. Qualitative research was then used to assess linkages, to deepen the micro-firm level analysis and to gather information on the effects of other trade agreements, such as TPP.

Case studies

The qualitative research was augmented by case studies. These were of:

- **Food and feed:** A partial equilibrium analysis was conducted of the main EU agricultural exports based on competing liberalisation from TPP as a secondary baseline.
- **Kei cars:** This analysis examined the target market and purchase incentives for ultra-light 'kei' cars that are primarily designed and produced for the domestic market by Japanese manufacturers. These vehicles enjoy tax benefits not available for regular passenger cars. This case study estimated the actual tax benefits compared to other costs such as acquisition costs, insurance and fuel consumption. The conclusions relate to the benefit of addressing 'kei' car taxes in the FTA negotiations, and whether any EU model types may benefit.
- **Gender equality:** A particular focus of the social analysis chapter is an examination of the possible impact of the FTA on gender equality in the workforce and the consequential knock-on effects on economic growth in the EU and Japan. Consideration is given both to the direct role of the FTA through the modest gender effects of sectoral impacts and to the indirect role via potentially improved compliance with the non-discrimination provisions embodied in ILO undertakings.
- **Forestry trade:** Estimated imports of illegal timber to the EU and to Japan between 2000 and 2013 are presented. The level of imports of wood-based products at high risk of illegality was estimated. The main source countries of imports of wood products into Japan were listed, and those which would generally be regarded as high risk for illegal and unsustainable timber were identified. Concerning the impact on bilateral trade, the estimated percentage increase in trade for each of the four EU-Japan FTA scenarios included in the Commission's impact assessment were presented, including a translation into monetary sums.

- **Fisheries trade:** This case study assessed the potential impact of the FTA on fisheries trade between the EU and Japan and the various trade distorting factors including quantitative restrictions and government financial transfers. It did so whilst taking account of any treaties on conservation of fish stocks and the societal and cultural importance of fisheries in both societies. This was based in part on work on "Effects of Liberalizing Trade in Fish, Fishing Services and Investment of Fishing Vessels" by The Norwegian School of Economics and Business Administration (OECD, 2001).

Stakeholder panels

Regular collection of stakeholder inputs and feedback as described in the sustainability impact assessment handbooks and project terms of reference were undertaken. Furthermore, stakeholders were consulted throughout the analysis in order to collect data and verify hypotheses, especially in the sectoral analysis.

Quantitative analysis and modelling

As set out in the terms of reference of the Trade SIA, the project was not expected to repeat the economic analysis conducted in 2011. This was based on GTAP8, a computable general equilibrium model (CGE), multi-region and multi-sector framework that is widely recognised and frequently used for international trade policy analysis by academia and policymakers in the EU and globally. What this Trade SIA does is to assess the validity of the 2011 results by examining the assumptions, interpreting the results and conducting some alternative quantitative methods, including partial equilibrium models (in the sectoral analysis of food & feed, motor vehicles, chemicals sectors). The SIA also drew on the results and definitions of the 2012 Impact Assessment (Francois, Manchin, Norberg, 2011) for analysis of the economic impact of the EU-Japan FTA. The 2012 Impact Assessment and its two supplementary studies⁴ used the findings from a computable general equilibrium (CGE) model to estimate the impact of reduced barriers in EU - Japan trade based on a number of conservative and ambitious scenarios. Analysis of the expected outcome used in the Trade SIA draws on the scenario based on full tariff cuts with 'ambitious' and 'symmetrical' outcomes on NTMs.

In some instances, being bound to the existing modelling results has posed a particular challenge. For the social analysis, in particular, where the CGE model cannot provide economy-wide employment changes, it had to be supplemented by verifications based on macroeconomic methods. Moreover, investment effects could not be estimated in the economic and sectoral analyses.

Partial equilibrium (PE) modelling

A partial equilibrium analysis has been conducted for the food and feed sector analysis and for minor verification purposes in motor vehicles and chemicals sector studies.

In the food and feed sector, a baseline for all the processed foods groups was established by outlining the size of production, information on cost, trade flows (values and unit values), and a description of the existing levels of protection (ad valorem tariffs, specific tariffs, and some additional information). Cases of preferential treatment were also included. The focus was on the high tariffs, which are by far the costliest for the consumers, and whose reduction would be most beneficial for the foreign exporters. The bilateral import shares of the EU and Japan as well as import shares in world trade were

⁴ Francois, Manchin, Norberg, 2011; Copenhagen Economics, 2011.

outlined (in order to assess whether geographical reallocation of exports is possible as a competitive threat).

The partial equilibrium analysis of different liberalisation scenarios was then conducted with the use of a global simulation model (GSIM). The GSIM is a multi-region, imperfect substitutes model of world trade, requiring trade flows, export supply elasticities and aggregate demand elasticities as inputs. It provides insights on the impact of trade policy changes on trade flows, welfare and tariff revenues. The partial equilibrium analysis was conducted for three scenarios: the outcome of TPP with no EU-Japan FTA, the outcome of TPP with a 50 percent tariff cut in the EU-Japan FTA, and the outcome of TPP with a 100 percent tariff cut in the EU-Japan FTA.

Decomposition analysis

The impact of trade liberalisation on GHG emissions in the EU and Japan is decomposed into scale, structural and technique (sector energy intensities, fuel mix and carbon factors) effects using a Log Mean Divisia Index (LMDI). This method was preferred over others because it gives a 'perfect decomposition' of the change in emissions or energy use into each of the three different factors. The main disadvantage of using LMDI is that because it uses logarithms it cannot deal with zero or negative values in the source data. Nevertheless, no such problems were encountered in our data, as it is the case with most emissions and production data.

The additive version of the method was applied. This breaks down the change in GHG emissions into the following three factors:

- Scale effect: the effect of overall changes in output due to increased trade
- Structural (composition) effect: the effect of changing shares of output of different, more or less energy intensive, sectors (activity mix).
- Technique effect: the overall effect due to changes in sector-specific energy intensities (energy intensity effect), fuel shares (fuel mix effect) and carbon factors (emissions factor effect).

The methodology is based on the following relationship:

$$C = \sum_{ij} C_{ij} = \sum_{ij} Q \frac{Q_i}{Q} \frac{E_i}{Q_i} \frac{E_{ij}}{E_i} \frac{C_{ij}}{E_{ij}} \quad (1)$$

Where C is total GHG emissions, C_{ij} are emissions from fuel j in sector i , Q is output and E is energy consumption. The above relationship can be rewritten in terms of shares in the following form:

$$\sum_{ij} Q \frac{Q_i}{Q} \frac{E_i}{Q_i} \frac{E_{ij}}{E_i} \frac{C_{ij}}{E_{ij}} = \sum_{ij} Q S_i I_i M_{ij} U_{ij} \quad (2)$$

Where S_j is the share of output from sector i , I_j is the energy intensity (energy over output) of sector i , M_{ij} is the share of energy from fuel j in sector i (fuel mix effect) and U_{ij} is the share of emissions factor for fuel j in sector i . Given the above shares, a change in emission can be represented in the following additive form:

$$\Delta C = C^1 - C^0 = \Delta C_{scale} + \Delta C_{strc} + \Delta C_{int} + \Delta C_{fuel} + \Delta C_{emisf} \quad (3)$$

Each additive component represents:

1. the scale effect: $\Delta C_{scale} = \sum_{ij} w_{ij} \ln \left(\frac{Q_i^1}{Q_i^0} \right)$

2. the structure effect: $\Delta C_{struct} = \sum_{ij} w_{ij} \ln \left(\frac{S_i^1}{S_i^0} \right)$
3. the energy intensity effect: $\Delta C_{int} = \sum_{ij} w_{ij} \ln \left(\frac{I_i^1}{I_i^0} \right)$
4. the fuel mix effect: $\Delta C_{fuel} = \sum_{ij} w_{ij} \ln \left(\frac{M_{ij}^1}{M_{ij}^0} \right)$
5. and the emissions factor effect: $\Delta C_{emisf} = \sum_{ij} w_{ij} \ln \left(\frac{U_{ij}^1}{U_{ij}^0} \right)$

where w_{ij} is the logarithmic mean computed as follow:

$$w_{ij} = \frac{C_{ij}^1 - C_{ij}^0}{\ln C_{ij}^1 - \ln C_{ij}^0} \quad (4)$$

Ideally this methodology requires detailed information on energy consumption by type of fuel, together with the corresponding emissions, for each sector in the baseline and post FTA scenarios. Unfortunately, for this study such a level of disaggregation was not available. Nevertheless, we were able to combine the GTAP v7 input-output emission-specific tables with the simulation results of the 2012 Impact assessment to decompose the overall emission effect. Given the lack of information on fuel and emission composition in the post-FTA scenarios we assume fixed relationships between fuel consumption and output and emissions per unit of fuel consumed. This will not allow us to estimate the technique effect because sector energy intensives, fuel mix and carbon factors are considered unchanged. Nevertheless, we expect such effects to be small in the short run given the limited general equilibrium effects produced by the overall small economic impact of the FTA.

Import-source analysis

The term import-source analysis was coined in the context of a series of analyses conducted by Chatham House on 'Illegal logging and related trade: Indicators of the global response'.⁵ It refers to the estimation of the level of imports of wood-based products at high risk of illegality through an evaluation of product flows. This involves estimating the round-wood equivalent (RWE) volume and import value of imports based on official import data for each bilateral flow, year and category of wood-based product; those figures are then multiplied by estimates of the proportion that is likely to be illegal, which itself is based on the estimated level of illegality likely to apply to the export of each product category for a given country and year as well as on the extent to which importing countries demonstrate a preference for legal products. This calculation is informed by existing Chatham House research, knowledge of the consumer and producer countries' policies, and analysis of other expert sources and available data.⁶

⁵ The project has been running since 2006, published assessments in 2010 and 2014. For more details see <http://indicators.chathamhouse.org>.

⁶ The figures adopted for the assessments are based on the best available evidence; but, given the challenges of quantifying levels of illegal logging and the limited information available for some countries, they should not,

The default position is that the proportion of illegal wood-based products imported into a consumer country (like the EU or Japan) is the same as the proportion exported by the producer country. Adjustments to this estimate have been made for specific circumstances. Levels of illegal imports to the EU were assumed to be below the baseline in order to reflect the preference in the EU market for certified products as well as efforts by the private sector to comply with the EU Timber Regulation and government procurement policies. The level of illegal exports of pulp from Indonesia to Japan was assumed to be 10 percentage points below the baseline, reflecting the fact that Japan sources much of its pulp from one mill whose pulpwood supplies have not been linked to allegations of illegal activities. The level of illegality for imports of veneer from the Russian Federation into Japan was assumed to be below the baseline after 2009, which is the year in which a mill whose wood raw material had been FSC-certified was completed.

Detailed estimates of the levels of illegal activity, together with definitions and assumptions, can be found in the paper *Methodology for Estimating Levels of Illegal Timber- and Paper-sector Imports* Estimates for China, France, Japan, the Netherlands, the UK, the US and Vietnam (Chatham House, 2014). They include the bilateral trade flows that are likely to have accounted for the vast majority of consumer countries' imports of illegal wood-based products in 2013. These baseline percentages are similar to those used in assessments conducted in 2010 and 2014 as part of the overall research project.

The analysis lists the main source countries of imports of wood products into Japan, and identifies those that would generally be regarded as high risk for illegal and unsustainable timber, based on studies and news reports of the extent of illegal logging in those countries. The dollar values of the imports are taken from the UN ComTrade database. The extent of illegality across these countries of course varies substantially, and also varies within each country over time; the listing is not a precise analysis (which is in any case, by definition impossible for estimates of illegal behaviour) but a rough indication of the origins of high-risk imports into Japan.

2.7 Sectoral aggregation used for the study

The analysis follows the sectoral definitions (based on an aggregation of sectors pre-defined in GTAP) used in the 2012 Impact Assessment. These definitions include the following mutually exclusive sectors:

- agricultural primary products, fisheries, forestry (agriculture, forestry, fisheries); other primary sectors; food and feed (processed foods); chemicals; electrical machinery; motor vehicles; other transport equipment; other machinery; metals and metal products; wood and paper products; Other manufactures; water; transport; air transport; finance; insurance; business services; communications; construction; personal services; other services.

Amongst these sectors, the terms of reference of the project determined that three sectors (financial services, business services and motor vehicles).

The detailed structure of this sectoral aggregation and concordance table with the GTAP classification is as follows:

of course, be regarded as definitive. Rather, they indicate the likely levels of illegality and, perhaps more important, how they may have changed over time.

Trade Sustainability Impact Assessment (Final Report)
Free Trade Agreement between the European Union and Japan

| GTAP | Sector name | 2012 Impact Assessment Aggregation (Francois et al, 2011) |
|------|---------------------------------------|--|
| pdr | Paddy rice | & AFF |
| wht | Wheat | & AFF |
| gro | Cereal grains nec | & AFF |
| v_f | Vegetables, fruit, nuts | & AFF |
| osd | Oil seeds | & AFF |
| c_b | Sugar cane, sugar beet | & AFF |
| pfb | Plant-based fibers | & AFF |
| ocr | Crops nec | & AFF |
| ctl | Cattle,sheep,goats,horses | & AFF |
| oap | Animal products nec | & AFF |
| rmk | Raw milk | & AFF |
| wol | Wool, silk-worm cocoons | & AFF |
| frs | Forestry | & AFF |
| fsh | Fishing | & AFF |
| coa | Coal | & OPS |
| oil | Oil | & OPS |
| gas | Gas | & OPS |
| omn | Minerals nec | & OPS |
| cmt | Meat: cattle,sheep,goats,horse | & PRF |
| omt | Meat products nec | & PRF |
| vol | Vegetable oils and fats | & PRF |
| mil | Dairy products | & PRF |
| pcr | Processed rice | & PRF |
| sgr | Sugar | & PRF |
| ofd | Food products nec | & PRF |
| b_t | Beverages and tobacco products | & PRF |
| tex | Textiles | & OMG |
| wap | Wearing apparel | & OMG |
| lea | Leather products | & OMG |
| lum | Wood products | & WPP |
| ppp | Paper products, publishing | & WPP |
| p_c | Petroleum, coal products | & OMG |
| crp | Chemical,rubber,plastic prods | & CHM |
| nmm | Mineral products nec | & OMG |
| i_s | Ferrous metals | & MTL |
| nfm | Metals nec | & MTL |
| fmp | Metal products | & MTL |
| mvh | Motor vehicles and parts | & MVH |
| otn | Transport equipment nec | & OTN |
| ele | Electronic equipment | & ELM |
| ome | Machinery and equipment nec | & OMC |
| omf | Manufactures nec | & OMG |
| ely | Electricity | & OSV |
| gdt | Gas manufacture, distribution | & OSV |
| wtr | Water | & OSV |
| cns | Construction | & CNS |
| trd | Trade | & OSV |
| otp | Transport nec | & OSV |
| wtp | Sea transport | & WTP |
| atp | Air transport | & ATP |
| cmn | Communication | & CMN |
| ofi | Financial services nec | & FIN |
| isr | Insurance | & INS |
| obs | Business services nec | & BUS |
| ros | Recreation and other services | & ROS |
| osg | PubAdmin/Defence/Health/ Education | & OSV |
| dwe | Dwellings | & OSV |

2.8 Formulation of policy recommendations

Policy recommendations, or flanking measures, were developed to promote sustainability and to prevent or try to mitigate negative impacts. The recommendations are of course derived from the analyses of the different economic, social, environmental, sectoral elements of the Trade SIA and also draw on relevant recommendations put forward by stakeholders.

In a first specific step, the areas where specific policy recommendations were necessary to address the impact of the FTA were identified. In a second step, the lead thematic researchers within the team then consulted with each other in order to decide on suitable and practical policy recommendations, based on expert opinion and keeping in mind the relevant stakeholder feedback.

3 Stakeholder consultations

3.1 Overview of consultation strategy

The aim of the stakeholder input was to provide contribute as much as possible to the assessment of the other work packages (economic, social, human rights, environmental and sectoral analysis) and to aid in formulation of recommendations and flanking measures. This objective was achieved by suitable sequencing of the consultation and reaching out to various stakeholders. In terms of the sequencing, the team divided the consultation in three parts: 1) stakeholder sector selection; 2) social, human rights and environmental impacts; and 3) economic and sectoral impacts with a particular focus on SMEs. During the implementation of the project, the team updated and amended the initial strategy in light of the level of stakeholder engagement in the various activities.

Before we proceed with the summary of the specific tasks, we outline in brief the principles that guided our consultation activities and illustrate them with examples:

- **Integrated consultation activities;** the researchers responsible for the other work packages incorporated stakeholder input in the analysis by identifying of relevant subjects for in-depth review of the challenges and opportunities posed by the FTA and possible recommendations. Stakeholders were in particular stakeholders were invited to suggest a further a sector to be studied in-depth. The research team combined this stakeholder input with quantitative and qualitative criteria in order to finalise the sector selection. The results of the survey are provided below and copies of the surveys are enclosed in Annexes 1 and 2. The results of the SME survey informed the assessment of the possible positive and negative effects of the FTA in the EU and Japan.
- **Timely engagement of key stakeholders;** the team communicated with stakeholders throughout the entire duration of the project through bilateral meetings and exchanges, roundtables, and online tools. The team sent brief and informative emails of upcoming roundtables and relevant news, but also aimed to minimise the volume of mail in the light of other ongoing consultation activities. Scheduling for round tables was adjusted in order to accommodate stakeholders' availability, clashes with other consultation events and the holiday period. In particular, the SME survey was launched in September to ensure that stakeholders were available. See in Annex 4 for illustrations of previous newsletters.
- **Inclusivity;** a wide definition of stakeholders allowed us to reach out to all those who had an interest in the EU-Japan Trade SIA. The project team remains We remains open for requests for further meetings from all interested groups and individuals. The website and the dedicated email account will remain active after the submission of the final report to enable interested parties to consult the resources while the negotiations proceed. See the Annex for more information on roundtables, bilateral meetings and communication.
- **Accessibility** and complementarity among the Trade SIA resources; the project website is a 'one-stop shop' for all Trade SIA information. The dedicated website has been essential for supporting the roundtables, surveys and deadlines. It was redesigned and restructured to provide easier access and to provide clearer presentation of ongoing activities. The section below provides an illustration of the revised website.
- **Targeted consultations;** the team participated in meetings with individual firms and sector level associations as well as other interested organisations.

With regard to the SME test, the team contacted SME representative organisations in the EU member states, the export promotion agencies of Member States in Japan and organisations representing SMEs in Japan. A list of additional stakeholders contacted for the SME survey is enclosed in Annex.

- **Networks of contacts; the** team benefited from contacts across academia, governmental and non-governmental organisations, policy-makers and private companies. These contacts maximised the access of the team to external input.

In summary the consultation was grounded in previous experience in the implementation of Trade SIAs.

3.2 Implementation of consultation plan

This sub-section provides a summary of the achievements of the stakeholder consultation, where we particularly focus our attention on the roundtables concluded, survey implementation, as well as a multitude of bilateral meetings and exchanges. We review each in turn and provide examples of how information from stakeholder consultations has been integrated into the final report.

3.3 Steering Committee meetings

Steering committee meetings were held with members of the European Commission at each milestone of the study. The services consulted include: Secretariat-General (SG), Legal Service (SJ), Agriculture and Rural Development (AGRI), Budget (BUDG), Climate Action (CLIMA), Competition (COMP), EuropeAid Development and Cooperation (DEVCO), Economic and Financial Affairs (ECFIN), Employment, Social Affairs and Inclusion (EMPL), Energy (ENER), Enterprise and Industry (ENTR), Environment (ENV), Eurostat (ESTAT), Home Affairs (HOME), Justice (JUST), Maritime Affairs and Fisheries (MARE), Internal Market and Services (MARKT), Mobility and Transport (MOVE), Health and Consumers (SANCO), Taxation and Customs Union (TAXUD), and European External Action Service (EEAS). The comments from these meetings have been considered in revising study reports. The final steering committee meeting was held on the 3rd of November 2015 in Brussels.

3.4 Civil Society Dialogue Meetings

The purpose of the Civil Society Meetings in Brussels was to discuss with civil society the draft inception report, draft interim technical report and draft final report. The meetings feed in directly in finalising the report where the Trade SIA team has taken into account all stakeholder contributions. In the inception phase, the meetings provide an opportunity for stakeholders to comment on the methodological approach proposed by the consultants as well as to identify other relevant issues to be further analysed in the course of the SIA. Stakeholders also have the opportunity to comment on findings and recommendations. See Annex 6 for a complete overview of the Civil Society Dialogue meetings.

3.5 Stakeholder roundtables

As an integral part of the overall strategy of outreach activities to stakeholders, LSE Enterprise has conducted a series of roundtables for stakeholders that took place over the last months, including a roundtable on potential social impacts, one for environmental impacts and for the eight sectors analysed in detail in the study.

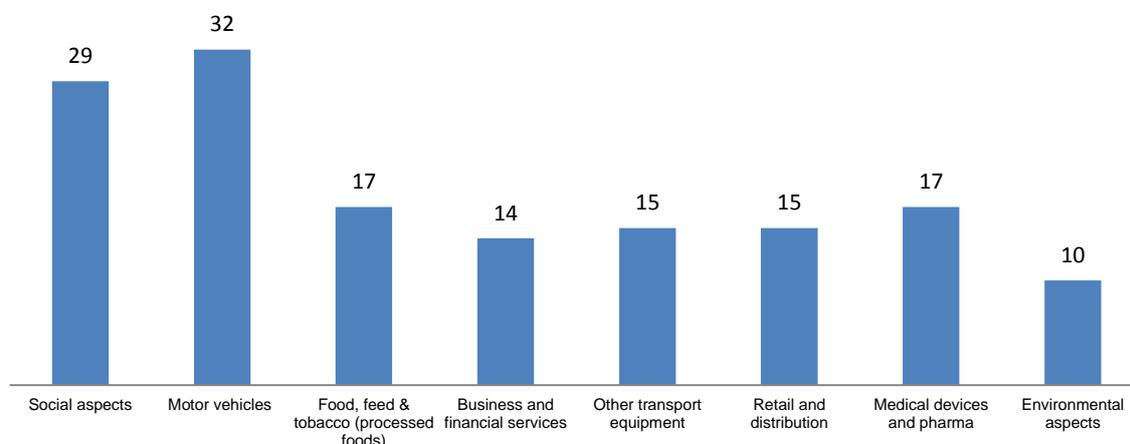
These roundtables were used to complement the other bilateral approaches to methods to stakeholders through interviews in person and on the phone, bilateral exchanges via e-mail, and surveys. The primary aim of the roundtables is information gathering. Round tables offered the opportunity for stakeholders to enter into discussion among themselves, which added value to the exercise. While the discussions were guided by the consultant, this method also offers the consultant the opportunity to simply observe an ongoing discussion among stakeholders and listen to an exchange of arguments, rather than a monologue. Also, the discussions enabled stakeholders to listen to ideas from stakeholders from many different backgrounds. See Annex 7 for a complete overview of the programmes, summary minutes and lists of registered participants of the roundtables.

Attendance and logistics

For each roundtable, invites were sent to the full contact list held by LSEE. An indicative, non-exhaustive summary of this contact list was provided in the final inception report. The contact list was updated in the process of contacting stakeholders to update and expand the list, and to maximize outreach. Reminders to stakeholders were sent out a week before and individual stakeholders were contacted on the phone during the registration process in order to facilitate a balanced attendance of stakeholders from different backgrounds.

Stakeholders that registered for the roundtables included civil society stakeholders, business representatives, national delegations and EU member country organisations. Each roundtable included stakeholders both from the EU side as well as from the Japanese side. The roundtables were all held in Brussels and were attended by stakeholders both resident in Belgium as well as abroad, for example coming from France, Switzerland or Japan. The roundtables were also attended by staff from the European Commission, the EESC, and the European Parliament. Figure 1 below illustrates the attendance per roundtable:

Figure 1 Registered attendance for each stakeholder roundtable (total = 149 + EESC)



A detailed agenda of the events including a programme and a detailed set of specific questions for the discussion were sent out to stakeholders before each event. This

guaranteed that stakeholders had the opportunity to prepare for the discussion. The detailed agendas of each event are attached in Annex to this report.

As pointed out above, the roundtables on potential social impacts, environmental impacts and life sciences of the EU-Japan FTA took place at the EESC's main building. These roundtables were organised in cooperation with EESC staff and in the case of the social roundtable, a bilateral meeting with several staff from EESC on the same day preceded the main event. After the successful organisation of the social roundtable, the LSEE team proposed to maintain a continuous dialogue with EESC staff both on results of the social section as well as other sections of the study, and the idea to cooperate on other roundtables was conceived. The joint organisation of these events allowed to use synergies, maximize resources available for outreach to stakeholders, and thus to incentivise attendance and transparency of the consultation process. This strategy of efficient use of resources and transparency and directly involving stakeholders as well in contacting additional participants was used for each of the roundtables. In addition to the continuous contact and exchange with EESC staff, the social roundtable was used to increase such a dialogue with staff from the International Labour Organisation (ILO) in Geneva.

3.6 Surveys

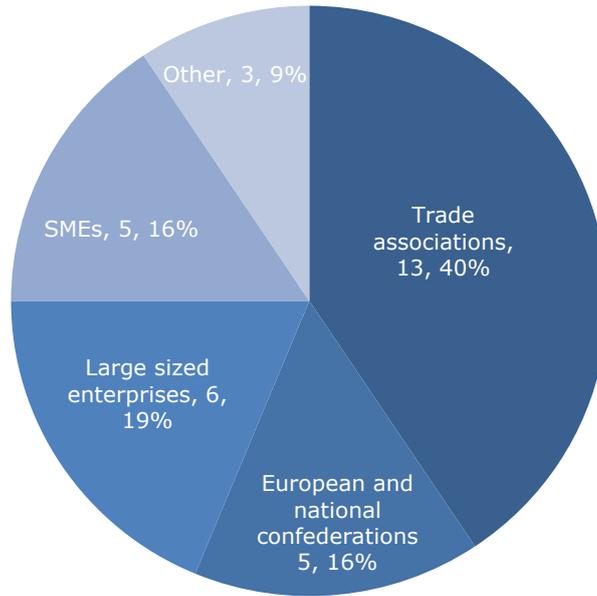
As presented in the previous reports, the project used questionnaires to reach a larger target group of respondents during the stakeholder consultation. Different types of questionnaires were designed according to the sequence described earlier and stakeholders were asked questions on issues and processes combining open and close (pre-coded) ended questions. All questionnaires follow the guidelines produced by DG Trade on the conduct of Trade SIAs.

Sector selection survey

The team conducted a first questionnaire which directly fed into the selection of sectors. The questionnaire (enclosed in Annex 1) included eleven questions, seven concerning the characteristics of the organisation and four on the sector proposed for in-depth study. The four questions aimed not only to urge the indication of a sector for selection but also the reasoning behind the choice and where available additional information for the researchers to consider. The survey remained live from 27 January 2015 to 10 April 2015 when the team extended the deadline for completion from the 31 March in order to provide further opportunity for stakeholders to complete responses in progress as well as give extra time due to the delay in publishing the final inception report. Overall, 175 participants viewed the survey which resulted in 32 individual responses after the removal of duplicate responses and uncompleted responses vis-à-vis the substantive questions. Some of the respondents to the survey provided detailed information and additional resources for the team to consult.

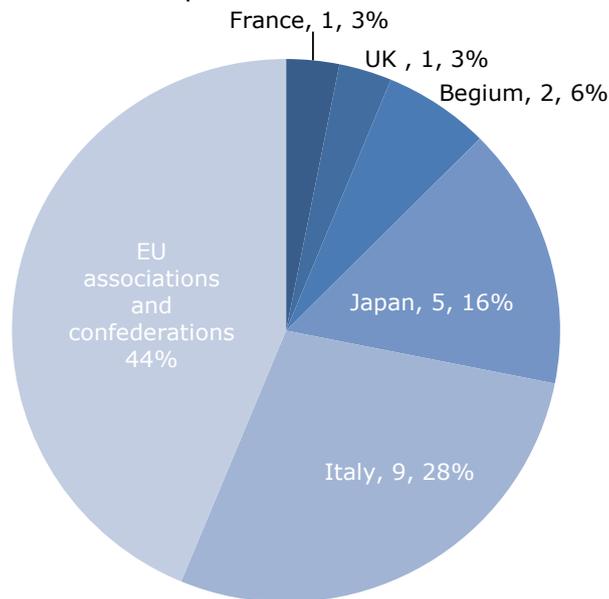
Further on we provide a summary of the characteristics of the stakeholders who replied to the question. Among the replies, twelve associations, five confederations and eleven companies of associations responded to the survey providing coverage both in terms of number of employees and turnover as seen in 2.

Figure 2 Type of organisation of the total 32 respondents



A large number of responses come from EU trade associations outlining possibilities which can arise from an ambitious agreement and there is a wide range of sectors indicated (see Figure 3).

Figure 3 Location of the total 32 respondents



Examples of sectors are agriculture and processed foods, textile and clothing, pharmaceutical, tyre and rubber, rail transportation, postal services and insurance services. The table below shows the list of sectors of participants as they have defined it.

Table 2 Sector identified by respondents

| | |
|-----------------------------------|---|
| Agriculture, forestry and fishing | Motor vehicles |
| Agriculture | Machine tools |
| Poultry | Ceramics |
| Dairy | Public administration and defence |
| Manufacturing | Aerospace and defence |
| Leather production / tanning | Government |
| Wine | Services |
| Processed food & drink | Postal services / express/ banking services |
| Footwear | Rail transport |
| Textile and clothing | Insurance |
| Sporting goods | Other |
| Tyre and rubber | Trade union |
| Pharmaceutical | Chamber of commerce |

Social, human rights and environmental survey

A questionnaire to support social, human rights and environmental impact analysis was launched on the 5 May 2015 through the online platform Qualtrics and then resent to all stakeholders on the 15 May 2015. The survey was closed on the 13 July 2015 after the deadline was extended by a week. Compared to the first one, this was a detailed questionnaire covering different aspects of EU-Japan trade and the possible impacts. The aim of our second survey was to collect information on potential impacts on social, human rights and environmental issues resulting from the EU-Japan FTA or from the cooperation of the two countries on the issues. The survey consisted of six sections and a total of forty-nine questions, combining set responses and text entry:

- Basic information about the organisation responding (seven questions)
- Focus on socio-economic issues, looking at effects on employment, working conditions, income distribution and social inclusion, as well as issues pertaining to business mobility (eighteen questions)
- Focus on human rights issues and cooperation on such issues (five questions)
- Focus on direct and indirect environmental impact from the FTA (nine questions)
- Focus on the trade in timber and timber products (five questions)
- Focus on the fisheries sector (five questions)

The participants had the option to complete as many of the above sections as they find relevant. Contacts included:

- Respondents to the public consultation, conducted during the impact assessment (where contact details were available);
- Contacts provided by the delegation of the EU in Japan (where contact details were available);

- Contacts from previous Trade SIAs where applicable and especially vis-à-vis social (including human rights) and environmental organisations;
- Contacts suggested by stakeholders.
- Participants in the roundtables.
- LSE Enterprise contacts.

Results from this questionnaire were limited. Among the 75 people who opened the survey only ten respondents completed the questionnaire. The reasons for the low reply rates include:

- Most stakeholders had already raised their concerns and comments with the LSEE team prior to the launch of the survey through other channels (bilateral face-to-face, emails, sector selection survey).
- Interested stakeholders attended the roundtables organised over a similar timeframe which have proven to be a very effective method of communication and a very useful tool to stimulate discussion among stakeholders.
- Stakeholders used the survey as an opportunity to reiterate comments that were already conveyed to the team rather than express new viewpoints. The second survey launched by the team was the most extensive one and in its attempt to cover all aspects of the ongoing negotiations consisted in total of 49 questions. Even though participants could decide which sections to complete, the length of the survey could have been a disincentive to starting it in the first place.
- Stakeholders were informed that there would be other opportunities for comments outside of the survey and they preferred to wait for the progress of the negotiations.
- The survey also coincided with periods of intense consultations on other ongoing agreements which reduced the availability of stakeholders in particular in Brussels to submit their comments. The team extended the deadline to accommodate such events but this did not increase the response rate.
- Overall the EU-Japan Trade SIA attracted less attention from stakeholders in comparison to other ongoing negotiations and stakeholders were generally supportive of the EU-Japan FTA.

The comments received on the EU-Japan FTA through the survey can be found in the Annexes to this report. The Annex provides an indication of the respondents to the survey, collates qualitative information and highlights issues which have been integrated in the analysis.

SME Survey

In light of the experience with the social, human rights and environmental survey, the team further revised its communication strategy. The feedback received prompted the team to focus even further on bilateral contacts and roundtables and to complement the activities with a very brief survey targeting SMEs in particular. The questions part of the SME survey addressed economic and sectoral issues by providing space for open-ended answers and comments. Please see text of survey in Annex 3 and 4.

The SME survey was finalised by the LSEE team in August 2015 in close cooperation with Commission services and various stakeholders in Europe and Japan. The team launched the survey on the 28 August 2015 and the deadline for completing the survey was extended to allow responses to be finalised.

The team had received the SME Survey used in the context of the TTIP negotiations, in order to assess barriers and opportunities for businesses when trading in the US. The team was planning to use the same questions in order to be time and cost effective and to allow for comparability across the issues raised. However, the questions which are

directed to SME's exporting to the US do not fully reflect the issues which are important vis-à-vis exporting to Japan and the survey was to be amended to reflect this. In light of these changes, it took the team longer than planned during the inception stage to prepare and launch the survey, also due to the fact that the team did not want to launch the survey during the holiday period. Main reasons for delay included the need to assess which questions are necessary and avoid duplications with other surveys as well as to translate the survey in Japanese.

The team believes that it is important to engage SMEs and receive feedback on the positive and negative consequences for SMEs. In this way the team can also put forward if needed mitigating measures to address the key concerns. The SME Test follows the steps as presented in the annexes to the Commission's guidelines:

- Consultation process with SMEs and organisations that represent the interests of SMEs, for example EICs, European business representative organisations, National and regional business representative organisations and export promotion agencies and embassies in Japan. The additional contacts for this survey include:

Table 3 European trade promotion agencies (in Japan) contacted for SME outreach

| <i>Organisation</i> | <i>Country of origin</i> |
|---|--------------------------|
| Federal Ministry of Science, Research and Economy | Austria |
| Austrian Trade, Austrian Federal Economic Chamber | Austria |
| Brussels Invest & Export | Belgium |
| Finexpo | Belgium |
| Belgium-Japan Association & Chamber of Commerce ASBL-VZW | Belgium |
| Belgian-Luxembourg Chamber of Commerce in Japan | Belgium, Luxembourg |
| BSMEPA | Bulgaria |
| Bulgarian Chamber of Commerce and Industry | Bulgaria |
| Bulgarian Industrial Association | Bulgaria |
| Agency for Investments and Competitiveness | Croatia |
| Ministry of the Economy | Croatia |
| Cyprus Investment Promotion Agency (CIPA) | Cyprus |
| Trade Service, Ministry of Energy, Commerce, Industry and Tourism | Cyprus |
| Czech Trade | Czech Republic |
| Ministry of Trade and Industry | Czech Republic |
| Trade Council of Denmark | Denmark |
| Danish Chamber of Commerce in Japan (DCCJ) | Denmark |
| Enterprise Estonia | Estonia |
| Japanese-Estonian Chamber of Commerce (JECC) | Estonia |
| Enterprise Estonia | Estonia |
| European Business Council in Japan | EU |
| Finpro | Finland |
| Finpro Japan | Finland |
| Finnish-Japanese Chamber of Commerce | Finland |
| Confederation of Finnish industries | Finland |
| Finnpartnership | Finland |
| UBIFRANCE | France |
| Comité d'Echanges Franco-Japonais (CEFJ) | France |
| French Chamber of Commerce & Industry in Japan (CCIFJ) | France |
| BFAI | Germany |
| German Association of Chambers of Industry and Commerce | Germany |
| State Secretary | Germany |
| Deutsch-Japanischer Wirtschaftskreis | Germany |
| German Chamber of Commerce & Industry in Japan (DIHKJ) | Germany |
| Japanisch-Deutsches Zentrum Berlin (JDZB) | Germany |
| Enterprise Greece S.A. | Greece |
| Ministry of Economy, Infrastructure, Tourism and Shipping | Greece |
| Hungarian Investment and Trade Development Agency | Hungary |
| Ministry of Foreign Affairs and Trade | Hungary |
| Enterprise Ireland | Ireland |
| Ireland Japan Association (IJA) | Ireland |
| Ireland Japan Chamber of Commerce (IJCC) | Ireland |
| ICE | Italy |
| Italian Chamber of Commerce in Japan | Italy |

Trade Sustainability Impact Assessment (Final Report)
Free Trade Agreement between the European Union and Japan

| | |
|---|----------------|
| LIAA | Latvia |
| LIAA Japan | Latvia |
| LDA | Lithuania |
| Luxembourg for Business | Luxembourg |
| Malta Enterprise | Malta |
| Ministry of Finance | Malta |
| Economic Policy Department | Malta |
| EVD | Netherlands |
| Dutch & Japanese Trade Federation | Netherlands |
| The Netherlands Chamber of Commerce in Japan (NCCJ) | Netherlands |
| Polish Agency for Enterprise Development | Poland |
| Department of Trade Policy | Poland |
| Polish Chamber of Commerce and Industry in Japan (PCCIJ) | Poland |
| ICEP Portugal | Portugal |
| Japanese-Portuguese Chamber of Commerce and Industry (CCILJ) | Portugal |
| Romania Trade and Invest (CRPCIS – Centrul Roman pentru Promovarea Comertului si Investitiilor Straine) | Romania |
| Romanian Japan Chamber of Commerce and Industry | Romania |
| SARIO | Slovakia |
| Slovak-Japanese Chamber of Commerce | Slovakia |
| Section of Industry and Trade | Slovakia |
| TIPO | Slovenia |
| ICEX Japan | Spain |
| ICEX | Spain |
| Spanish-Japanese Chamber of Commerce | Spain |
| Swedish Trade Council | Sweden |
| Minister for Enterprise and Innovation | Sweden |
| National Board for Trade | Sweden |
| Sweden – Japan Foundation | Sweden |
| Swedish Chamber of Commerce & Industry in Japan – (SCCJ) | Sweden |
| British Chamber of Commerce in Japan | UK |
| UKTI | United Kingdom |

Moreover, in accordance with the guidelines:

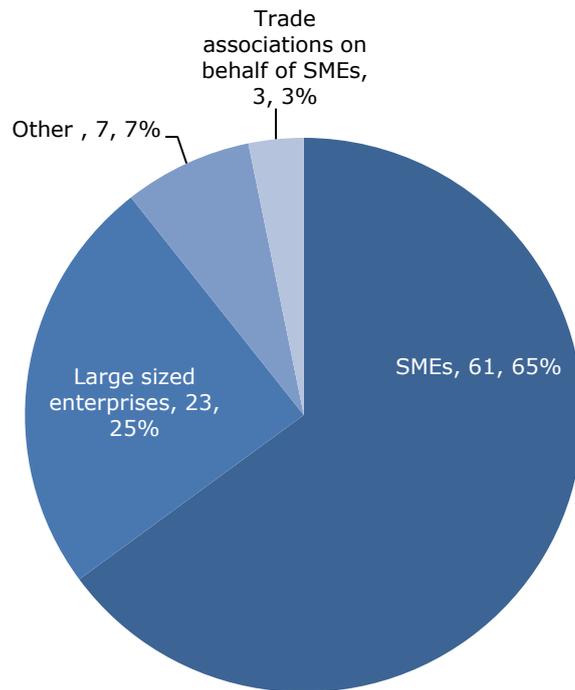
- Assessment of businesses likely to be affected in the different sectors identified. We aimed at assessing the number and size of SMEs, employment by SMEs, participation of SMEs in different sectors and links with large enterprises through subsidiary or subcontracting relationships.
- Measurement of the impact on SMEs (cost/benefit analysis) involves the assessment of the extent of the effect of the EU-Japan Trade SIA on SMEs.
- Use of mitigating measures if necessary. Potential mitigating measures include proposals for direct support to SMEs, specific information and awareness raising, development of help desks such as the export help desks. Additional measures in case of very negative cost/benefit analysis include complete or partial exemptions for SMEs, as well as reduced fees for smaller businesses.

The Contractor distributed the survey in English (for European companies) and in Japanese and English (for Japanese companies). We report on the results separately and then make parallels between the results.

Type of organisation who responded to the survey

Further on we provide a summary of the characteristics of the stakeholders who replied to the question. Further to the definition of SMEs adopted in EU recommendation 2003/361 and the Small and Medium Enterprises Basic Law (Amended in 1999) or Corporate Tax Act, among the respondents to the survey aimed, 61 (65%) fall in the category combining micro, small and medium enterprises. Some of the respondents indicates as 'other' cannot be classified based on the definition provided since they don't respond to one of the necessary criteria (Employees and Turnover/ Balance sheet total for European companies or Stated capital and Employees for Japanese companies). See Figure 4.

Figure 4 Type of organisation of the total 94 respondents



Location of headquarters and subsidiaries

Among the organisations who have responded to the survey 17 are based in Japan and 77 in the European Union, where further breakdown is provided below. Among the respondents 73 are independent companies, 13 – a subsidiary/affiliate, 4 – control a group, and 3 – trade associations (as highlighted above).

Table 4 Location

| <i>Country</i> | <i>Submitted responses</i> |
|----------------|----------------------------|
| Belgium | 1 |
| Czech Republic | 4 |
| Estonia | 2 |
| France | 2 |
| Germany | 5 |
| Italy | 42 |
| Japan | 17 |
| Latvia | 1 |
| Malta | 4 |
| Poland | 1 |
| Slovenia | 1 |
| Spain | 12 |
| Sweden | 1 |
| Total | 93 |

Trading and intention to conduct business in the EU/Japan

From the European respondents who are not currently doing business in Japan, a key consideration is the absence of local partners and network. Concerning services (in particular, IT, education, retail), companies are exploring and seeking partnerships locally but some indicate that researching business opportunities is also associated with additional costs. In some cases, companies highlight the lack of contacts with real estate investors in Japan, distributors as well as customer preferences. Also in the services sector, the language differences are mentioned as a hindrance to doing business. One respondent in the retail industry also highlighted the existence of high tariff to export to Japan and the need for import licence for importers. From the Japanese respondents only one is currently not exporting to the EU and no specific rationale is provided.

Barriers and opportunities to trading in EU/Japan

In response to the question whether the company faces any restrictions in doing business in Japan, 13 respondents indicate that they face no barriers. The respondents come from a range of sectors, among which manufacturing (pharmaceutical products, electronic components, agriculture and services (e.g. tourism)).

With regard to industrial electronic components, stakeholders flag the difference in industrial Standards (IEC vs. JP) as well as different approaches to handling of Dual-Use regulations. According to stakeholders, the harmonisation of industrial standards is an issue to be addressed. On the other hand, also vis-à-vis electronic components, respondent already involved in technological co-operation with a Japanese partner highlight the close collaboration with Japan as well as absence of any restrictions. However, the overall assessment is that there are few restrictions in doing business in Japan.

From the organisations that have replied to this question (36 responses), 19 companies flag the existence of restrictions, predominantly flagging import duties and tariff quota system. Removal of import duties and tariff quota system has been flagged by footwear industry, particularly in Italy. Specific comments provided by the industry include:

- Issues in reaching retail market directly, due to penalising import duty regime and quotas;
- Japanese tariff quota system affects the final product retail price. This complicates doing business in Japan since importers in Japan have to go through trading companies and partners;

- Restrictive leather shoes quota system.

Apart from the footwear industry and in particular the EU manufacturers of leather shoes, responses from the music industry flag the absence of legal protection in Japan. In particular, stakeholders flag the absence of legal protection for the use of sound recordings for the purpose of public performance (in the sense of Art.15(1) of the WIPO Phonograms and Performances Treaty) represents a regulatory obstacle to doing business because it prevents commercial licensing of sound recordings to numerous entities which use those recordings in the course of their business (e.g. perform music in public venues such as shopping malls, night clubs, hotels, restaurants, etc.) This gap in the scope of copyright protection represents lost revenues to two categories of music right holders (producers and performing artists).

Most Japanese companies do not list any particular restrictions to doing business in the EU. Some respondents flag broader political issues linked to sanctions to Russia and Iran. More precisely, specific effects include delays in custom clearance, general speed of doing business as well as uncertainty of future access. One company notes in Germany VAT payment is required for the office equipment (PCs) purchased in Japan.

Issues to be addressed by the FTA and potential negative effects of an agreement

The issues to be addressed parallel the comments provided vis-à-vis the existing restrictions. Concerning European industrial electronic components, stakeholders preview only positive effects of a future FTA which would be essential in boosting relationships in the industry and product development. Other positive implications include the potential simplification of the customs restrictions for export shipments from EU to Japan, and reduction in import customs duties for electronic goods from EU to Japan.

The European footwear industry indicates that an FTA between EU and Japan should address the quota regime as well as strict control of these quotas by local importers / distributors. This is due to the fact that respondents assess that import duties (both in-quota and extra-quota) remain high. This is reiterated by a number of respondents who want to see the cancellation of the quota importation system and reduction or cancellation in the duty on leather shoes. Respondents highlight that the existing system penalises Japanese companies which try to import footwear. At the same time, the footwear industry does not indicate any major defensive interests and negative effect of the FTA with Japan. Furthermore, the industry supports an FTA agreement which addresses Japan's commitment to delete quotas and import duties connected to the quota system.

Finally, concerning the music production industry, a recommendation is for the Japanese Copyright Act to be amended to provide equivalent protection in respect of the public performance of sound recordings to the protection available in the EU. Overall all 27 European companies who have responded to this question declare explicit support for the FTA and do not preview any negative effects arising from the FTA.

Similar to comments on barriers and opportunities, Japanese stakeholders indicate more overarching issues such as currency risk within EU, due to the fact that not all MS are part of the Eurozone as well as intra-EU political struggles that go beyond economic reasons. As more specific concerns are indicated the relatively high tariffs on machinery parts, as well as divergent environmental regulations and personal protection information which are different from the rest of the world. All Japanese respondents do not preview any negative effects from the EU-Japan FTA.

3.7 Bilateral communication

In-addition to the other methods of communication, the team has conducted bilateral meetings with a variety of stakeholders. Bilateral exchanges allowed gathering specific

information, collecting additional resources and following-up to other communication events. The team took part in more than a hundred face-to-face meetings with stakeholders in Brussels and Member States. LSEE reached out to stakeholders across each of the sectors selected for in-depth analysis.

3.8 Website

During the inception phase the team developed a dedicated website for the Trade Sustainability Impact Assessment, which is an essential part of the consultation process. The link to this website is: <http://www.tsia-eujantrade.com/>.

As stated earlier, the overall goal of the website and the social media communication channels is to raise awareness of the Commission's initiative to produce the Trade SIA among the stakeholders and to provide a predominant 'go-to' digital resource for the EU-Japan FTA. During the implementation of the project, based on feedback by stakeholders and assessment of the traffic, the team decided to restructure the website to provide easier access and visibility of communication tools. The main reason for the upgrade was the necessity to accommodate large amounts of information and increased visitors traffic. The new website will be kept after the closure of the survey where stakeholders will be able to continue being informed about the negotiations and outcomes of the study. In order to fulfil the specific objectives of the digital tools, the team has taken the following steps over the duration of the project:

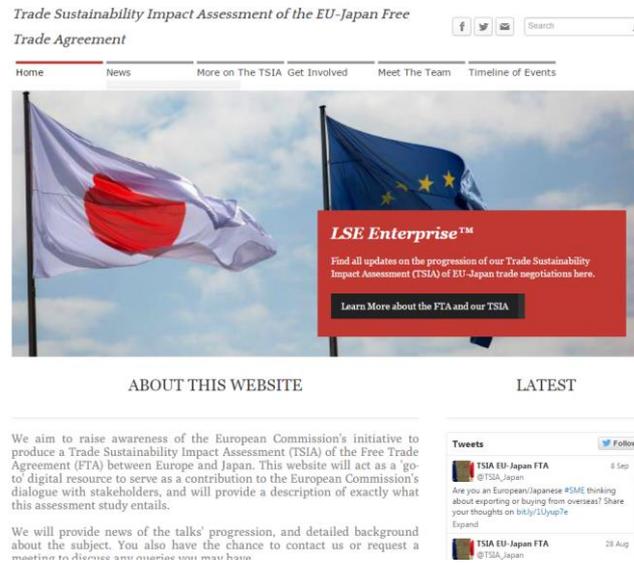
- We have provided a detailed description of what the Trade SIA entails and the relations between EU and Japan in the process of the trade negotiations.
- We have published the previous reports on the website, easily accessible on the homepage, as well information on upcoming and past events and roundtables, including registration information.
- We have included clear contact details for direct communication with the team and link to 'request a meeting'.
- We have posted links to social media channels – particularly Twitter feed and Facebook site.
- We have created easy-to-use and prominent link to the surveys and accompanying information.

All relevant content is available in English and follows EC rules on the provision of information⁷ to ensure quality, accuracy, accessibility and usability of the content.

⁷ Information Provider's Guide, Interinstitutional Style Guide.

Trade Sustainability Impact Assessment (Final Report)
Free Trade Agreement between the European Union and Japan

Figure 5 Dedicated website for EU-Japan TSIA



3.9 Other consultation channels

- **Email:** The use of the dedicated email address was a useful method of communication (Lsee.Tsia-Japan Lsee.Tsia-Japan@lse.ac.uk). However, the team has predominantly made use of the personal emails of the researchers in order to reduce the possibility for event information to be sent directly to Spam/Junk folders. Similarly, the second survey on social, human rights and environmental impacts was initially sent through the online platform of the survey tool (Qualtrics), but stakeholders flagged issues with the email and further communication has been sent through the personal accounts of the researchers. This has worked smoothly and further problems have not been reported. All further surveys including the SME Survey has been distributed through individual accounts and website.
- **Newsletters:** Due to the intensive communication concerning roundtables during certain periods of the project, the team has avoided sending multiple newsletters at the same time. Overall, four issues were disseminated during the project with a brief update on the state of negotiations, planned roundtables and surveys, as well as sources for further information. After sending the newsletters the bounce backs were reviewed and any information on annual leave or new contacts has been incorporated into the stakeholder database in order to keep it up to date. A copy of the last newsletter issue no. 4 is illustrated in Annex 4.
- **Social media:** Concerning the use of social media, we continue to develop the content of various channels to grow the input of stakeholders. As well as working with the existing social media networks of the LSE, we build on the extensive international social media presence of the School, as well as the presence of the leading researchers. We 'follow', link and interact with other external social media networks to help reach new members and promote our work. Our focus is on Twitter as this is the most relevant for our target audiences. Examples include: Twitter: @TSIA_Japan and Facebook: TSIA EU-Japan FTA <https://ww.facebook.com/tsia.eu-japan>

3.10 Policy Recommendations

Policy recommendations, or flanking measures, were developed for both, to enhance and reinforces important sustainability measures and to prevent or try to mitigate negative sustainability impacts.

A first general point is that for the development of these policy recommendations, the analyses of the different economic, social, environmental, sectoral elements of the Trade SIA were integrated and relevant recommendations put forward by the extensive stakeholder consultations for the Trade SIA were evaluated.

In a first specific step, the impacts of the different sections of the Trade SIA were listed and the areas where specific policy recommendations were necessary were identified. In a second step, the lead thematic researchers within the team consulted with each other in order to decide suitable and practical policy recommendations, based on expert opinion and keeping in mind relevant stakeholder feedback obtained and discussed during the different methods of stakeholder outreach.

4 Economic analysis

4.1 Introduction

Europe's strategy to reinforce the EU-Japan relationship

Next to the Trans-Atlantic Trade and Investment Partnership (TTIP), EU-Japan FTA is the most ambitious bilateral negotiation undertaken by the EU. The importance of Japan and the Far-East is well-established in EU trade policy, reaffirmed in the 2015 Trade Policy Communication, "Trade for All".⁸ Negotiations are approaching conclusion and at the time of the Final Report of the Trade SIA, thirteen rounds of negotiations have been conducted, with many negotiation objects either addressed or in the process of being so – e.g. market access for goods, services, investment, public procurement, NTMs and geographical indications.⁹

Japan is the world's third largest national consumer market, yet only Europe's seventh largest export market, accounting for about 3% extra-EU exports and trade turnover – a rate that has diminished due to the faster growth in trade with the emerging economies. The 'relative decline' of the EU-Japan relationship is recognised as the problem in the negotiation objectives as well as the European Commission's 2012 Impact Assessment (henceforth 2012 Impact Assessment) with supported evidence.

The trajectory has since then worsened by competing trade liberalisation, notably from the Trans-Pacific Partnership (TPP), involving Japan, the United States, and ten other nations. The strategy to improve the terms of the EU-Japan trade and investments are deemed consequential, if not inevitable.

The EU strategy corresponds to its long-term interests

The objectives of the FTA is to bilaterally 'enhance trade and investments, with the objective to create smart, sustainable and inclusive growth', jobs, and welfare gains, notably consumer prices and other benefits. These objectives are well balanced. The defined objectives are also relevant in economic terms.

China may have surpassed Japan in terms of real GDP in 2012, but Japan remains almost equal to the size of the Chinese market measured in consumption, given China's structurally low rates. As investors, Japan and China are also of equal importance, at 8.4 and 8.6% respectively of global FDI outflows.

Also, the emergence of Asia as the world's new economic centre is a well-established factor. Despite recent (and anticipated) macro adjustments in Asia, the underlying long-term factors (such as the suppressed intra-regional demand fuelled by urbanisation, increasing income amongst the emerging middle-class) are certain in the long-term. These are developments that benefit Japan's role as the regional investment and innovation hub, and the source of intermediate goods and services.

The challenge from TPP

Intra-regional trade in the Asia-Pacific region has more than tripled since 2000, and is gaining importance at the expense of Europe. But new trade policy initiatives – notably

⁸ European Commission, Trade for All, October, 14th, 2015

⁹ European Commission, 23rd Japan-EU Summit, Tokyo, May 29th, 2015, Joint Press Statement. Available at: http://europa.eu/rapid/press-release_MEMO-15-5075_en.htm

the recently concluded TPP – will shift the baseline. The TPP agreement will be the first serious competing economic integration agreement that could negatively affect the EU economy, and as a hypothesis for this analysis, the EU needs to competitively improve its access to Japan and other major economies in the region if it is to retain its current level of economic benefits from trade.

4.2 The current baseline

The following section looks at possible changes from the baseline from three different perspectives; from a top-down fashion considering the macro-economic level (concerning market developments and size), trade policy (competing trade agreements) and the firm-level perspective.

Confirming the improvement potentials in the EU-Japan trade

At 6% of world GDP in 2014, Japan is the world's third largest national economy that was quite recently (in 2010) surpassed by the rapid growth of China. Since then, China's nominal GDP in USD has now widened almost two to one against Japan. The gap is considerably inflated by exchange rates and inflation, while the real growth of the economy in local currency between 2010 to 2014 are actually converging around 3%.

However, the major EU trading partners (Japan, China, the US) are also structured differently. The actual market potential for Europe could be different than nominal aggregate GDP numbers, and reveal some impediments to this potential.

A break-down of the GDP shows that the theoretical market potential of Japan is large thanks to its high rate of private spending, which is almost twice as high as China. In terms of absolute levels of final consumption consisting of private consumption and government expenditure (purchase of private goods, services and payroll), Japan and China are closer: at 4 trillion versus 4.7 trillion USD annually.¹⁰

Table 5: Consumption and imports, 2013

| | <i>Japan</i> | <i>China</i> | <i>US</i> |
|---|--------------|--------------|------------|
| <i>GDP, trillion USD</i> | 4.9 tn | 9.4 tn | 16.8 tn |
| <i>Total consumption</i> | 4.0 tn | 4.7 tn | 14.0 tn |
| <i>(share of GDP)</i> | 81.7% | 49.6% | 83.7% |
| <i>Private consumption</i> | 3.0 tn | 3.4 tn | 11.5 tn |
| <i>(share of GDP)</i> | 61% | 36% | 68.5% |
| <i>Imports</i> | 0.9 tn | 1.9 tn | 2.8 tn |
| <i>(share of GDP)</i> | 19% | 20.6% | 16.5% |
| <i>Foreign imports, relative to total consumption</i> | 23% | 41% | 19% |
| <i>Goods & services from EU28, share of total consumption</i> | 3% | 6% | 5% |

Source: World Bank, WDI, 2015; European Commission, 2014 (EURUSD=1.33, 2013 average)

However, the rate of imports into Japan seems low compared to China, while China's import rates are already heavily suppressed due to the low import penetration rate in its service sector. But in reality, Japanese imports are at a comparable (or even higher) rate than other major developed economies, and compared to the US. Relative to the total consumption, the share of foreign imports is higher in Japan than in the US (23%

¹⁰ Some of the remaining gap is also explained by the difference in military expenditure

against 19%). Evidently, the problem is not that Japan is not importing – it is the EU exports of goods and services that are underperforming in Japan, at merely 3% of Japanese consumption, compared EU exports which are 5% of US consumption.

The analysis seems to suggest that import penetration rates are a specific European problem. However, increasing foreign imports into Japan has been identified as a driver for reforms under Abenomics – and if unilateral reforms and the EU-Japan FTA would bring Japan's import penetration rates up to US levels, Europe's bilateral trade with Japan would increase by two-thirds and the total EU exports levels would increase by 3%.

Moreover, the experiences of EU exporters foretell that it is not only size that matters: Business confidence is built on real growth rates of the economy, upon which investments and purchase decisions are made. In terms of growth, it is often noted that Japan's GDP growth rates have been at near-zero levels for a considerable time (the current projection for 2015 is at 0.6%).¹¹ However, translated to real GDP growth in absolute terms, Japan's GDP growth is nearly 300 euro per capita – to be compared to just 115 euro per capita for the Eurozone and 98 euro for the US.

In other words, the per capita growth in Japan is three times higher than the other major developed economies – and 81% of that income growth is actually being spent. High per capita levels create high-end, value-driven consumption amongst consumers and business investments on capital-intensive machinery and services, which low and middle income countries cannot sustain. The EU exports to Japan are primarily dominated by such high-end, high value-added trade in machinery, cars, pharmaceuticals and business consulting services, which confirms the need and the potential to intensify the EU-Japan trade relationship.

Cross-effects from TPP – downgrading the EU baseline

Since the 2012 Impact Assessment, an additional major factor needs to be taken into account that affects the baseline – the TPP has been concluded. TPP is a high ambition agreement with regard to market access, NTMs and regulatory coherence. If ratified, TPP clearly has the potential to affect the baseline for EU-Japan trade, as trade and investment will be diverted away from the non-TPP countries, and be allocated amongst TPP signatories instead.

The effects of trade diversion are relatively complex to assess ex ante. Nonetheless, it is clear that:

- Intra-regional trade in the Asia-Pacific has already marginalised and nearly halved the share of EU and US trade amongst the Asian TPP members (Australia, New Zealand, Vietnam, Malaysia, Singapore, Brunei, Japan);¹²
- The TPP-12 accounts for approximately a quarter of all EU trade.¹³
- However, past experience with the creation of NAFTA in 1994 showed that this did not amount to any serious diversion of trade against the EU. But this was largely thanks to EU outward FDI into NAFTA that quadrupled during a seven-year period thanks to the abundance of capital available in the banking system. The conditions at the end of the 1990s that drove transatlantic M&As are very unlikely to be replicated in Asia, particularly in a post-crisis environment, or by EU SMEs).

¹¹ IMF World Economic Outlook, July 2015.

¹² ECIPE, Trans-Pacific Partnership: A challenge to Europe, 2014

¹³ UN ComTrade, 2014

The above implies that there will be at least some trade diversion against EU exports from TPP in the short term, which occurs on top the natural increasing importance of intra-Asia-Pacific trade. In the long-term, the trade diversion might lead to dynamic effects that affect EU competitiveness, investment and productivity.

The econometric models developed for FTAs thus far are not comparable as they are based on different assumptions on the outcome and liberalisation achieved. They also factor in demand, substitution and spill-overs at different rates. Also, the available quantitative research on TPP has not factored in the negative impact on the EU. One study, built on a GTAP based CGE model,¹⁴ addresses the problem by assessing several of the current 'mega' FTAs using same assumptions on the level of liberalisation to compare their maximum potential effects, regardless of different levels of ambition. From this study the following conclusions can be drawn on the post-TPP baseline for the EU, economy wide:

- The negative impact on the EU from tariff elimination alone (-.1%) is similar to the size of the positive impact from tariff elimination alone in the EU-Japan FTA. (+.1%).
- The numbers of this study correspond to the changes predicted in the 2012 Impact Assessment and Francois et al. However, the only conclusion that should be drawn is that GDP losses from tariff cuts in TPP needs either tariff cuts in TTIP or EU-Japan to return to original baseline.
- The GDP gains for the EU from the EU-Japan FTA is the same as for TTIP, especially if NTMs are reduced.¹⁵
- Despite the difference in the size of GDP in Japan and US, the case that there will be equal gains for the EU from TTIP and the EU-Japan FTA holds up in economic theory. The Japanese economy shows a higher degree of complementarity with that of the EU, and the model estimates a higher level of tariff protection (average 2.3% in Japan vs. 1.2% in the US) and NTMs (6.2% vs 4.9%).

The analysis leads to the conclusion that there is a considerable downgrading of the GDP baseline for the EU-Japan FTA, starting in the negative compared to the 2012 Impact Assessment, which may only be addressed by conclusion of both TTIP and EU-Japan FTA. There are also other agreements, such as the Regional Comprehensive Economic Partnership (RCEP) that could further negatively affect the EU-Japan baseline. A tariff-centric deal in RCEP (which is likely) would have the twice the negative impact of TPP tariff cuts.¹⁶

Stakeholder comments on competition on the Japanese market

The conclusions about the negative impact from TPP is also supplemented by the dynamic competition in Japan where the US exports and firms are outperforming European exporters. This is particularly prominent in key EU export sectors such as pharmaceuticals, machinery, and services. Compared to US exports, European businesses are more likely to turn to the Chinese markets:

- In terms of FDI outward stocks, US investment in Japan is higher than in China, at 3% of stocks vs. 1.1% to China. The relationship is the reverse for the EU FDI stocks, with 2.6% to China vs. 1.6% for Japan.

¹⁴ Kawasaki, Rise of the Mega EPAs: A comparison of economic effects, RIETI, 2014; Determining Priority Among EPAs: Which trading partner has the greatest economic impact?, RIETI, 2011; The Relative Significance of EPAs in Asia-Pacific, 2014.

¹⁵ N.B. the results could be replicated using GTAP and horizontal scale-down of NTMs at approximately 3-4%.

¹⁶ *ibid.*

- US trade with Japan accounts for 5.0% of turnover, while the equivalent number is 3.1% for the EU, thereby the revealed comparative advantages (RCAs) are consistently higher for the US with the exception on motor vehicles.

The type of demand is different as well, both in terms of type of goods and value-added. The competition on mature, high end markets are also different to that of developing economies. While market distortions, state interference and the rate of protectionism is generally higher in developing countries, EU exporters face greater competition from well-established domestic foreign producers in Japan. This challenging competitive situation was clearly registered at the stakeholder consultations, where several EU stakeholders stressed the high level of competition and market entry costs in Japan (noted in services and motor vehicles stakeholder consultations) in relation to the low corporate profits generated.

If the conclusion is that the EU exporters cannot compete in Japan (or other developed markets), and should therefore focus on developing markets where competition is less intense then Europe's baseline for external trade needs a complete revision, not just for the EU-Japan FTA but also for the trade strategy overall. Demand in China and other major developing countries will rapidly transition into other type of goods as they reach middle income levels in the near future, putting Europe's export orientation at risk.

4.3 The outcome of the FTA negotiations

Emphasis and sequencing

Procedurally, the EU-Japan FTA negotiations have been somewhat different than the usual FTA negotiations. The negotiations were preceded by both unilateral reforms on the side of Japan and extensive negotiations during the scoping exercise. Moreover, some EU Member States stipulated conditions for further concessions as continued negotiations at the one-year review in 2014. While the majority of tariffs and market access are usually completed in the early stages during conventional FTA negotiations, the negotiations on tariffs and NTMs (with sectoral annexes and public procurement) overlapped in the EU-Japan FTA negotiations.

The negotiation sequencing is a consequence of both EU priorities and Japan's need for synchronicity with TPP. It is speculative whether negotiation outcomes are affected by the sequencing, but there are also certain negotiation linkages or concurrent developments that were facilitated, for example:

- By negotiating NTMs and tariffs simultaneously, a strict parallelism was maintained between NTMs and tariffs on passenger cars (and parts).
- The EU was able to coordinate its positions on investment disputes with TTIP negotiations.
- The voluntary agreement on purchases of railway stock with Japanese private railway operators and continued negotiations were facilitated.
- Japan could link the outcomes of TPP and EU-Japan on agricultural market access.

The EU-Japan FTA can be seen again the broad background of developments in FTAs and in particular the 'mega-regional' agreements.

Tariffs

In past FTAs, most recently CETA, the EU agreed to near full tariff elimination on industrial goods and 93.8% on agriculture after staging. Under the TPP agreement, Japan has agreed to near-full tariff liberalisation in industrial goods, with almost all of its exceptions concentrated in agriculture: Japan-Switzerland EPA liberalised 99% of trade

by value; TPP has liberalised at least 95% of the value of Japan's bilateral trade with the US.

However, occasional tariff lines tend to remain even in industrial goods. Such exceptions may play a considerable role on the impact on individual sectors, but less so when it comes to the overall economy-wide impact:

- Weighted by trade value, almost all tariffs were liberalised in prior EU and Japanese FTAs. It is therefore reasonable to use a scenario that EU-Japan FTA will also reach near full elimination.
- However, there is a major caveat in agriculture: The impact of the agricultural market access is discussed in detail under the sectoral analysis on food and feed.
- As the CGE model is based on trade value, it is assumed that the outcome will be near to 'full tariff elimination on both sides' (experiment A in Francois, et al, 2011 that were assumed for all scenarios used in the 2012 Impact Assessment).

Services trade

Very few sensitive issues are envisaged in this area that are relevant to EU-Japan trade.

The EU has negotiated services market access on the basis of negative list since CETA (with the exception of TISA and TTIP); Japan uses negative with OECD countries, and in TPP – as a result, the EU-Japan FTA negotiations are comprehensive and using a negative list.

Negotiation issues in services include:

- The EU linkage between Mode 4 access to liberalisation of mode 3: It is worth noting that Mode 4 is also a Japanese offensive interest, where it has also made additional requests on visas and rights for spouses, discussed under the sectoral analysis on business services.
- Qualifications: As with most OECD countries, there are less sensitivities on mutual recognition of professional qualifications than other FTAs. The CETA model, drawing on previous FTAs, encourages professional bodies to make recommendations on mutual recognition to a formal committee. This is discussed under the sectoral analysis on business services.
- Domestic regulations and sectoral annexes. There will be annexes on key sectors (financial services, telecoms, possibly also distribution agreements with Japan Post Inc.), and also e-commerce. However, Japan has not received an adequacy decision for transfer of personal data, which is discussed under the social analysis.
- Exceptions. The EU services exceptions (maritime transports and audiovisuals) are of some economic importance but not substantial enough to downgrade the assessment of a symmetrical and tangible reduction of trade costs.

Public procurement

Government payroll and public purchase of private goods and services represent 20% of Japanese GDP,¹⁷ whereof approximately two-thirds are likely to be public purchases of private goods and services. A substantial share of this is on sub-central levels and in construction services.

¹⁷ World Bank, World Development Index, 2014

- The theoretical openness (in WTO Government Procurement Agreement) reveal marginal differences between the EU and Japan, except in terms of coverage of construction and architectural/engineering services where Japan has retained higher thresholds.
- The overall level of import penetration in public procurement is relatively low in Japan (3.5%),¹⁸ with the equivalent ratio varying for the EU (approx. 4.5%).¹⁹
- The voluntary agreement on railways shows that the FTA has already surpassed GPA provisions, and high level of ambition can be assumed given they are properly directed.

Investment provisions

- Investment is a major driver of economic growth and employment. However, most sectors in Japan and the EU are basically open and possible liberalisation provisions in an FTA, or post-establishment (e.g. performance requirements) will have little economic impact.
- Whether or not the final outcome is based on the Commission's new Investment Court System (ICS), Japanese business tend to comply with the regulations of the host countries rather engage in investor-state disputes. There is only one known case of Japanese (indirect) involvement in an ISDS case, via a Dutch subsidiary operating in Czech Republic.
- Investment flows (in both directions) are likely to be driven by an improved business environment and better profit margins – which the investment chapter alone has only a moderate impact on. The economics effects are symmetrical, but moderate.

Technical barriers to trade (TBT), SPS and NTMs

- Addressing TBTs will be central to the success of the EU-Japan agreement. Sectoral NTMs will be discussed under the sectoral analysis (e.g. motor vehicles, pharmaceuticals, medical devices, chemicals) – however, considerable amount of work has already been achieved with symmetrical distribution of gains between the EU and Japan.
- SPS is primarily an EU offensive issue.
- Establishment of a permanent forum for regulatory cooperation is part of major EU FTAs (CETA, likely also TTIP). This can help maintain the momentum of work on NTMs in the coming years.
- In these chapters, an ambitious outcome on a par with the TPP can be assumed because of the EU ambition and support from Japan.

Intellectual property

- There are very few issues on intellectual property (IP). One negotiation issue is geographical indications (GIs). However, in June 2015 the Diet adopted a GI protection law to recognise GI-like protection for agricultural products, and there are only a few cases of products currently produced in Japan using European GIs or vice versa. The EU-Japan FTA therefore ought to go beyond prior Japanese FTAs and CETA.
- One additional issue is public performance right in sound recordings, which is not implemented in Japanese law.

¹⁸ Messerlin, Miroudot, EU public procurement markets: How open are they?, GEM Sciences-Po, 2012

¹⁹ *ibid.*

- Despite sector specific impacts (agriculture, audiovisuals and broadcasting), the sector-wide economic implications are less than with other countries on intellectual property (IP). It is assumed that the agreement will have moderate and asymmetrical impact.

In conclusion, full liberalisation should be assumed in the assessment of the impact, with limited exceptions in agriculture which will be described in the sectoral analysis. Although the level of NTMs vary between the EU and Japan, the actual reductions in barriers are thought to be symmetrical in chapters with the most forceful economic impacts and market access relevance (TBT, services annexes and SPS).

4.4 The impact of the EU-Japan FTA

Economic indicators

As the EU is world's largest economy and trading entity, very few FTA partners provide a tangible result on outputs and economic gains on exports alone. As Japan is the world's third largest national economy, it is clearly an exception. The aggregated GDP growth from the EU-Japan FTA (measured in GDP) is larger than what it was assumed for EU-Korea FTA.²⁰

- The long-term GDP increase for the EU is estimated to +0.76% and +0.29% for Japan under a symmetrical scenario.
- Bilateral exports increase by +34% for the EU and +29% for Japan, while the total export increase is +4% for the EU and +6% for Japan. This outcome confirms the macro-based analysis in the introduction.
- These outcomes are reasonable and modest when compared for example to the existing level of US import penetration in Japan discussed above.

The impact on growth can be broken down into three component parts:

- The output effects from increased exports (measured using bilateral exports as the indicator), that occur primarily through lower trading costs and that displace trade from domestic and third country competitors.
- Enhanced consumer welfare from price effects of competition due to increased imports (measured in welfare effects, imports).
- New investment (measured in FDI inflows) that also lead to employment, productivity improvement and other gains in the long term.

The first component is derived from increased exports and thus pure increases in output, as well as some more employment (and possible also profits if rents are maintained in the target market). The second component comes from addressing actionable trade costs in tariffs and NTMs, and increased competition and diminishing rents, leading to lower prices and thus in turn to both consumer welfare as well as supply-chain gains.

- Export driven growth is particularly important in food and feed, where bilateral exports from the EU could increase by 294%. Motor vehicles, medical devices, pharmaceuticals/chemicals are also of particular interest. Exports will be the main indicator in these sector analyses.

²⁰ See *inter alia* CEPII/ATLASS, The Economic Impact of the Free Trade Agreement (FTA) between the European Union and Korea, 2011; Copenhagen Economics, Economic Impact of a Potential Free Trade Agreement (FTA) Between the European Union and South Korea, 2007

- Consumer welfare and detriment are relevant indicators on medical devices, motor vehicles (in particular passenger cars and parts) and on the railway sector where EU-Japan supply-chain integration is important for competitiveness, or where consumer gains are considerable. Imports will be a second impact indicator in these sectors.

Investments is the third growth component. A key methodological reservation of the CGE model is that it does not estimate the changes in investment (FDI) in the same manner as trade flows, and yet investment will significantly affect employment. However, trade and investment are increasingly seen as complements (see the discussions in the social section) rather than as substitutes as vertical integration and global value chains promotes both trade and FDI. This is particularly true in the case of Japanese FDI in manufacturing in the EU.

More broadly, Japan has graduated from export-led model trade and successfully transitioned into investment-driven trade. Establishment on foreign markets via outward investments make full use of overseas growth and factor improvements that are unavailable at home, which improves corporate profits.

The 2012 Impact Assessment asserts that Japanese business is significantly underinvesting in Europe. This is supported by the statistics. Europe held 23% of Japan's outward FDI stocks, a share that has been stable over the past decade, but is underperforming compared to Japan's investment in the US (32%) and Asia (32% where China accounts for 9%). As this is unlikely to be due to access barriers against Japanese FDI in the EU, there is little that can be done in trade policy to encourage more investment and thus more job creation in the EU besides from improving the general business environment (including supply-chain factors, such as tariffs on parts), and thereby attract more investments.

- The sectoral impact should look at to how the general investment climate in Europe will be affected. This entails profitability, supply-chain costs (including tariffs) and to what extent inward investment will be improved.

Investment is also a main driver of employment, but this is another impact that cannot be assessed in the CGE model. It simply assumes constant employment that leads to no overall change to the total employment rate in the economy.

- Employment is the main social indicator for the study, but it also serves as a proxy variable in the broader discussion of the investment variable. Japanese investment and employment creation in the EU is heavily concentrated in manufacturing (especially in the motor vehicle sector).

These components are primary indicators for the assessment in the general economic and the sectoral analysis. In a real life they have a dynamic effect in the form of lower prices, higher output and more investment, which in turn leads to technological advances and thus factor productivity gains compared to the no-FTA scenario. This then all leads to further increases in output and other gains.

The distribution of gains

The application of gains to the baseline show some remarkable results in terms of the sectoral distributions. First, they are heavily concentrated into a few sectors. Although the aggregation used in the model is quite broad, the top five sectors accounts for 90-93% of the gains for both the EU and Japan. The sector with the highest export gains for the EU and Japan (processed foods and motor vehicles respectively) accounts for about half of all the export gains for respective economy. This outcome suggests high degree of complementarity between the EU and Japan, and is also consistent with trade theory, as trade spurs specialisation. In only two sectors (chemicals and motor vehicles) is there an overlap – and even in these, it is likely that different market segments are being exported by the EU and Japan. For instance, the majority of chemical exports from the

EU is in pharmaceuticals, while for Japan it is in specialised industrial chemicals. Similarly, the EU and Japan exports different price and product segments within the motor vehicles sector.

Secondly, the absence of services is noticeable. In other EU FTAs, services sectors typically play a pivotal role, delivering the largest gains collectively. However, in this case they are nearly absent. The services export gains are estimated at 5% for the EU and just 1% for Japan.

Table 6 Top five categories of bilateral export gains

| <i>EU 28 bilateral export gains (share of export increase)</i> | <i>Japan bilateral export gains (share of export increase)</i> |
|--|--|
| Food, feed, processed foods (55%) | Motor vehicles (47%) |
| Other manufacturing (14%) | Other machineries (21%) |
| Chemicals (incl. pharmaceuticals) (12%) | Electrical machinery (10%) |
| Business services (4%) | Chemicals (incl. pharmaceuticals) (8%) |
| Motor vehicles (3%) | Other transport equipment (7%) |

This rather unique distribution of gains creates has implications for the geographic distribution in the EU. The current leading exporters of food and feed (processed food) are Netherlands, France, Italy, Denmark, Spain, who are amongst Japan’s top 20 sourcing countries; Germany, the UK, Poland, Austria, Belgium and Ireland also feature prominently, with exports above 100 million USD. However, the current levels of trade do not provide a conclusive answer to how the gains might be distributed geographically. In the case of heavily protected agriculture and processed food sectors, liberalisation might actually create new trade from near-zero levels, and the gains may not necessarily be linear with today’s levels.

No impact on vulnerable groups or the informal economy in Europe

None of the economic indicators in the 2012 Impact Assessment indicate that the FTA will have a negative affect on any vulnerable groups in Europe. The gains for the EU are produced in such manner that regional and socio-economic variances are negligible, or positive for some regions that perceive themselves as not well placed to reap the benefits of previous FTAs.

However, there are some vulnerable groups that could be adversely affected by trade liberalisation. Society groups traditionally associated with tanning, leather and meat production could be displaced by increased imports. However, Europe’s exports to Japan of these products often occupy the high-end segments. Displacement from direct price competition with the EU exports on these groups ought to be minimal. Moreover, any negative effects are negligible compared to the effect from TPP that includes South-East Asian countries such as Vietnam and Malaysia.

The baseline of the EU-Japan trading partnership is a product of sectors where there is sophisticated industrial companies and formalised supply-chains. This holds true even in the cases when SMEs and independent service suppliers are involved, e.g. through branded goods, or agricultural inputs in the processed food industry. More often than not, trade liberalisation between OECD countries is driven by large-scale investment, managed by large-scale multinational enterprises. This is particularly true in the case of investment-driven (rather than export led) trade of Japan.

Although the share of self-employed, non-full time and flexible employees are increasing in both Japan and certain EU countries (e.g. the concept of “flexicurity” or trade in independent service suppliers), the employment in the sectors prominently impacted by the FTA tends to be full-time employment. It is possible that there could be some impact

on this indicator (for example in agricultural production) given the magnitude of trade gains expected, the importance labour inputs and economies of scale. However, the share of self-employed or the shadow economy within the sector will not be affected – such impacts are results of labour regulations in EU Member States rather than the FTA itself.

- Research shows that Japan has one of the smallest grey or “shadow” economies among the OECD economies.²¹ At 9.4% of GDP, the presence of the shadow economy is at a rate that is comparable to one of the lowest in the world, e.g. Switzerland and Austria (9.3 and 9.0%). Meanwhile the EU show a considerable variance, between 9.0 (Austria) to 33.2% in Bulgaria.
- Given above, there is no negative impact on vulnerable groups or the informal sector.

Other social and environmental externalities for further analysis

As an FTA between two democratic countries with highly developed regulatory environments, the 2012 Impact Assessment does not foresee any major negative social and environmental externalities. The main risk factors concerning sectoral employment will be discussed under the social analysis, preceded by a broader contextual analysis of other social indicators (wages, gender gap) and the commitments to international social protocols. Although the 2012 Impact Assessment showed an even distribution of gains between skilled and non-skilled groups, there are potential asymmetries on the side of Japan in terms of gender.

Furthermore, the economic analysis concludes that the main impact will be through trade and output increases in manufacturing and processed foods. Potential negative environmental impacts that arise from output increases are primarily climate change factors (GHG emissions), waste, energy use and efficiency.

Impact on public finances – revenue forgone

Based on the current levels of trade and applied rates between the EU and Japan, the revenue forgone resulting from tariff liberalisation is marginal. Weighted applied duties on total trade is less than three percent (2.9%) given the intensity of non-agricultural products. That leads to an estimated total tariff revenue loss from the EU-Japan FTA of 1.6 billion euros.²²

The revenue loss from tariffs will be compensated from increased VAT revenue. The GDP increase generated will produce an increase of final consumption by households of 145 billion assuming that consumption is 57.0% share of that growth. In real life, VAT is not raised on some of the exports. However, even these gains “trickle down” through firms as wages or dividends and eventually consumed and become subject to VAT. Under those assumptions, up to 12 billion euros could be generated in VAT revenue. In any case, the model tends to understate the role of consumption.

- Given the margins of almost 7.5 to 1 in new fiscal revenues against losses, it is safe to assume that there will be no fiscal revenues forgone.

²¹ Enst, D, *The Shadow Economy in Industrial Countries*; Schneider, Enst, *The Shadow Economy—An International Survey*, 2013

²² UN Comtrade, 2015; Eurostat, 2015; Own calculations.

Other cross-cutting effects with other trade agreements and EU-Turkey customs union

The EU and Japan are co-signatories and partners in various other negotiations; notably the WTO plurilaterals, including Environmental Goods Agreement (EGA), the Government Procurement Agreement (GPA), the Information Technology Agreement (ITA), the Pharmaceutical Agreement, and various reference papers in services. Moreover, both the EU and Japan are negotiating Trade in Services Agreement (TISA) as a separate FTA amongst the Really Good Friends of Services (RGF).

Any negative impact on the multilateral architecture and the Doha Development Agenda (DDA) from the FTA is not foreseen as neither the conclusion or non-conclusion of the EU-Japan FTA will have any impact on the WTO system. There are, however, several overlaps in the commitments and scope between the EU-Japan FTA and the other agreements. Nonetheless, the main change to the baseline concerns the conclusion of TPP and the preference margin it has created on tariffs and NTMs against Europe. In all the above mentioned agreements, several TPP countries (including the United States) are co-signatories.

Any benefits accrued from the plurilaterals will be shared equally amongst the signatories. As a result, the preference margin and trade diversion created from TPP cannot be fully addressed through these agreements. The negative impact on baseline from competing preferential FTAs, and the strategic objective to conclude the EU-Japan FTA is still valid.

Finally, Turkey is in a customs union with Europe, and the tariff liberalisation in this FTA will automatically apply to Turkey. The EU and Turkey have integrated supply-chains with considerable triangular trade with third countries, mostly towards the Eurasian neighbourhood but less so with Japan. Supply-chain and market integration between EU-Turkey is considered to be more intense than their relations with Japan. Considering the EU's and Turkey's respective trade with Japan, there is only one common category of goods in the top fifteen traded goods – namely passenger cars and motor vehicle parts.

While triangular trade from Europe via Turkey to Japan ought to be marginal, the triangular trade in the opposite direction, from Japan to either Turkey or the EU via the other country, is feasible. Indeed, Japanese manufacturers maintain some production capacities in Turkey, which is used to satisfy local demand as well as exports. Motor vehicles are also the largest exported item in the bilateral trade between EU and Turkey, in both directions, accounting for \$11.5 bn of EU exports to Turkey, and \$8.2 bn of imports – leading to a trade surplus for Europe by 40%. However, the share of Japanese parts and other inputs are at similar levels, and the rate of tariff protection is also the same.

- Given the same rate of value added from Japanese parts in both the EU's and Turkey's exports of motor vehicles,²³ simultaneous and identical changes to tariff cuts on both the EU and Japan cannot change the parity of competitiveness, or negatively affect the trade balance, currently in the EU's favour.

²³ OECD, 2015. Trade in Value Added (TiVA): Origin of Value Added in Gross Exports.

4.5 Recommendations

Conclusions

The economic analysis in this section confirms the rationale of the EU-Japan FTA. Japan remains a sizeable market for exports and a source of investments and technology. Yet trade and investment is in relative decline compared to other bilateral partnerships of both the EU and Japan. This is particularly urgent given the new regional economic architecture in the Asia-Pacific region, and the conclusion of TPP. This is also the main structural change to the baseline for this study. Although the actual gains do not need to be adjusted, Europe needs to overcome the negative effects of trade diversion. Conservatively, the no-EU-Japan FTA scenario should be downgraded by at least -0.1% of GDP, pending the actual implementation of the TPP. The impact would be disproportionately large on exporting SMEs, as they lack capital to mitigate the effects of TPP and other natural regional integration. Also, given that the existing plurilateral agreements that include most of the TPP countries, especially the US, SMEs will not be able to fully address the preference margins created by the TPP. EU offensive interests cannot be accommodated through the plurilaterals and the WTO, especially tariffs.

There is an obvious match between Japan's investment-led trade strategy and the need for investment and job creation through a revitalising of the EU manufacturing sectors. Japan's Abenomics reform program also implies deregulation, diversification and an opening-up of the Japanese economy to foreign inputs. EU Member States have typically retained a high export dependency, with export to GDP ratios (on national levels) well above China, Japan and the US. Most of these goods and services exports are oriented towards the Single Market, but with low growth rates at home (at least in the medium-term), access to Japan's high-value consumption markets would support Europe's trade strategy towards the emerging markets and TTIP.

Both the theoretical gains and losses from the FTA liberalisation are well-diversified geographically, or emphasising the regions that traditionally do not have major offensive interests in trade negotiations. However, they are heavily concentrated sector-wise in the "food and feed" (processed food) sector for Europe, and motor vehicles for Japan. This assumption is examined in each respective sector study.

There are no negative impacts on vulnerable groups, fiscal revenues (net results are positive) or the informal economy. The environmental impact assessment is related to the negative spill-overs from increased industrial output. There are inconsequential findings but also severe methodological difficulties in the analysis of the economy-wide impact on employment that is to be discussed in the social analysis with wages and general commitments of the signatories.

Recommendations

- The analysis and the conclusions supports the economic rationale for concluding a comprehensive FTA, with symmetrical levels of reduction of NTMs, at an ambitious level.
- Timing and negotiation sequencing is a key factor. Given the concentration of gains to the "food and feed" (processed foods) for Europe, conclusion of the market access negotiations in agriculture should be given precedence. But this option may have not been feasible for the EU.
- This is particularly important for EU sectors that are not liberalised under TPP. For instance, the US applied parallelism between agriculture and motor vehicle parts tariffs, rather than linking the offers to concessions within the same sector.
- Overall, emphasis must be given to offensive interests with the intention to utilise the liberalisation achieved in the negotiation.

- There is a wide range of issues on the table, and the numerous existing bilateral forums of cooperation has by and large not been adequate to address them. Some of the NTMs are also overly complex and politically difficult to address. Therefore, more horizontal and permanent instruments to address the current and future regulatory divergences between the EU and Japan may have to be developed.
- Overall, the negotiation outcomes must encourage investment. In the case of EU-Japan, the main concerns are not investor disputes. Nor are any issues foreseen over market access or post-establishment in general. Instead, improvements of the general business environment are more likely to promote investments. In this FTA context, it means tariffs on intermediate goods, NTMs and mode 4.

Flanking measures

- Given no negative effects on vulnerable groups, fiscal revenue or cross-cutting-effects with other agreements or third countries, no general flanking measures are identified at this level.
- Regarding SMEs, the negotiation must address the adverse impact from TPP. Apart from the sector specific recommendations in the sector analyses, a common framework for promoting a better utilisation of the benefits from the FTA for SMEs should be considered.

5 Horizontal commitments

5.1 Introduction

Supplementary information on commitments on non-tariff issues

This section assesses trends in the preferential trade agreements concluded by the EU and Japan as the baseline for the EU-Japan negotiations. The regulatory chapters of comprehensive trade and investment agreements generally follow established patterns based on WTO rules, domestic policy preferences – in the case of the EU this is in many instances *the acquis communautaire* – and previous FTA agreements. These patterns or models have evolved over time and differ depending on whether the trading partner is a developed or developing country. A comparison of EU and Japanese approaches to recent FTAs with developed economy partners therefore indicates the ‘revealed preferences’ of the two parties. The FTAs used for this comparison were EU agreements with Korea (EU-Korea FTA), Singapore (EU-Singapore FTA) and Canada (CETA) and for Japan the Japan-Switzerland Free Trade and Economic Partnership Agreement (henceforth Japan-Switzerland EPA).

The EU-Japan negotiations are of course taking place against a background of other important negotiations such as the TPP and TTIP, both of which have the potential to shape the evolution of trade and investment rules and norms. TPP can be expected to have shaped Japan’s views on a range of chapters in the EU-Japan agreement. Although TTIP is at an earlier stage it also has the potential to shape EU expectations of the EU-Japan agreement. It is therefore also necessary to assess the likely impact of these other negotiations in so far as information on them is available.

The chapter looks at the regulatory issues and does not discuss the detail of the schedules or other annexes that will have an impact on specific sectors. Schedules will be crucial in the case of specific rules of origin, the coverage of public procurement, establishment/investment or cross border supply of services, sector specific agreements in services or goods related to mutual recognition, equivalence or standards. These will need to be discussed in context with the sector studies selected for the SIA. There is however, analysis of the modalities, in other words such choices as positive, negative or hybrid schedules or the types of procurement covered (i.e. central, sub-central and type III).

Each section begins with brief summary of the main issues followed by a discussion of the baseline in the shape of the EU and Japanese approaches to FTAs. The likely outcome can then be assessed in terms of how compatible these approaches are and how the TPP or TTIP might shape expectations or set precedents. The impact of the negotiations in terms of horizontal regulatory measures is difficult to assess. First, the final shape of the agreement is of course not known until the negotiations are completed. Even if the preferences of the EU and Japan are fairly well established, mutual concessions are going to be needed to reach a significant agreement. In addition, the impact of regulatory measures, such as enhanced transparency, cooperation or a redoubling of efforts on equivalence or mutual recognition depends not on the agreement itself but how it is implemented.

5.2 Horizontal Regulatory Cooperation

Reducing regulatory or non-tariff barriers to trade is central to the EU’s interests in the negotiations with Japan. This was reflected in the conditioning of any negotiation on tariffs with real progress on regulatory reform in Japan. Estimates have put the benefits,

in terms of increased EU exports from the removal of regulatory non-tariff barriers to be significantly greater than those from the removal of tariff barriers.²⁴ Ensuring progress in addressing existing regulatory barriers and avoiding those in the future requires detailed work, but also the right procedural means of countering inertia due to well established regulatory practices and setting priorities.

The baseline in existing FTAs in terms of addressing existing regulatory barriers is one that includes a number of specialist committees and working groups, on specific topics such as TBT, SPS, customs etc. and sometimes sector level committees. There is also usually an overarching trade committee responsible for monitoring the implementation of the FTA as a whole. There are then also generally best endeavours wording on cooperation particularly in EU FTAs, covering a wide range of topics. In parallel there are numerous voluntary initiatives including with Japan, such as the EU-Japan Industrial Policy Dialogue.

In the recent EU FTAs there has been the innovation of sector committees or working groups, such as in EU-Korea, to cover all aspects of market access and in particular regulatory barriers in priority sectors such as automobiles, machinery, and chemicals. In CETA and in the TTIP negotiations, the EU has also introduced a horizontal Regulatory Cooperation Forum and a proposal for a Regulatory Cooperation Body respectively. These are intended to ensure the momentum of work is maintained, identify areas where progress is most likely and decide on the most suitable means of reconciling divergent approaches. On the latter point this means deciding when harmonization is possible, where functional equivalence would be better and when mutual recognition of conformity assessment is achievable.

In comparison, Japan's pre-TPP FTAs have been less ambitious. They have tended to be limited to largely best endeavours wording and the establishment of specialist committees for TBT, SPS and procurement, etc. but with not very detailed terms of reference or guidelines. For example, Japan's FTA with Switzerland included only general procedural measures in the shape of a Sub-committee on the Promotion of Closer Economic Relations (Art 135 of Japan-Switzerland EPA).

In the TPP negotiations there has been more attention given to regulatory issues. The approach in TPP is based on promoting 'regulatory coherence' and regulatory best practice *within* each party to the TPP. This approach appears to be largely shaped by the US preference for regulatory coherence. But the TPP final text looks fairly weak and lacks a strong institutional mechanism for promoting cooperation between the Parties. Generally speaking, the regulatory coherence approach is maintained but there is mostly best endeavours wording. For example, in Art 25.3 each party decides on which areas of regulation will be covered, and Art 25.5 states that the Parties should 'encourage' regulatory agencies to develop the regulatory impact assessments that provide the basis for promoting regulatory coherence and best practice. Cooperation then takes the form of exchanging information among the Parties and the institutional means of promoting the chapter takes the form of a committee, but without much in the way of detailed guidelines. This is less ambitious than a regulatory cooperation body that has clear guidelines and is tasked with setting priorities. In TTP such an international body is clearly more difficult with many countries. The TPP approach could of course still be the basis for effective regulatory cooperation, but past experience suggests that more will be needed to have much impact.

In terms of bilateral cooperation between Japan and the EU, there are however, a range of existing arrangements such as those mentioned in the introduction to this section that

²⁴ Copenhagen Economics 2010 estimated that the EU gains in increased exports from addressing regulatory/non-tariff barriers would be twice those from tariff liberalisation.

will provide the basis for EU-Japan cooperation.²⁵ The likely outcome the FTA must be expected to follow the pattern of previous EU and Japanese FTAs and have specialised committees dealing with the implementation of chapters that address existing regulatory barriers. These would take the form of a TBT, SPS, services and investment, and procurement committees for example. It is also most likely that these will be augmented by some sector committees along the lines of the EU-Korea model and existing bilateral cooperation aimed at avoiding future regulatory divergences will be endorsed.

For the EU, a beneficial outcome would be to extend the approach adopted in the CETA and TTIP negotiations with the establishment of a horizontal level Regulatory Cooperation Body. This would serve the same purpose as envisaged for the TTIP, namely to set priorities, decide on the which areas are more promising for reducing duplication of measures and to assess the best method for addressing differences (i.e. where self-certification, mutual recognition and functional equivalence are suitable). It would also need to set out the procedures for transparency and reaffirm that there would be no reduction on safety, consumer or environmental standards. A Regulatory Cooperation Body will provide the EU and Japan with the means of deeper cooperation at the international level. Without it the aim of overcoming the inertia that is generally associated with technical level discussions between regulatory agencies, and the predicted benefits from addressing regulatory barriers to trade, will be much harder to achieve.

Regulatory cooperation has implications beyond access to the EU and Japanese markets. One of the declared aims of the major FTAs currently being negotiated is to shape international trade and investment rules at a time when there are limited multilateral initiatives. Close cooperation with Japan will be important in this respect because of Japan's importance in supply chains in the Asian region. Accommodating divergent approaches to standards and regulation has important positive externalities for international trade. If the EU-Japan FTA can be made compatible with the approaches in the other major FTAs the positive externalities for international trade could be significant. In this context it would be beneficial to explore how similar methods might be used in EU-Japan FTA, TPP and TTIP. For example, the use of regulatory impact assessments, a central coordinating agency in each Party and intensive exchanges of information to enhance transparency and the basis for dialogue.

5.3 Technical Barriers to Trade (TBT)

TBT a chapter in which the EU has significant offensive interests. Addressing TBTs will be central to the success of the EU-Japan agreement.

The baseline comparison of the EU and Japanese approaches to TBT provisions in FTAs shows the EU to be significantly more ambitious. In negotiations with Korea the EU had strong offensive interests in TBTs, not unlike those with Japan. Here the EU adopted the approach of sector working groups in (electronics, automobiles, pharmaceuticals/medical devices and chemicals) and a pragmatic approach to instruments (producer declarations in electronics, use of UNECE standards in cars and intensified exchange of information in

²⁵ The 1991 Joint Declaration (between the European Community and Japan) urged more effective implementation of the EU-Japan Agreement on Mutual Recognition. Cooperation has been through the various technical channels available. In 1993 the Joint EU-Japan Industrial Policy Dialogue started work, which now focuses on forward looking cooperation with a view to heading off divergent regulatory approaches. 1994 saw the launch of the EU-Japan Regulatory Reform Dialogue. This had a broad remit covering various aspects of regulation from SPS to competition and procurement and was accompanied by an Action Plan that covered 279 potential areas of deregulation. Here Japan appeared to be following an approach similar to that of the EU's Single Market Programme. In 2001 there was another Action Plan for EU-Japan Cooperation.

chemicals etc.). In the EU-Singapore FTA the TBT provisions are not very extensive and rely mostly on the existing TBT Agreement (Chapter 5, Art 37). In CETA also the basic provisions on TBTs are in line with the WTO agreement (Chapter 6), but with the addition of sector measures for cars that also commit Canada to adopt a set of 12 UNECE standards (in Table I commitments in the CETA) and a commitment to incorporate another 8 UNECE standards in the future (Table II). CETA also marks a return to a more ambitious approach with the provisions on recognition of conformity assessment and accreditation in a specific protocol on the mutual acceptance of the results of conformance assessment.

On transparency, the EU has enhanced knowledge of what is going on in Korea through the sector working groups. Otherwise the EU-Korea agreement appears to be WTO compatible, which has proved to be insufficient. In the CETA there is stronger wording on access for nationals of the other party's regulatory processes and wording on the cooperation between standards making bodies.

In comparison to the EU's ambitions in TBT the provisions in Japan's FTAs have been essentially based on little more than a reaffirmation of the GATT TBT agreement and the addition of a specialist committee to promote its application, as in the Japan-Switzerland EPA. The Japanese approach has been similar to that of the US in encouraging functional equivalence, but with no elaboration of how this might be applied. Japan does not have the same aversion to the use of international standards as, for example the USA. However, there is no provision on standards making in the Japan-Switzerland EPA, which suggests this is not a general priority for Japan.

The TPP approach focuses on facilitating the recognition of the results of conformance assessment by conformance assessment bodies anywhere in the TPP countries (TPP Art 8.6). There is less emphasis on functional equivalence than has been the case in previous US FTAs and this is seen simply as one of a range of the normal alternative methods of establishing conformity assessment (i.e. mutual recognition, unilateral recognition, supplier's declaration etc.). The disciplines in TPP essentially only apply at the central government level with weaker best endeavours wording for sub-central regulators. An innovation in TPP compared to previous US FTAs is the inclusion of numerous annexes on specific sectors. These cover sectors that are also of interest to the EU in the EU-Japan FTA and include, wines and spirits, ICT, pharmaceuticals, cosmetics, medical devices and food and food additives (see the sector case studies below). The substance of these sector annexes is not such as to establish clear preferences for TPP signatories, for example there is no focused effort to create MRAs. The general transparency and better regulation aspects of the annexes will not create any preference against EU products. The TPP approach provides little assurance of progress unless it is backed by strong procedural means to counter the inertia. A TBT Committee is established that has the remit to set priorities, but in the wider TPP this will be harder than in a bilateral EU-Japan context. As noted above in the section on horizontal measures, TPP also has weaker regulatory cooperation provisions than in CETA or envisaged in TTIP.

Table 7 Comparison of aspects of TBT and Regulatory Cooperation

| | <i>EU-Korea</i> | <i>EU-Singapore</i> | <i>CETA</i> | <i>Japan- Switzerland</i> | <i>TPP</i> |
|---|---|---|--|---|---|
| <i>Existing rights and obligations under GATT TBT</i> | reaffirmed | Reaffirmed and incorporated Art 4.3 | Reaffirmed Art 1 | Reaffirmed Art 37 | Reaffirms TBT |
| <i>Regulatory cooperation</i> | Best endeavours, but strengthened by sector working groups | Art 4.4 strengthen cooperation on standards , technical regulations and conformance assessment | Separate detailed chapter on regulatory cooperation; Regulatory Cooperation Forum | Art 38 largely best endeavours provisions, may include sector work | Regulatory coherence based largely on best endeavours provisions |
| <i>Standards</i> | Support for the use of international standards. Sectors agree to adopt specific standards | Reaffirm obligation to ensure use of WTO Code of Good Conduct (Art 4.5) | Sector commitments on standards, e.g. automobiles | No provision | Endorses Decision of WTO TBT Committee on the development of international standards) |
| <i>Technical regulations</i> | | Agree to use of best regulatory practice (Art 4.6) | Parties may request acceptance of equivalence (Art 4) | No reference | |
| <i>Conformance assessment</i> | Range of options | Recognises broad range incl. supplier declaration and mutual acceptance, sector initiatives envisaged (Art 4.7) | Detailed Protocol, to facilitate mutual acceptance of conformance assessment and accreditation | TBT compatible non-discrimination, best endeavours acceptance of equivalence, accreditation in line with international standards (Art 40) | Promotes acceptance of results of conformity assessment bodies in other Parties |
| <i>Transparency</i> | As in TBT but de facto improved through sector working groups | Essentially as in TBT agreement (Art 4.8) | Access to nationals of other party, coop. between standards bodies (Art 6) | no reference | Access for all interested parties |
| <i>Marking and labelling</i> | | Clarification of TBT-plus (Art 4.10) | As in TBT (Art 2) | No reference | |
| <i>Institutional provisions</i> | Sub-Committee and working groups | TBT Committee | Regulatory Cooperation Forum | TBT Sub-committee | TBT Committee established will consider mutual priorities |

Although the EU has in the past sought to negotiate comprehensive TBT-plus provisions in FTA based generally on the EU's internal approach, it has had to accept a range of solutions in order to reach agreement with trading partners that had different and often less ambitious aims. This is broadly the position in the negotiations with Japan. But the EU-Japan FTA can build on a range of bilateral initiatives outside of any FTA that have been undertaken over the years. On standards the fact that Japan is closer to the EU position on the use of international standards suggests scope for agreement to adopt existing international standards, such as in the automobile industry.

In terms of conformance assessment, the pragmatic approach used in the FTA with Korea seems most likely. Whilst this provides flexibility the danger is that it simply confirms the status quo, which would not be sufficient for the EU. A key question is

therefore how to maintain momentum and make real progress in reducing TBTs. In the EU-Korea FTA the approach adopted was to the establishment of sectoral committees or working groups. In the CETA the EU negotiated a TBT-plus protocol on conformity assessment backed up by a Regulatory Cooperation Forum to oversee work on regulatory cooperation across the board. In the case of the EU-Japan negotiations the outcome seems likely to include both horizontal and sector initiatives, especially given the existing initiatives.

The impact of provisions on TBTs is very difficult to assess even if the text of the final EU-Japan FTA were available. TBTs are not resolved in an agreement, but in the year-in-year-out work that follows. The debate on regulatory cooperation in the EU, such as in the context of TTIP has been influenced by a concern about the impact of FTAs on lowering consumer, safety or environmental standards. The EU-Japan FTA is very unlikely to lower standards. Most of the concerns regarding regulatory sovereignty and consumer protection related to the overarching regulatory cooperation and how it will work have been addressed in the TTIP negotiations, and should be resolved or will be less relevant for the EU-Japan FTA. The danger is more that the impact on reducing barriers to trade, will be limited or delayed. Based on the experience to date in EU-Japan cooperation the impact must be expected to be modest and take some time to achieve. Access to the Japanese market for EU SMEs is likely in particular to remain difficult due to the limited resources these have to overcome differences in business culture, language and other non-tariff barriers. Greater transparency regarding standards, regulations and conformance assessment requirements in Japan including centralised information sources in English would help.

5.4 Sanitary and Phytosanitary Measures (SPS)

With increased growth in food and food products SPS measures have assumed a growing importance and are now included in one form or another in all FTAs. Food products also account for an important share of EU exports to Japan. The important export gains for the EU in food and feed, as discussed in the sectoral analysis (see below), can only be achieved if EU processed foods have effective access to the Japanese market. The horizontal provisions on SPS that reaffirm existing WTO rights and generally facilitate trade in food products through cooperation and transparency can therefore help to guarantee that EU products are not unfairly blocked from the Japanese market, and vice versa.

The EU has shown more ambition in recent FTAs than Japan in terms of SPS measures. The EU approach is to reaffirm the WTO SPS principles, but then include SPS-plus procedural measures to promote their effective implementation. EU FTAs include reference to the use of international standards (Codex, IOE, IPPC). SPS-plus procures seek to apply equivalence, risk assessment, regionalization, transparency and animal welfare. In CETA the EU has gone further and agreed to lists of specific regulations that are recognized as being equivalent in the EU and Canada.

CETA reflects the EU approach also in that it establishes a Joint Management Committee on SPS measures to help promote trade facilitation by working to ease controls in sectors of significant interest for trade. CETA (Art 11) also sets out obligations in terms of transparency of risk assessment in border checks and even specifies the percentages of shipments that should be subject to such checks. The provisions in the EU-Singapore FTA are similar, but less far-reaching than in CETA.

In comparison the provisions on SPS in recent Japanese agreements have been very limited. They have simply reaffirmed the SPS obligations and set up a sub-committee on SPS, without giving any particular guidance on how this should function. The only addition to these provisions has been a reference to the need for science-based risk assessment. Given the EU's ambition on SPS and its approach to precaution the current

Japanese approach does not appear to match EU negotiating objectives. For example, the Japan-Switzerland EPA includes just four very short articles on SPS (Art 33-37). The only notable reference in these apart from reaffirming the WTO SPS agreement is best endeavours wording on 'science-based' consultations between government experts.

In the TPP however, Japan has accepted an SPS-plus agreement that is in some respects similar to those the EU has been including in its FTAs. TPP has SPS-plus provisions on procedures and how to apply the principles of, for example, regionalisation and equivalence set out in the SPS Agreement (see comparison in table 8). The one absence from TPP though is any reference to precaution. Art 7.9 (entitled science and risk analysis) only refers to provisional actions not to the use of precaution. However, the reaffirmation of the SPS agreement means that precaution can still be applied depending on one's interpretation of Art 5 of the SPS Agreement.

Table 8 Comparison of SPS provisions

| | <i>EU-Korea</i> | <i>EU-Singapore</i> | <i>CETA</i> | <i>Japan-Switzerland</i> | <i>TPP</i> |
|-----------------------------------|--|--|---|-----------------------------------|---|
| <i>Right to act</i> | Reaffirms WTO provision | Reaffirms WTO | Reaffirms WTO | Reaffirms WTO | Reaffirms WTO |
| <i>Harmonisation of standards</i> | Cooperation on common international standards | | Cooperation on common international standards | | Promotes cooperation on international standards |
| <i>Equivalence</i> | If exporter objectively demonstrates | If exporter objectively demonstrates | Lists EU and Canadian regulations that are equivalent 1998 Vet Equivalence Agreement | | Detailed provisions on application of the principle |
| <i>Risk assessment</i> | Reference to precaution | Requires transparency on border controls | Specific standards for border controls | Science-based consultations | Science and risk analysis focus |
| <i>Regionalisation</i> | Detailed provisions | Detailed provisions | Detailed provisions | | Detailed provisions |
| <i>Transparency</i> | Detailed provisions | Detailed provisions | Detailed provisions | | Detailed provisions |
| <i>Animal welfare</i> | Exchange of information; work on international standards | Reference to animal welfare | | | |
| <i>Institutional provisions</i> | Bilateral committee | | Joint Management Committee on SPS to set priorities | Sub-committee no guidance on role | Establishes an SPS Committee with detailed remit |

The outcome of the EU-Japan negotiations seems likely to be a further reaffirmation of the WTO SPS agreement and the establishment of a specialist SPS committee. If the EU can go further and set out some clear guideline or objectives for such a committee, it would begin to meet the EU negotiating aims. It may also be possible to follow the CETA example and focus efforts on pragmatic efforts to facilitate trade in areas of interest to either party. This is what the CETA agreement achieved with Canada which was arguably a stronger supporter of science-based risk assessment. Agreement on recognition of regulations is unlikely. But there is perhaps more of a prospect of concrete measures such as the adoption of international standards that are important for certain sectors and agreement to improve transparency for border controls and risk management. Given the divergence between Japan and the EU in terms of their ambition on SPS provisions in

FTAs it will be a challenge to meet the EU negotiating aims of easing regulatory barriers on food products.

5.5 Customs

This section considers customs related questions and rules of origin. With tariff liberalisation, trade facilitation (or the reduction of trade costs of goods crossing borders) becomes relatively more important. The costs of customs clearance, proving originating status and other border controls related to health, safety and security can be significant especially for SMEs. SMEs have less capacity to meet the requirements of customs clearance and also tend to supply and import goods in smaller quantities with the result that trade costs are relatively high compared to larger companies. OECD estimates suggest that the costs of border controls for SMEs (firms of less than 250 employees) are 30-40% higher than for large multinational companies.

Customs and Trade facilitation

The baseline in trade facilitation is set by various international agreements and standards that both the EU and Japan have adopted. These include the World Customs Organisation (WCO) agreements such as the 2005 SAFE framework on security in supply chains, the Revised Kyoto Convention (RKC) and the recently negotiated WTO Trade Facilitation Agreement, which has been ratified by the EU and Japan as well as China and the USA.

At a bilateral level the EU and Japan can build on the work of the Joint Customs Cooperation Committee (JCCC), the 2008 Agreement on Customs Cooperation and Mutual Administrative Assistance in Customs Matters (CCMAA) and the 2010 decision on the mutual recognition of Authorised Economic Operators (AEO). The AEO is an internationally recognised approach and is progressive in that trade costs can be reduced as more exporters or traders are authorised. The FTA can help promote the effective implementation of the EU-Japan Mutual Recognition of AEOs. The EU-Japan JCCC is also engaged in work on the digitalisation of the information flows to render the entire process more efficient.²⁶ In Japan there are regional customs authorities and in the EU the Member State customs authorities administer the Common Custom Code. Effective coordination of these customs authorities is therefore essential for the correct implementation of customs policy.

De minimis

The baseline is that Japan customs has a de minimis threshold for VAT tax and customs duties of Yen 10,000 (approx. Euro 72) compared to the EU threshold of Euro 150 for duties, which is currently under revision (there is as yet no harmonised VAT de minimis in the EU). The EU level is equivalent to that of the US (which is Euro 147), but some countries, such as Australia have opted for much higher de minimis, in the case of Australia the equivalent of US\$ 1000. There is also pressure in the US in the shape of draft legislation to increase the level to US\$800. A higher threshold for de minimis is particularly important for SMEs because they trade in smaller value items and for the general development of e-commerce because of the increased ease with which products can be bought and sold internationally. Generally, higher thresholds would have a positive effect for SMEs and electronic commerce (supply of small orders).

²⁶ See agenda of the 7th meeting of the JCCC in June 2015.

Risk assessment

Border controls can increase trade costs for all goods and are particularly important for food and food products a sector as noted in which the EU and Japan are seeking to increase trade. In recent FTAs the EU has moved to codify risk management. For example, the trade facilitation section of the SPS chapter of CETA (Arts 8 and 11 CETA) sets out the requirement of transparency for risk assessment methods and sets specific standards, such as the such as the percentage of shipments that should be subject to random testing. Japanese FTAs do not appear to have progressed much in this direction and there is a general lack of transparency in terms of how Japanese border control agencies conduct risk assessment. Improvements here would therefore serve the interests of EU food product exporters.

5.6 Rules of Origin

The trade costs of compliance with rules of origin also hit SMEs disproportionately hard. The baseline on rules of origin is that both the EU and Japan have complex and different specific rules. In 60% of cases in the EU's PEM rules CTC (a change of tariff heading at HS 4 level) is used, but in 25% of cases there is also a value content (VC) criterion. Some 20% of products require that specific processes to be conducted to confer origin (technical requirements). A reform in preferential rules of origin for trade with developing countries has been initiated with the reform of the GSP rules of origin based on a 'simplified' value content approach. For FTAs with developed economies the EU retains a full set of specific rules, but is applying this 'simplified' system progressively in other FTAs. In terms of proof of origin, the EU has moved: in the EU-Korea FTA from a system based on certification by competent authorities in the exporting country with the option of invoice declarations, to one that includes approved exporters.

The baseline for the EU is distinctive in that the EU offers diagonal cumulation for its FTA partners with other countries in the region that have concluded FTAs with the EU (i.e. within Latin and Central America and ASEAN). This serves the EU policy aim of promoting regional integration as well as facilitating value chains. The EU agreement with Singapore provides for such regional cumulation with other ASEAN members that sign FTAs with the EU (EU-Singapore FTA Protocol on RoO Art 3). The FTAs with Singapore and Korea provide for a self-certification system by approved exporters. This facilitates trade and is becoming the norm in FTAs. The PEM framework provides for a 10% de minimis rule, but there are exclusions to this in particular for textiles and clothing.

In general, Japan's Comprehensive Economic Partnership Agreements (EPAs) also use a CTC and a VC for processed and manufactured goods. RVC differs according to the partner (VC 40% for Vietnam with CTC at the 4-digit level, and RVC 60% for Singapore). The nature and thus restrictiveness of the RoO therefore appears to depend on the economic capabilities of the partner. Chapter 86 (transport equipment) specifies CTC (4 digit) plus a 65% RVC for road vehicles in the Japan-Mexico EPA, but only a CTC rule for Singapore. Clothing (Ch. 61-62), however, is more restrictive in the Singapore agreement as it requires a CTC plus 60% RVC, as opposed to only CTC with Mexico.

In the Japan-Switzerland agreement there are general provisions defining sufficient transformation as at least 40% RVC or a CTC at the 4-digit level. There are specific rules that elaborate these, but they do not cover all tariff lines. These special cases (in the Appendix 1 to the rules of origin chapter) mostly use a change of tariff chapter (2-digit level) making it harder to prove originating status. De minimis varies between 7% and 10% depending on the product. There is no diagonal cumulation (Art V of Annex II to the agreement) and certificates of origin can be issued by government certification bodies or approved exporters. (Art XIX annex II).

The TPP agreement to be broadly in line with the NAFTA approach in terms of specific rules, although there is flexibility to accommodate some country interests. Perhaps more importantly it establishes a common set of specific rules of origin for the TPP. This is then likely to shape future rules of origin throughout the Asia Pacific region. For the calculation of regional value content different methods are offered. Origin certification can be either by producers, importers or traders with suitable means of ensuring compliance. A major change with TPP is that it provides for (ac)cumulation (Chapter 3, Art 3.10) across TPP. In so far as cumulation favours the supply chain development and international competitiveness is shaped by the ability of companies to benefit from global supply chains (or related party trade), cumulation across the TPP will put EU firms at a disadvantage. Cumulation across the countries concerned is still relatively limited for firms supplying the EU market.

Table 9 Comparison of broad approaches to rules of origin

| <i>Agreement</i> | <i>Selectivity</i> | <i>CTC</i> | <i>RVC %</i> | <i>TR</i> | <i>Drawback</i> | <i>Cumulation</i> | <i>CoO</i> |
|--------------------------|--------------------|----------------------|--------------|-----------|--------------------------|------------------------------|------------|
| <i>PanEuroMed</i> | high | Mostly 4 digit level | 50-75 | used | no | diagonal | OC, AE |
| <i>EU-Korea</i> | high | Most 4 | 50-75 | used | Yes review after 5 years | bilateral | AE |
| <i>EU-Singapore</i> | high | Most 4 | 50-60 | used | no | bilateral and diagonal ASEAN | ED, AE |
| <i>CETA</i> | medium | Most 4 | 50-55 | limited | no | bilateral | AE |
| <i>Japan-Switzerland</i> | medium | Most 4 | 40-60 | limited | no | bilateral | AE, OC |
| <i>NAFTA</i> | high | 2,4, 6 | 50-60 | used | First 5 years | bilateral | ID |
| <i>TPP</i> | medium to high | 2,4 and 6 | 30-60 | used | | diagonal | AE, ID |

Legend – CTC (change of tariff classification), AE (approved exporter), VC (value content for origin) ID, (Individual declaration), TR (technical requirement to impart origin), Drawback (duty drawback), CoO (Certificate of origin), OC (Official certification)

In customs the likely outcome of the EU-Japan FTA will be an agreement to continue and perhaps to intensify the existing customs cooperation through the existing channels. This will probably focus on greater efforts to increase and broaden the number of companies qualifying as AEOs and in work on the digitalisation of customs procedures. Some accommodation of the different existing approaches of the EU and Japan will be needed.

The impact of the FTA on customs will be to provide a further impetus to continue the process of reform and modernisation (digitalisation) of EU and Japanese customs. Progress in customs cooperation could have a significant positive impact on SMEs affected by the trade costs involved in dealing with customs and border controls. But these gains will probably be progressive, as will other regulatory issues, as customs cooperation leads to a reduction in the various trade costs.

Taking a broader view and in terms of the potential impact of an EU-Japan FTA on role of rules of origin in global supply chains and the desire of the EU and Japan to shape international trade rules an approximation of PEM and Japanese preferential rules of origin, such as in a greater use of cumulation, and simplification of rules of origin for developing countries, could have an impact on trade rules. The question is whether the EU and Japan can build on the common preferential rules of origin in the TPP and thus bring the prospect of common preferential rules of origin closer on an international level?

5.7 Investment

In terms of the investment provisions the baseline for the EU consists of the CETA agreement and the Commission's draft text of a TTIP investment chapter, both of which constitute a significant step towards a modernisation of European investment policy. In the case of Japan, the 2010 agreement with Switzerland reflects a more conservative baseline similar to the EU Member State BITs as does the more recent China-Japan-Korea Tripartite agreement of 2014. However, TPP now concluded appears to be moving very much in the same direction as the CETA agreement, if not yet as far as encompassing an investment court system as proposed by the EU.

The recent major FTAs concluded and under negotiation suggest a broad convergence on investment. This takes the form of further liberalisation based on a two annex scheduling system and the addition of prohibitions on some further performance requirements, but also a rebalancing between investor protection and the right to regulate. CETA and TPP circumscribe investor rights by including more tightly defined definitions and allowing states to shape the interpretation of investment protection. They make arbitration more transparent and accountable. Current EU policy is however, to go a step further by seeking to establish, for instance, a clear confirmation of the states' right to regulate in an operational article (Art 2 of the Commission's draft text for TTIP), establish a roster of judges to arbitrate disputes and establish a fully-fledged independent review of arbitral decisions.

At the outset it is worth mentioning that the practice of Japanese companies shows a clear preference for seeking a negotiated solution in investment disputes. There is only one case of a Japanese company bring an action against an EU Member State.²⁷ So that the details of any investor state dispute settlement/investment court system, are unlikely to have a great impact on the number of cases. Given the intense interest shown in the investment provisions in CETA and potentially in TTIP it is however, worth setting out the baseline for the EU-Japan FTA in some detail.

Definitions and duration

Open asset definitions of investment favour investors as they provide scope for broad interpretations of investor protection. A definition of an investor that does not specify 'substantial business operations' may enable 'letter box' companies to 'treaty shop' or have recourse to an agreement with higher standard of investment protection concluded with the host country by another country than the investors' 'real' home country.²⁸ In terms of duration the norm is 10 years

The EU approach as reflected in CETA (Art X:3 (4)) and the EU-Singapore FTA was to adopt an open asset approach, covering for example intellectual property, but to include a 'substantial business' clause. The Japan-Switzerland, the Tripartite Agreement with China and Korea and the TPP equally use open asset definition. The Japan-Switzerland also includes a 'substantial business' clause (Art 89 (f) (ii)).

Liberalisation provisions

The EU and Japanese approaches to coverage of trade agreements in the past, such as in the GATS, has been to use a positive list or hybrid approach. In CETA the EU adopted a negative list approach, having done so this would seem to enable the EU to adopt a

²⁷ This was the case of *Saluka*, a subsidiary of Nomura against the Czech Republic in which it claimed discrimination in the provision of support for Czech banks.

²⁸ Treaty shopping can be illustrated by the infamous case of *Philip Morris* case in which the company went through Hong Kong, which has a BIT with Australia that include ISDS, because the US has no such BIT.

negative or hybrid approach with Japan. In the Japan-Switzerland agreement Japan switched to a negative list approach and so does TPP as expected.²⁹ The precedent of two schedules (Annex A and annex B) used in CETA and TPP is also likely to shape the EU-Japan negotiations. Investor state dispute settlement or the investment court system will not apply to market access.

With regard to performance requirements there is a trend toward TRIMs plus measures covering technology transfer. This was in CETA and is in the TPP. Equally, TPP text and CETA also prohibit requirements that senior management are nationals of the host state (TPP Art 9:10 and CETA Art X: 8), but both allow nationality requirements for company boards.

All agreements now include free capital flows with exceptions in the event of serious difficulties, as in all EU FTAs. The EU-Singapore and CETA set a 6-month duration for such measures. The exception from free capital movements in the Japan-Switzerland and TPP agreements refer to serious balance of payments problems and in the case of Japan-Switzerland also monetary and exchange rate policies (Art 97 (a)). There would appear to be no major difficulties on including such a provision in the EU-Japan FTA.

Standards of investment protection

The EU approach to post establishment national treatment has been to include the modest qualification of 'like circumstances'. This does not appear in the Japan-Switzerland text. The CETA text also precludes the importation of provisions from other agreements that may not have, for example, the same right to regulate safeguards. The Tripartite Agreement that entered into force in 2015 in Japan has the same preclusion (in Art 3), but only with regard to procedural clauses.

CETA (Art X: 9) uses a closed definition of fair and equitable treatment, with a possibility of review by the Services and Investment Committee of CETA, as does the Commission's draft text for the TTIP. The approach in EU-Switzerland (Art 86) adopts the less specific NAFTA approach based on customary international law, as does the Tripartite Agreement (Art 5) and the TPP. So there seems to be a divergence between the EU approach and that of Japan and the TPP more widely on this.

Expropriation and the 'right to regulate'

CETA (Annex 11), the draft TPP text (Annex 9-B (3)(b)) and the EU proposal for TTIP, clarify the concept of indirect expropriation in order to safeguard the right to regulate. The wording is more or less the same: 'except in rare circumstances non-discriminatory regulation pursuing legitimate public policy objectives, such as health, safety and the environment, should not constitute indirect expropriation'. In CETA there was also a general reference to the right to regulate in the preamble. The Commission's draft proposal for TTIP is to include an 'operational article' in the text of the agreement. The Japan-Switzerland has no reference to the right to regulate. But Japan has already accepted the principle of the right to regulate in the TPP there should be no major impediment to including the right to regulate in the EU-Japan FTA.

Investor state dispute settlement/investment court system

The issue of ISDS has been particularly controversial in both the TPP and TTIP negotiations. The recent EU agreements and those including Japan all include ISDS.³⁰ The CETA and EU-Singapore FTAs include ISDS but have established a number of

²⁹ The China-Korea-Japan Tripartite Agreement adopts the old OECD approach of progressive removal of non-conforming measures and there does not appear to be a schedule of existing non-conforming measures.

³⁰ The Japan-Switzerland agreement includes ISDS as does the Tripartite Agreement.

'modernising' provisions that as noted above limit the scope for the interpretation of disputes by private arbitral tribunals. The Japan-Switzerland agreement follows the older format that left more scope for the arbitral tribunals, but this agreement dates from 2010 and the debate on investment has moved on since then. With the CETA text still to gain the consent of the European Parliament and TTIP negotiations still ongoing there remains some uncertainty how the current debate will play out. However, exclusion of ISDS from the EU-Japan negotiations would be contrary to the emerging norm in comprehensive trade and investment agreements. Japan does not see the inclusion of ISDS as a difficulty. The TPP includes ISDS. The challenge will be including the more advanced EU proposals set out in the Concept Paper and the EU proposal on ISDS for TTIP of September 2015. Some modernisation of the procedures would seem however to be needed if the EU policy of modernisation is to be credible.

Costs of disputes

The more recent agreements including CETA, EU-Singapore and the TPP text include provisions that would reduce the costs of arbitration. There are provisions that would allow for frivolous claims to be thrown out (e.g. CETA X: 29 and 30), provision for the consolidation of cases (CETA X: 41), provisions precluding multiple claims (CETA X: 21 and X: 23) and provisions that require losing parties to pay in most cases (CETA X: 36). The EU-Singapore agreement and TPP have equivalent provisions as does the Commission's draft for TTIP. The EU-Singapore agreement also includes explicit provision for mediation (Art 9.17) and the appointment of a sole arbiter (Art 9.21 and Annex 9.A), proposals that are also carried forward in the recent Commission's draft for TTIP (Art 3 of the ISDS section and Annex I). Finally, all recent agreements include provisions that preclude investors pursuing multiple actions, either by pursuing domestic actions under national law or under other international agreements, whilst bringing an action under the agreement concerned (see for example, CETA Arts X:21 and X:23).

The provisions on interpretation of agreements vary a little. CETA (Art X: 27 (2) and X: 35) includes power for the CETA Trade Committee to interpret the CETA investment provisions that is binding on any arbitral tribunal and there are equivalent provisions in TPP.³¹

On coverage/liberalisation it is a two annex dual scheduling system will be used with negative scheduling. A TRIMs plus agreement is also likely with inclusion of a prohibition on PR based on technology transfer and the nationality of management. Exceptions from otherwise free capital transfers are likely for the case of economic or financial crises.

On investment protection the prospects for Japan agreeing to modernisation of investment provisions are good. The issue of dispute settlement is unlikely to create any real difficulties with Japan as it makes very little use of ISDS, Japanese companies preferring to negotiate solutions rather than go to court. The EU should therefore be able to consolidate the modernisation represented in the CETA agreement. TPP reflects the NAFTA approach to investment and therefore also constitutes a modernisation compared to the existing EU Member State model. Some area that are less clear but are important in the EU debate on investment concern the establishment of a roster of arbiters and review of tribunal decisions or a fully fledged review/international court system. The TPP does not provide for either, offering only a code of conduct for arbitrator. Much therefore depends on the outcome of the TTIP negotiations, if these are completed before EU-Japan and include review then this could no doubt be included in EU-Japan. To further its investment policy and shape international investment law the EU should therefore seek to ensure the inclusion of at least scope for a review/appellate mechanism in the EU-

³¹ TPP Art 9.25 however makes clear that the interpretive power is limited to the application of the annexes defining coverage rather than interpretation of the standards of protection as such.

Japan FTA. It would therefore be important to include a rendezvous clause for revisions of the investment chapter following developments in the international norms.

As suggested above the provisions on investment are unlikely to have much impact on actual investment flows, or on the use of any investor state dispute settlement by Japanese companies.

5.8 Public procurement

The EU has and is seeking GPA plus commitments from Japan in the FTA negotiations. This section discusses the general procurement issues including transparency, contract award procedure and bid challenge etc. and the general coverage issues including thresholds and coverage of type I (central government), type II (sub-central government) and type III (public enterprises or those subject to government influence).

The EU public procurement market is larger than that of Japan. OECD data shows public procurement at 13% of GDP in Japan and the EU at a higher share in line with the overall OECD average of 17%.³² The Commission figures based on WTO data show an EU market of 370 bn euro compared to 96 bn euro for Japan. Not all procurement is likely to be subject to competition because it includes all procurement including in sectors such as the health, social and education sectors where most countries have retained exclusions from coverage. Nevertheless, there remains scope for further commitments to coverage in Japan and the EU.

Effective market access requires coverage (liberalisation commitments) and transparency. Reciprocal access to the EU and Japanese markets is more through indirect access via investment in local affiliates rather than directly via exporting goods or services. The EU has a unified regime covering all levels and types of procurement. This makes the EU market arguably more transparent and thus facilitates competition and indirect supply of public contracts. In terms of access to the Japanese market therefore confidence in the effective application of transparency and non-discrimination is vital if EU suppliers are to invest. For small and medium sized companies such indirect access is less feasible and direct access via imports is challenging for EU SMEs due to the nature of the Japanese market and practical barriers such as language that are more easily overcome by larger EU suppliers with more resources.

Japanese data suggest that foreign suppliers account for 3.1% of the Japanese government procurement markets.³³ This is a little below the level for the EU and appears to apply to direct supply of Japan's procurement markets from imports. The figure for foreign goods and services in central government procurement is given as 7.9% by value or 14.5% by contracts. The share for foreign goods is given as 14% and that for foreign services 1.8%. Note these figures are for central government purchasing only and do not include sub-central procurement, procurement by government related entities (type III) and do not include the important construction sector. In terms of the origin of these foreign supplies of goods and services the US accounts for 46% and the EU 36% (Prime Minister's Office, 2012).

The baseline in procurement takes the form of the WTO Government Procurement Agreement (GPA) and any GPA plus provisions in FTAs. In terms of the rules for procurement, such as those covering the essential transparency requirements, contract

³² Concrete data on the size of procurement markets and their degree of openness are difficult to get. These OECD figures are in the recent OECD work on procurement but they largely relate to 2008. This is an unsatisfactory basis for negotiating.

³³ See Japan's Government Procurement: Policy and Achievements. Annual Report 2012 Prime Minister's Office japan.kantei.go.jp/2012/ch/FY2012ch2

award procedures, and technical specifications etc. all FTAs including all EU and Japanese FTAs adopt the GPA rules. There are therefore few issues relating to the substantive 'rules' aspects of public procurement, but implementation and transparency are still important. One important GPA – plus provision relevant to the EU-Japan negotiations is a commitment to establish a single digital source of information on procedures and calls for tender.

EU FTAs have been GPA plus. EU-Korea added opportunities to public works concessions and Build-Operate-Transfer contracts. EU-Singapore included a central web portal for the publication of contract notices for all types of entities, and addressed discrimination based on the obligation show prior experience of procurement in the territory. Coverage of Singapore entities is estimated to have increased from half to three quarters. The added entities in central government and certain utilities adding €10-12 billion in annual opportunities.³⁴

The CETA agreement represents a significant advance for the EU in that CETA includes for the first time the coverage of sub-federal (type II) entities and type III entities in the shape of the Crown Corporations. There are some areas of provincial procurement excluded, for example rail transportation in Ontario and Québec retain some local content requirement for mass transit and rail equipment. CETA also provides for a single central web portal, to be introduced at the sub-central level with a transition period of 5 years.

Japan is a signatory of the GPA and has applied GPA compatible rules in its FTAs. But there remain gaps in coverage and questions concerning the effective transparency of Japanese procurement markets. Under the GPA Japan covers central and sub-central government including procurement in all 47 Prefectures, but only 19 designated cities (up from 12 at the time the 1996 GPA was agreed) and there is no coverage of many cities or lower levels of government. Japan has also maintained significantly higher thresholds for works/construction contracts at the sub-central level of procurement. This threshold is out of line with the international norm at 15 million SDR (Special Drawing Rights) compared to the 5 million SDR that is used in the EU and in most other GPA signatories except South Korea (See table 10). In its commitments in the TPP Japan has retained these existing GPA thresholds and coverage (see TPP Annex 15 – A for Japan)

Compared to the EU transparency of Japanese procurement markets is arguably less effective even though Japan complies with the transparency rules of the GPA and has made additional efforts to improve information on Japanese public procurement procedures and calls for tender. Information about Japanese procurement is not uniform at the sub-central level and is not always fully available in English. Japan perhaps more than most public procurement markets is characterised by de facto barriers to competition in public contracts, so transparency is important. The importance of the de facto barriers is illustrated by the railway case that is discussed in the section of this study on railway equipment.³⁵

³⁴ European Commission, 2013. The economic impact of the EU-Singapore Free Trade Agreement. Available at: http://trade.ec.europa.eu/doclib/docs/2013/september/tradoc_151724.pdf

³⁵ Coverage of Japan Railways was negotiated under the GPA as part of a reciprocal negotiation on 'liberalisation'. But in the case of Japan railways the attachment of the Operational Safety Clause to the Japanese GPA limited access. This stated that procurement would not be open or liberalised if it could affect the operational safety of the railways. The GPA requires technical specifications to be based on performance standards, but when there are no agreed international standards there is scope for de facto preference for local suppliers.

Table 10 Comparison of thresholds under the GPA in SDR (Special Drawing Rights)

| | | <i>Japan</i> ³⁶ | <i>EU</i> | <i>US</i> | <i>Canada</i> | <i>Korea</i> |
|---|----------|----------------------------|-----------|-----------------------|---------------|--------------|
| <i>Goods/ suppliers</i> | Type I | 130,000 | 130,000 | 130,000 | 130,000 | 130,000 |
| | Type II | 200,000 | 200,000 | 355,000 | 355,000 | 200,000 |
| | Type III | 130,000 | 400,000 | 180,000 or 400,000 | 355,000 | 450,000 |
| <i>Services</i> | Type I | 100,000 | 130,000 | 130,000 | 130,000 | 130,000 |
| | Type II | 200,000 | 200,000 | 355,000 | 355,000 | 200,000 |
| | Type III | 130,000 | 400,000 | 180,000 – 400,000 | 355,000 | 450,000 |
| <i>Construction/ works</i> | Type I | 4.5 million | 5 million | 5 million | 5 million | 5 million |
| | Type II | 15 million | 5 million | 5 million | 5 million | 15 million |
| | Type III | 15 million | 5 million | 5 million | 5 million | 15 million |
| <i>Architectural and engineering services</i> | Type I | 450,000 | 130,000 | 130,000 | 130,000 | 130,000 |
| | Type II | 1.5 m | 200,000 | 355,000 | 355,000 | 200,000 |
| | Type III | 450,000 | 400,000 | 180,000- 400,000 | 355,000 | 450,000 |

Type I = central government; type II = sub-central government; type III = government related/regulated entities

In any outcome the EU will therefore wish to see a reduction in the 15 million SDR threshold for construction contracts in Japan as well as a reduction in the relatively high threshold for architectural services for central government. As the table shows the EU has somewhat higher thresholds for type III procurement. This provides scope for reciprocal commitments on coverage that will be GPA plus. The type III entities in the EU (state owned enterprises and some private undertakings that benefit from with exclusive rights) may therefore face increased compliance costs. Japan has become progressively more ambitious on procurement in its FTAs. This becomes apparent when one compares the earlier agreements with Singapore (2002) and Mexico (2005) with the later agreements such as with Peru (2012). But it has largely held within the limits of the revised GPA. This is confirmed with the TPP where Japan maintained its high thresholds for construction and architectural and engineering services, but has accepted a lower threshold for other services.

³⁶ For Japan the thresholds in the TPP are used.

Table 11 Summary comparison of GPA plus procurement provisions in selected Japanese and EU FTAs

| <i>FTA</i> | <i>GPA plus coverage</i> | <i>GPA plus transparency provisions</i> | <i>Bid challenge</i> | <i>Specific PP Committee</i> |
|--------------------------|---|--|----------------------|------------------------------|
| <i>EU-Korea</i> | yes, build to operate | no | yes | yes |
| <i>EU-Singapore</i> | yes | yes | yes | yes |
| <i>CETA</i> | yes, addition of type II and III coverage in Canada | yes plus obligation to provide centralised digital access | yes | |
| <i>Japan-Singapore</i> | Lower threshold for goods and services | No | | |
| <i>Japan-Switzerland</i> | No | No | yes | No |
| <i>TPP</i> | Only marginal | marginal, GPA plus provisions on digital procurement but best endeavours | yes | yes |

The baseline should also recognise a number of unilateral measures undertaken by Japan. In the 1980s the US negotiated a series of bilateral agreements on procurement at sectoral level. A similar approach has been followed in the case of the railway sector following the removal of the three major rail companies from Japan’s entity coverage. In the case of the rail sector, Japan agreed to enhance transparency both ex ante and ex post in rail procurement when the EU agreed to drop its opposition to the removal of the three main rail companies from the GPA schedule of coverage, because they had been privatised. All public procurement markets are fairly challenging and the Japanese market perhaps more so due to the language factor and the different business culture. Competing on the Japanese procurement market is especially difficult for EU SMEs and most of the contracts won by EU suppliers are won by large companies in the high tech sector.

The EU-Japan FTA can improve coverage of the Japanese public procurement market by bringing down the thresholds for the construction/works sector, which is generally less open than the services and especially the goods market. Japanese central and local government procurement of architectural and consultancy services also have a higher threshold than is the norm in most international agreements. Seeking a reduction in these thresholds is likely however to mean pressure on the EU to make reciprocal reductions in its thresholds for type III procurement, where EU thresholds are higher than Japan’s.

The agreement could also likely to improve coverage of Japanese sub-central entities and utilities. As far sub-central entities are concerned, the EU is in a position to put forward the comprehensive coverage of its own regional and local authorities under the GPA towards Japan and request on the basis a rebalancing under the framework of the FTA. The scale of such additional coverage is however difficult to assess, as it is likely to depend on issue linkage with other chapters in the FTA negotiations. Decisions to cover more sub-central entities and local authorities is a politically difficult decision in Japan as elsewhere.

Utilities are another important focus of the negotiations with numerous offensive interests on both sides, not to mention railway procurement. The scale of potential additional market access commitments on utilities is also difficult to predict for the reasons given above. The structure of utilities markets in the EU and Japan are substantially different with significant parts of some utility markets still controlled by state-owned companies. The Japanese utilities market is more diverse, including a larger part of private companies placed in de facto/de jure monopoly situation that are, in contrast to EU utilities, not subject to any legal obligation to organise public tenders. The

potential coverage of additional entities on Japan side is then likely to depend on the possibility of a balanced reciprocal opening on utilities.

With regard to coverage other ongoing or recently concluded negotiations (TTIP and TPP) do not provide such of a baseline because of the strongly reciprocal nature of negotiations on entity coverage. Because of the number of countries included in TPP, the fact that a number are not signatories to the GPA and the limited ability for the US to offer anything on sub-central procurement there was perhaps little prospect of an increased coverage of Japan. In any event, it is difficult to predict the likely impact of TPP negotiations on GP on the negotiations on GP under the EU-Japan FTA. A first scenario could be Japan seeking a maximum parity between concessions made to the EU under the FTA and that made to US and other GPA countries under the TPP, notably with a view to maintain an equilibrium under the GPA. Another scenario is a strong differentiation between the two sets of negotiations, notably because the very different context of the EU-Japan FTA. The fact that the EU has strong offensive interests in GP and is also likely to offer a number of additional commitments to Japan creates a dynamics absent from TPP negotiations.

Negotiating greater coverage will not however, mean guaranteed access to the Japanese procurement market where *de facto* impediments have probably always been more important. Here the precedent set in other FTAs is a more predictable guide to possible outcomes in the EU-Japan FTA. The EU-Japan FTA negotiations are likely to result in the inclusion of GPA plus disciplines and/or voluntary unilateral measures. In the best case scenario, the GPA plus result could be comparable to the one agreed under the EU-Singapore FTA and CETA, if not more on specific areas of bilateral interest. Continued efforts to improve transparency and information on procedures and calls for tender will be needed. This could be achieved through the sort of voluntary cooperation that exists already, but the establishment of a sub-committee on public procurement should be an EU negotiating aim as a means of ensuring that such cooperation leads to results. A commitment to a single centralised digital portal for all Japanese procurement in English, following the precedent set by CETA, would seem to be a reasonable expectation. Although there are various websites and cooperative initiatives to help enhance transparency, a single portal would still be useful and a realisable objective.

Reducing the threshold for construction contracts will help to make these more accessible *de jure* and transparent, but this positive impact could be limited by the effect of some remain regulatory barriers (including in non-procurement areas such as services regulation) and *de facto* preferences. Progress in opening the construction sector to more competition would have considerable benefits for Japanese consumers and potentially for EU suppliers alike and could be more important than rail for example, which has attracted a great deal of attention.

For EU SMEs procurement markets in Japan are going to continue to be challenging for the reasons noted above, but also because procurement markets are generally supplied more by local affiliates of foreign companies rather than directly. EU SMEs are unlikely to have the resources to follow developments in the Japanese procurement markets sufficiently to compete. In recent seminars organised by Japanese ministries there were 15,000 Japanese companies participating but only 262 foreign companies. Having said this, a central digital source for all information on procurement in Japan would help SMEs. The EU-Japan FTA in procurement is unlikely to affect vulnerable groups.

5.9 Geographical Indications and other Intellectual Property Rights issues

Geographical Indications (GIs)

At EU level, unitary GI protection has been established for wines (1970), spirits (1989), aromatised wines (1991) and other agricultural products and foodstuffs (1992). Through these systems, protected names for the products covered enjoy far-reaching unitary protection throughout the EU with just one application process. At the end of April 2014, 336 names of spirits, 1,577 names of wines and 1,184 names of foodstuff and agricultural products were registered at EU level. The estimated sales value for EU GIs in 2010 amounted to €54.3 billion, including €11.5 billion of export sales (15% of EU food and drink industry exports).

The EU has the aim of strengthening protection for EU Geographic Indications (GIs) as a means of promoting the production and exportation of high quality and high value-added agricultural products. It provides important wealth creation and employment in what are often less developed rural areas. In multilateral negotiations the EU has not been able to achieve this. The TRIPs simply states that the parties shall provide the legal means to protect GIs. The USA and many other countries believe that existing trademark laws are adequate to protect GIs, but from an EU perspective this is not considered sufficient. Faced with this difficulty the EU strategy has been to seek protection for products of short list of key importance for the EU and seek at least co-existence of the sui generis and trademark based approaches.

The EU-Korea FTA in effect provides a mutual recognition of national laws on GI protection (Art 10.18) and lists a considerable number of GIs (160 for the EU and 60 for Korea) that are to be protected in each party. There is also an agreement to continue to add new GIs to the list (Art 10.24 EU-Korea). In CETA the EU appears to have satisfied its negotiating aims by including a commitment from Canada to provide protection for GIs equivalent to that provided in the EU. Canada has agreed to provide this protection for 179 GIs for food stuffs with partial exceptions for 21. GIs for wines and spirits are covered by the 2008 agreement between the European Community and Canada on trade in wines and spirit drinks. Existing EU domestic protection of GIs covers 1438 products, and the focus on these products suggests a concern with the most commercially important products. This approach is arguably in line with the approach adopted by DG AGRI in its June 2012 strategy document.³⁷ Canada lists no GIs in the relevant annex.

In its FTAs Japan has tended to follow the TRIPs approach to GIs, in other words include provisions to the effect that the parties agree to provide the legal means to protect GIs. This is the case in the Japan-Switzerland EPA in Art 119. So the Japan-Switzerland EPA does not therefore recognise a sui generis approach to GI protection. It does, like the CETA include a list of GIs that serves to show that these are protected. In the case of wines and spirits there is somewhat stronger protection.

Since the conclusion of the Japan-Switzerland EPA, Japan has moved to develop its own GI legislation. In June 2015 the Diet adopted a GI protection law that would appear to recognise GI protection for agricultural products and not covering alcoholic beverages (which are covered by the Liquor Act) as sui generis and that protection under trademark law is no longer adequate. Prior to this legislation protection for GIs was based on a 'regionally based collective trade mark', under which there were 566 products registered by 2014. But this was seen as relatively ineffective because remedies were based on trademark laws that could not address the problems of products of inferior quality being

³⁷ See: http://ec.europa.eu/agriculture/consultations/advisory-groups/international/2012-06-25/agri-working-doc_en.pdf

sold under the collective trademark. For some time, Japanese producers of specialised products have sought to strengthen GI legislation. The new legislation would appear to improve somewhat the prospects for the EU and Japan agreeing on a common approach to GIs and one that establishes protection for GIs as sui-generis and not part of trademark law as such.

Other IPRs

Another central issue in the EU-Japan FTA negotiations is the lack of protection for the use of sound recordings for public performance in Japan (see Art.15(1) of the WIPO Phonograms and Performances Treaty, to which the EU and Japan are signatories). Sound recording performance rights and, in particular, the public performance right have become an increasingly important source of revenue for music producers and performing artists. In the case of European-owned or European-produced sound recordings, this foregone licensing income amounts to an export barrier (consumption takes place, but cannot be commercialised) and a limitation on the commercial returns on investment in production (licensing for public performance uses is an important revenue stream for the music industry, helping record companies continue to perform their role as the main investors in music production).

The relevance of this issue stems from many businesses (e.g. discotheques, shops, bars, gyms) adding value to their services with the use of recorded music, resulting in an increase in the number of customers and sales, etc. Accordingly, music producers and performers should be compensated for the use of their recordings and the value of the use of music to users needs to be considered and reflected in license terms. In addition, the implementation of the public performance right does not seem have a significant negative effect on the users' business. License fees that users pay for the right to use recorded music can be considered small compared to the users' revenues.

The term of protection for authors' rights also varies between the EU and Japan. The basic international agreed term is +50 years after the life of the author or after the date of publication. In the EU *acquis* this has been harmonised at life plus 70 for author's rights and extended to 70 years in the case of producers and performers' neighbouring rights in sound recordings.. In Japan it is life plus 50 or 50 years after publication. In recent FTAs negotiated by the EU it has been possible to agree on life plus 70 years and publication plus 70 years, but Korea (for authors' rights) and Singapore (for all) already had such national legislations. In the case of Canada, which had national legislation based on the Bern Convention and thus a term of plus 50 years the EU was not able to make any change: In the Japan-Switzerland EPA, there appears to have been an agreement to find a compromise with Art 114 (8) providing for life plus 50 years, but 70 years in certain cases. In the case of TPP, 70 years was achieved.

A very similar picture emerges for the protection of sound recordings. In most countries, the duration of protection of rights in sound recordings is measured since the date of publication, and this difference between the start dates often leads in practice to shorter duration of protection than in the case of authors' rights. In other words, the author of a piece of music that is written down would have protection for a longer period than a performer or a producer would enjoy. Japan only offers 50-year protection for sound recordings. The EU, US and many other countries that are important for the music and entertainment industry protect recordings for at least 70 years. Australia and now Canada, from April 2015, also offer 70 years. So the norm in the major centres of the music industry is now for 70 years for sound recordings.

On other rights there are few differences between the EU and Japan. For example, in patent life restoration the EU *acquis* on patent term restoration is 5 years for pharmaceutical products and 10 years for new plant varieties. In previous FTA the EU has been successful in negotiating an equivalent protection in the EU-Korea agreement but Canada resisted the extension of protection, in part because its research based

pharmaceutical industry and its generic industries are of broadly equivalent importance and influence. In the EU as in Japan the research based industry is more important. Japan has shown itself ready to accept a 5-year period for PLR in the Japan-Switzerland EPA so it can be expected to agree to this in the EU-Japan negotiations.

In data exclusivity, a topic that has been the source of some controversy in other negotiations the base line has been the TRIPs agreement in Art 39.2 requires that members protect undisclosed information against unfair commercial use. The EU *acquis* on this is 10 years made up of 8-year protection for use and a further 2 years for marketing. In the EU-Korea agreement it was not possible to get more than 5 years' protection for the use of such data. In the CETA negotiations the EU sought a full 10 years but achieved 8 (6+2). In the EU-Switzerland agreement it is also 6 years, so much will depend on the outcome of the TPP negotiations. The expectation must be that it will be difficult for the USA to get more than 5 years given the diversity of the participants. So again the EU may find it difficult to get much beyond 5 years. For new plant varieties there is a general use of 10 years across most FTAs.

For industrial designs the TRIPs agreement in Art 25.1 provides for at least 10-year protection for industrial designs. As the table shows, the EU was able to negotiate 15 years in the EU-Korea FTA. The EU-Switzerland FTA went further to provide protection for 20 years, so it should be possible to the EU to achieve 15 years or perhaps more if that is the EU preference in the negotiations with Japan.

Table 12 Scope of IPR provisions in recent agreements

| | <i>EU-Korea</i> | <i>EU-Singapore</i> | <i>CETA</i> | <i>Japan-Switzerland</i> | <i>TPP</i> |
|--------------------------------|---|--|--|---|---|
| <i>Copyright</i> | +70 years of protection Sound recordings public performance rights | +70 years of protection Sound recordings public performance rights | +50 years of protection Sound recordings public performance rights | +50 (70) in some cases years of protection | +70 years of protection Availability of sound recordings public performance rights left to national law |
| <i>Trademarks</i> | Adoption of Trademark Treaty of 1994 and best endeavours for Singapore Treaty | | Best endeavours for Singapore Treaty | TRIPs equivalent | Parties obliged to ratify Singapore Treaty (Art 18.7 (2)) |
| <i>Patent term restoration</i> | 5 years | | 2-5 years | 5 years | |
| <i>Data exclusivity</i> | 5 years | | 8 years (6+2) | 6 years | 5 years |
| <i>Industrial designs</i> | 15 years | | | 20 years | 10 years as in TRIPs |
| <i>Geographic Indications</i> | Legal means and list of GIs | Legal means and list | Legal means and list | Legal means and list | Recognise protection via trademark or sui generis law |

On GIs the likely outcome of the EU-Japan FTA should reflect progress, given the recent shift in Japan to adopt a specific law to improve the protection of GIs and its desire to seek mutual protection for Japanese GIs in trade with the EU. This could also be seen as representing a move towards acceptance of a sui generis regime for GIs. This comes on top of reasonable progress in CETA and so further improves the prospects for making

headway in this EU negotiating aim. Some difficulties remain in terms of the protection of specific EU GIs, here the EU is probably going to have to accept something less than a complete success.

The table above provides a comparison of IPR provisions in recent agreements at a glance. TPP requires the duration of copyright to be at least life +70 years and 70+ since publication, so the EU should have every prospect of agreeing on the same level of protection with Japan. The TPP requires +70 years protection also for sound recordings, so there can be no difficulty for the EU to negotiate the same with Japan.

There would seem to be little difference on patent life restoration, which appears likely to remain at 5 years. On data exclusivity Japanese producers share many of the interests of the EU research based pharmaceutical industry, but Japan is seeking to increase the share of generics in order to contain healthcare costs, which may influence the position of the Japanese government. The TPP appears to offer just 5 years. So if the 8 years that the EU was able to negotiate in CETA. So this looks like a maximum achievable negotiating aim.

The impact of the EU- Japan FTA should therefore be positive for food products in the longer term by providing EU GIs to establish a solid marketing base in Japan. Agreement on GIs in the EU-Japan FTA is however, only a small step towards achieving recognition of GI protection as sui-generous law.

5.10 Trade Defence Instruments

The scope for the use of commercial instruments in EU and Japanese FTAs are broadly similar. The baseline for the EU-Japan negotiations is that of the existing WTO instruments that have been either simply incorporated into previous FTAs in the case of anti-dumping and global safeguards. For bilateral safeguards the criteria for their use also draw on the WTO safeguard agreement. On countervailing duties, the EU and Japan likewise incorporate the WTO rules. This area does not therefore appear to pose any difficulties as this is the general practice as confirmed in the TPP text (Art 6.8).

With regard to bilateral safeguard measures the EU norm is to provide for a period of 2 years for any safeguard action, with the possibility of an extension for a further 2 years. Japan has included 3 or 4 years in its FTAs, so has slightly more lenient disciplines. TPP provides for 2 years plus one year.

Another slight different is that the EU norm is to allow for a 2-year grace period before the FTA partner can take compensatory measures. In the case of Japanese FTAs there is no reference to any period so the default of GATT Art XIX would appear to apply and this has a grace period of 3 years. This would appear to be the case for TPP also (Chapter 6.7 which simply provides that compensation can be taken when a transitional safeguard measure is applied. In other words, the EU would face the threat of compensatory measures sooner when applying a bilateral safeguard. In all cases the extension of the bilateral safeguard is linked to some evidence of adjustment by the injured industry, but none of the agreements specify how adjustment should be evaluated or measured, so the assumption must be that the link to adjustment will not provide a major hurdle for extensions of the safeguard.

Table 13 Comparison of provisions on commercial instruments

| | <i>EU-Korea</i> | <i>EU-Singapore</i> | <i>CETA</i> | <i>Japan-Vietnam</i> | <i>Japan-Switzerland</i> | <i>TPP</i> |
|---------------------------------|--|---|---|---|---|--|
| <i>Bilateral safeguards</i> | Criteria as in Art XIX of GATT 2 years, extendable to 4 with evidence of adjustment | Criteria as is GATT; 2 years extendable to 4 | Criteria as is GATT; 2 years extendable to 4 | Criteria as in GATT; 3 years extendable to 4 | Criteria as in GATT; 2 years extendable to 3 | 2 years extendable to 3 |
| <i>Agricultural safeguards</i> | For selected products, scheduled | | Not in chapter 5 | No reference | | Specific safeguards for selected sectors |
| <i>Global safeguards</i> | Reaffirms Art XIX GATT; No duplication | Reaffirms Art XIX GATT; no duplication | Reaffirms Art XIX | Reaffirms Art XIX; no duplication | Reaffirms Art XIX | Reaffirms WTO |
| <i>Anti-dumping</i> | Best endeavours for public interest; Margin of dumping | Best end. For public interest; Lesser duty | Public interest as in domestic law; Lesser duty rule | No ref. so GATT Art VI applies | No reference so Art VI applies | Art VI applies |
| <i>Countervailing duties</i> | As in SCVA | As in SCVA | As in SCVA | No reference so SCVA applies | No reference so SCVA applies | SCVA applies |
| <i>Institutional provisions</i> | Working Group on Trade remedies | | | No specialist committee | No specialist committee | |

Both the EU and Japan and virtually all other FTAs reaffirm the rights of the Parties under GATT 1994 Art IV to apply anti-dumping measures. The assumption must be that this will also be the case in the EU-Japan negotiations. The EU has however, included the lesser duty rule and provisions on the EU/public interest in recent FTAs. Japan has not included reference to the lesser duty rule or public interest in its FTAs even though it has supported these in the WTO negotiations.

The likely outcome on bilateral safeguards is an agreement between the EU and Japan on a two-year period extendable to 4 years. On anti-dumping a continuation of the practice of relying on GATT Art VI, possibly with the inclusion of a lesser duty rule and public interest. Both the EU and Japan have supported the use of these in the multilateral negotiations on reform of anti-dumping.

A reference to the desirability of lesser duty rule in any anti-dumping action taken by the parties against each other would not have a major impact. There has been a general decline the application on anti-dumping actions by and against Japan.

5.11 Competition

A brief reference is also necessary to competition. Although it is unlikely to figure much in the negotiations, access to the Japanese market is influenced by competition, or the lack of it. Competition poses few challenges for negotiators because there will be reliance on existing bilateral arrangements and agreements on competition that form the

baseline. There is network of existing bilateral cooperation agreements, including the 2003 EU-Japan bilateral cooperation agreement on competition in 2003 (OJ L 183). This provides for positive and negative comity and provides a good deal of detail on how the EU and Japanese competition authorities should cooperate in enforcing their respective competition policies. But there are no substantive obligations in terms of the content of competition policy. This bilateral agreement has however, helped enhance cooperation between the European Commission and the Japan Fair Trade Commission and a number of international cartels involving EU and Japanese firms, such as the car parts cartels were successfully attacked thanks to cooperation between the two competition authorities.

EU FTAs generally include a few further provisions on competition, for example the EU-Korea and EU-Singapore FTAs requires the parties to have competition authorities and the EU-Korea FTA states that cartels, abuse of dominance and anti-competitive mergers are incompatible with the agreement (Article 11.1). There are also competition elements in the services chapter to prevent major telecommunications suppliers engaging in anti-competitive cross-subsidisation (Article 7.30). The EU-Singapore FTA (Art 12.3) requires public undertakings (and similar enterprises that may be influenced by governments) to be subject to the national competition laws and not use their position to distort competition, but under the proviso that they carry out the aims for which they are established. The CETA agreement (chapter 19) essentially refers to the June 1999 bilateral agreement between the European Community and Canada on competition, something that was modelled on the EC-US agreement at that time. The Canadian Agreement (OJ L175 10 July 1999) also provides for negative (Art II) and positive (Art V) comity and contains a chapter (20) on state enterprises that refers to the existing, and largely ineffective, GATT provisions in Art XVII GATT 1994.

Japan's FTAs have been particularly weak in their treatment of competition policy. This is evident already in earlier FTAs and has continued in more recent agreements such as the Japan-Vietnam EPA (chapter 10). In the Japan-Vietnam EPA (Chapter 7) on services there are the now standard provisions to ensure that any monopoly supplier does not act in a manner inconsistent with the commitments. Moreover, the Japan-Vietnam EPA contains a section on competitive safeguards in Japan's schedule of commitments in telecommunications (Annex 5) requiring that appropriate measures shall be maintained to prevent anti-competitive practices such as anti-competitive cross-subsidisation and the withholding of information. This requirement is repeated in a Reference Paper on basic telecommunications (Annex 5, page 902). The Japan-Switzerland EPA merely states that each of the Parties shall take 'measures which it considers appropriate against anticompetitive activities', and only requires fairness and non-discrimination (Chapter 10, Art 103). In terms of international cooperation, the aims are equally limited with cooperation required to avoid or lessen the possibility of conflicts (Art 104). As in other policy areas, in which there are few substantive provisions, the Japan-Switzerland EPA provides for consultations, but this time in the Joint Committee. There is no specific competition committee.

On the basis of the existing Japanese approach to competition policy in FTAs the likely outcome of the negotiations is an agreement to continue to cooperate by means of the EU-Japan bilateral agreement.

6 Sectoral analysis: Food and feed (processed food)

6.1 Introduction

Implications of the economic analysis

The food sectors examined in this section are very large, with an overall domestic demand estimated to 70 to 80 billion euros in Japan. EU exports of these products amount to more than 4 billion euros, with EU producers having an average 33.7 percent market share in Japan's markets in these sectors. EU global trade in food products with Japan amounts to more than 5 billion euros and constitutes a trade surplus which "pays" for a large share of the EU 7 billion euros trade deficit in manufacturing.³⁸

The potential of Japanese food markets for EU exporters in case of liberalisation is huge since current EU exports face substantial barriers. The Japanese average ad valorem tariff for all these sectors is 23.1 percent, and very high tariffs are not uncommon. By contrast, the risks for a negative impact of a Japan-EU Agreement on EU producers are very small because the Japanese production capacities in these sectors are often limited. This point has already been outlined in the economic analysis: the food and feed sector accounts for 55 percent of the export gains according to the 2012 Impact Assessment which estimates the increase in bilateral exports for processed foods to be 276 percent (tariff-only scenario).

A new crucial factor to be taken into account by the EU is the significant to severe competition exerted by the Trans-Pacific Partnership (TPP) food exporters in the Japanese markets that are considered as the leading markets in Asia. What follows thus devotes a lot of attention to the main elements of the October 2015 TPP Agreement since Japan's commitments consist an almost total liberalisation vis-à-vis its TPP partners. As the economy-wide impact from TPP was described in the economic section, this section examines the new situation created by the TPP Agreement at a product category level for a wide subset of processed foods, using EU exports for each category as the main indicator (with pre-TPP EU export levels indexed at 100).

For each product examined below, the section presents a brief description of the baseline in terms of the production volume, bilateral trade flows and type and level of protection. This description includes the five major agricultural producers involved in the TPP negotiations (Canada, US, Chile, Australia and New-Zealand, hereafter TPP5) with which the EU competes in the Japanese food and processed food markets. It also presents estimates of the liberalisation scenarios and their potential impact in a partial equilibrium context. These estimates are the logical consequences of "hard facts" provided in the descriptive tables: significant protection of Japan's food markets and already substantial presence of TPP exporters in Japanese markets. This combination means that the preferences to be enjoyed by TPP5 exporters will be very high and the trade diversion effect against EU exports potentially important. Finally, the hard facts described in the baseline tables strongly suggest a positive point for the negotiations for most products: the asymmetry of the pre-liberalisation situation in terms of production and trade between Japan and the EU is such that it is most likely that the positive impact from a Japan-EU Agreement for the EU exporters dominates massively any negative impact. All

³⁸ European Commission, European Union: Trade in goods with Japan, 2015.

these considerations underline the importance for the EU of ensuring the TPP does not result in a discrimination against EU exporters.

6.2 Beef

The current baseline in Japan

As shown in Table 14, Japan is not a major producer of beef (it ranks seventeenth in the world). Japanese production amounts to half a million tonnes, that is, 4 tons per capita compared to 14.6 tons per capita for the EU.³⁹ This amounts to just one-third of French production (the largest EU beef producer), and is significantly smaller than the production of any of the four largest EU Member States. In 2011-2013, the unit value of beef production at the farm gate (hereafter farm gate price) is estimated to roughly 9200 USD per ton in Japan.⁴⁰ This is almost twice the farm gate price in the EU (roughly 4800 USD per ton, at the 2011-2013 USD-Euro exchange rates) and more than three times the farm gate price in Australia.

Japan is a large importer of beef and it imports 1.4 times (in volume terms) its domestic production. In 2013, it was the third largest importer in the world after Russia and the US.⁴¹ It is thus a key potential market for the EU exporters. However, Table 14 shows that almost all Japanese imports (96 percent) are coming from the TPP5 countries. The current negligible share of Japanese imports from the EU is largely the consequence of the ban on EU beef imports imposed by Japan following the BSE crisis in Europe. (The EU market share, however, was not large even before the BSE ban was imposed by Japan).

Table 14 The basic parameters in the beef sector, 2014 imports⁴²

| | Origin | value mio USD | share % | unit price USD/kg |
|--------------|-----------------|------------------|--------------|----------------------|
| Japan | World | 2772.7 | 100.0 | 5.13 |
| | EU | 1.9 | 0.1 | 22.78 |
| | TPP-5 | 2673.0 | 96.4 | 5.15 |
| EU | World | 2274.6 | 100.0 | 9.01 |
| | Japan | 0.0 | 0.0 | 13.48 |
| | TPP-5 | 517.9 | 22.8 | 11.00 |
| | Intra-EU | 13168.1 | -- | 4.13 |

As shown in Table 15, until 2015, the most important element of the protection provided for the Japanese beef market is a uniform *ad valorem* applied tariff of 38.5 percent, with no specific tariff or tariff-rate quotas (hereafter TRQ). All the major beef exporters to Japan benefit from the applied tariff, the bound tariff (50 percent) playing a role only when Japan triggers the special safeguard clause.

³⁹ Japanese Ministry of Agriculture, Forestry and Fisheries, Annual Report, accessed at: http://www.maff.go.jp/e/tokei/kikaku/nenji_e/nenji_index.html

⁴⁰ OECD PSE database, on line. Available at <http://www.oecd.org/tad/agricultural-policies/producerandconsumersupportestimatesdatabase.htm>

⁴¹ Japanese Ministry of Agriculture, Forestry and Fisheries.

⁴² UN Comtrade, 2015

Table 15 Protection in the beef sector, 2014⁴³

| | Ad valorem tariffs (%) | | | Specific tariffs (/kg, 100kg) | | |
|-------|------------------------|------|-----------|-------------------------------|-------|---------|
| | nbr | avg | range | nbr | avg | range |
| Japan | 12 | 38.5 | -- | 0 | -- | -- |
| EU | 46 | 13.0 | 12.8-16.6 | 45 | 221.6 | 141-304 |

The uniformity of ad valorem tariffs has been an important feature of trade policy for Japanese consumers and farmers as well as for foreign exporters. It introduces minimal distortions among the various “varieties” of beef that Japan could produce since it protects all the beef varieties to the same extent. By the same token, the pattern of the different beef qualities imported is not distorted. As a result, Japan could be expected to import roughly the same “quality mix” in terms of beef products without protection as the mix it imports today. However, in January 2015, the Japan-Australia Free Trade Agreement entered into force thus introducing an important element of preferential treatment that did not previously exist and a preference that is amplified by the recent signature of the TPP Agreement (see below).

The current baseline in the EU

The EU is one of the world's largest producers of beef (it ranks third in the world after the US and Brazil) with an annual production of 7.4 million tons.⁴⁴ Beef production is slightly to substantially more costly in the EU than in any of the major TPP-5 exporters. Farm gate price for the EU as a whole is estimated to 4800 USD per ton at the exchange rates prevailing over the last three years, compared to 4600, 3500 and 2700 USD per ton in the US, Canada and Australia, respectively.⁴⁵

Table 14 shows that the EU imports beef to a substantial value from the world. Japan’s share in EU total imports is almost nil. By contrast, the TPP5 countries have a significant share of EU imports, despite a higher unit import value than all the EU imports from the world. It should be added that the EU export capacities have been greatly hampered by the BSE crisis which has prevented the EU to export beef to many world markets, while fragmenting EU markets.

As shown by Table 15, the EU protection is a mix of *ad valorem* tariffs, specific tariffs (in euros per ton) and tariff-quotas. The EU specific tariffs are equivalent to 17-38 percent of the import unit price for all the extra-EU imports. This brief review of the EU protection deserves two last remarks. All quotas granted by the EU TRQ regime (not taking into account those for high-quality beef) amount to roughly 170,000 tons, if one includes the one granted for Canada in the CETA context. This represents less than 2 percent of the total EU beef consumption, a percentage is unlikely to have an impact on EU beef prices. Imports under TRQs represent half of EU total imports. In other words, EU TRQs-related beef imports are unlikely to have a significant pressure on EU beef markets.

⁴³ Tariff schedules accessed at: <http://madb.europa.eu/madb/euTariffs.htm>, and www.customs.go.jp/english/tariff/2015_4/data/e_02.htm

⁴⁴ EU DG Agriculture, European Commission, undated. EU agriculture: Statistical and economic information: Report 2013, accessed at: http://ec.europa.eu/agriculture/statistics/agricultural/index_en.htm

⁴⁵ OECD PSE database

Liberalisation scenarios and impact

According to the October 2015 TPP Agreement, the core of the Japanese commitments consist of a reduction of its tariffs for fresh, chilled and frozen beef from 38.5 percent to 9 percent in 16 years (subjected to an annual specific TPP wide safeguard in case of unexpected import surges).⁴⁶ The TPP5 will also liberalize their markets. For instance, the US which has the highest ad valorem tariffs among the TPP5 will eliminate its tariffs in 15 years or less. According to the current available information, it is worth noting that the TPP does not make use of TRQs. As shown in Annex 1, TRQs have more costs than benefits for both the Japanese consumers and the foreign exporters and, contrary a frequent belief, do not promote trade liberalisation (but generate rents).

This outcome of almost total liberalisation based on tariff cuts from both sides set the EU negotiating target. It is impossible to provide a meaningful estimate of the impact of such an outcome on EU beef exports because the current exports are too small to be a meaningful basis for such calculations (a situation related to the BSE).⁴⁷ All that can be said is that beef will be similar to the estimates of the impact on other products examined in this section. These estimates show a very similar pattern: every time that Japanese tariffs are high and the TPP5 countries significant exporters to Japan, the preferences enjoyed by TPP5 exporters will be very high and the trade diversion effect against EU exports potentially important. As the Japanese tariff on beef is high (38.5 percent), the preferences granted to the TPP5 countries will make a recovery of EU beef exports to Japan very difficult if the EU does not get the same tariff cuts as the TPP countries.

In addition, the transition period is likely to be shaped by other key factors:

- The lifting of the BSE ban for all interested EU Member States by Japan.
- The ability of Japanese consumers to trust the safety of the EU beef, as Japanese consumers are deeply attached to the precautionary principle in food.
- The evolution of the competitiveness of the EU beef producers in the future. The fact that the EU has a much lower farm gate price than Japan should not hide the fact that studies based on typical farms and standardized indicators suggest a wide range of production cost differences between EU and US (for instance) farms. These differences can be nil in some instances, but they can be very significant, up to 40 percent of the price, in others.⁴⁸ One should also take into account the differences in transport costs from the EU or the US to Japan.

The fact that the current Japanese and EU output differs significantly in size has two positive consequences for the EU. First, EU producers could benefit a lot from better access to the large Japanese beef market. Second, EU producers run little risk of notable adverse impact from the very limited Japanese production. This "size asymmetry" in terms of production capacities does not mean that Japanese producers have no interest in total EU liberalisation. Indeed, the Japanese beef production may be small, but its high quality sector with its very specific culinary features would benefit greatly from a free access to the very large EU markets (*wagyu* beef costs two to three times Holstein beef).

⁴⁶ USDA, Trans-Pacific Partnership, Benefits to US agriculture. October 9, 2015

⁴⁷ It is worth noting that this situation makes also meaningless to introduce TRQs on the basis of past export records.

⁴⁸ Deblitz, Is the TTIP a threat to EU beef production? DLG-Membership, International Newsletter, January.

6.3 Pork

The current baseline in Japan

Pork is the preferred meat of the Japanese. Sales of pork are larger than those of beef and chicken together, and Japan is the sixth larger consumer of pork in the world. However, with a production of 1.3 million of tons, Japan is not a major world pork producer, although it ranks better than in the beef sector (ninth in the world production).⁴⁹ In 2011-2013, the unit value of pork production at farm gate is estimated to roughly 2950 euro per ton in Japan,⁵⁰ that is, 1.7 times the farm gate price in the EU or in the US. This relatively costly production explains that Japan is a very large importer of pork (it ranks first in the world) and that Japanese exports of pork (in volume) are very limited. All these features make the Japanese pork market a very attractive market for the EU producers.

Table 16 The basic parameters in the pork sector, 2014 imports

| | Origin | value mio USD | share % | unit price USD/kg |
|-------|----------|------------------|------------|----------------------|
| Japan | World | 4729.9 | 100.0 | 5.04 |
| | EU | 1253.8 | 26.5 | 5.39 |
| | TPP-5 | 2932.6 | 62.0 | 4.84 |
| EU | World | 51.8 | 100.0 | 4.61 |
| | Japan | 3.6 | 7.0 | 4.32 |
| | TPP-5 | 33.3 | 64.3 | 4.64 |
| | Intra-EU | 17500.8 | -- | 1.12 |

However, there are two important differences in the EU-Japan context between the beef and pork cases. Firstly, Japan is a substantial export market for EU producers since its imports from the EU amounts to 26.5 percent of total Japanese imports of pork at a relatively high average unit price, which may reflect the fact that EU products suit well Japanese demand. Meanwhile, the share of Japan's imports from the TPP-5 countries is 62 percent, with a significantly lower unit value than the unit value of imports from the EU. Competition from the TPP5 countries is thus severe, particularly on the medium-range quality.

Secondly, the Japanese protection in the pork case is much more complicated and distortive of the Japanese production pattern than in the case of beef. Basically Japan's protection is a mix of a specific tariffs (yens per kilogram), a variable duty (known as the "gate price" system which consists of a specific tariff that decreases with increased import price of foreign pork), and an ad valorem tariff when the price of foreign pork is very high. This complex regime heavily distorts Japanese production and import structures. It imposes much higher barriers on cheaper than on more expensive imports, and thus protects Japan's production of cheap pork much more than expensive pork to the detriment of the poorest Japanese consumers. It is easy to illustrate this distortive impact by calculating the ad valorem tariffs for each possible import price:

- When the world import price per kilogram increases from 1 to 64 yens, the ad valorem tariff decreases from 9500 percent to 750 percent.

⁴⁹ Japanese Ministry of Agriculture, Forestry and Fisheries.

⁵⁰ OECD PSE database

- When the import price per kilogram increases from 64 to 524 yens, the ad valorem tariff decreases from 750 percent to 4.3 percent.
- When the import price per kilogram is higher than 524 yens per kilogram, the ad valorem tariff remains at 4.3 percent.

In such a regime it is not surprising that the unit import value of most Japanese imports is close to the threshold of 524 yens per kilogram. Below this threshold, there are few legal incentives to export cheap pork to Japan. In addition, the distortive pattern of Japanese protection is made more complicated by preferential market access granted to a handful of countries, such as Australia, Chile, Mexico and Peru. However, these quotas are not huge. Annex 2 analyses in more detail Japan’s protection regime in pork.

Table 17 Protection in the pork sector⁵¹

| | Ad valorem tariffs (%) | | | Specific tariffs (/100kg) | | |
|-------|-----------------------------------|-----|-------|-----------------------------------|------|------------|
| | nbr | avg | range | nbr | avg | range |
| Japan | gate price (see text and Annex 2) | | | gate price (see text and Annex 2) | | |
| EU | 9 | 2.7 | 10.9 | 13 | 98.8 | 46.7-156.8 |

The current baseline in the EU

The EU is the largest producer of pork in the world, with an estimated annual production of 22,1 millions of tons in 2012. It imports very small quantities, but exports a significant share of its total production (almost 10 percent).⁵² Table 16 confirms this description in value terms. The EU is importing essentially from the TPP5 countries, the Japanese share in EU total imports is modest (7 percent), and largely related to the fact that the EU imports very small quantities of pork.

Intra-EU trade is much larger than extra-EU trade, with an intra-EU unit value much lower than its extra-EU counterpart. Such a price differential suggests that the extra-EU and intra-EU markets are not connected, a sign of protection. Indeed, as shown by Table 17, protection in the EU is also a mix of ad valorem tariffs, specific tariffs (euros per ton) and TRQ quotas. It deserves three main observations:

- Ad valorem rates are few and moderate.
- There are seven different so-called “WTO” quotas for different types of pork amounting globally to roughly 71,000 tons if one includes the recent preferential TRQ granted to Canada in the Canada-EU CETA. As these quotas amount to roughly 0.4 percent of the total EU consumption, the quota-based imports are highly unlikely to have any impact on EU domestic prices.
- Specific tariffs are thus the main source of protection in the EU. They range from 46.7 to 156.8 euros per ton, hence are equivalent to 11.3-38.1 percent of the import unit price for all extra-EU imports.

Liberalisation scenarios and impact

According to the October 2015 TPP Agreement, the key Japanese commitment consists of a reduction of its specific tariff (gate price) on fresh, chilled and frozen pork cuts from

⁵¹ Tariff schedules accessed at: <http://madb.europa.eu/madb/euTariffs.htm>, and www.customs.go.jp/english/tariff/2015_4/data/e_02.htm

⁵² EU DG Agriculture, on line.

its current level of 482 yen per kilogram to 125 yen per kilogram immediately and to a further cut to 50 yen per kilogram by year 11.⁵³ Annex 2 analyses in more detail this commitment. The TPP5 will also liberalize their markets. For instance, the US will eliminate its tariffs in 5-10 years. Finally, according to the current available information, a “non-restrictive safeguard mechanism that allows for significant market expansion will be in place during the transition period, terminating in year 12 of the agreement”.⁵⁴ This substantial liberalisation based on tariff cuts in TPP could set the EU negotiating target for pork.

A simple partial equilibrium model allows an estimation of the impact on EU exports for three scenarios for the Japan-EU negotiations: (i) TPP liberalisation with no Japan-EU agreement, (ii) TPP liberalisation with a 50 percent tariff cuts from both sides in the Japan-EU agreement, and (iii) TPP liberalisation with a 100 percent tariff cuts from both sides in the Japan-EU agreement. In order to get a sense of the range of the results, the following calculations are based on two alternative elasticities of substitution between the products traded: a relatively low elasticity (2) and a higher one (5). The higher elasticity corresponds to a situation where the EU and TPP5 products are easily substitutable. The lower elasticity corresponds to a situation where these products are much less substitutable. The interpretation of the liberalisation estimates given below depends thus from the assessment by the EU and Japanese producers of whether the goods they produce and trade are easily substitutable, or not. Of course, the expected impact is stronger with the higher elasticity.

The complexity of Japanese protection for pork products makes calculations more complicated than for the other products examined in this section. There are two polar cases:

- A first case assumes that all the current pork exports to Japan consist of expensive products (see Annex 2), so one is concerned with only the tariff of 4.3 percent (and its elimination in the TPP Agreement). In such a case, the indexes of the EU exports to Japan in the higher substitution case are 93, 101 and 110 in the scenarios (i), (ii) and (iii), respectively, with index 100 being the initial situation (2013 trade flows). Scenario (i) reveals a notable trade diversion impact against EU exporters. Scenario (ii) shows no trade diversion in absolute values. But it should be stressed that, in all these scenarios, TPP5 exports to Japan have substantially increased because of the important opening of the Japanese market. In other words, it remains a “relative” trade diversion against EU exports. It is only in scenario (iii) that EU and TPP5 exports enjoy roughly the same growth.
- The alternative polar case assumes that all the current pork exports to Japan are concerned with the whole tariff regime (meaning are of lower quality). On the basis of the information provided by Table 4, a conservative assumption of a Japanese tariff of 70 percent has been adopted. In such a case, the indexes of the EU exports to Japan in the higher substitution case are 3, 89 and 176 in the scenarios (i), (ii) and (iii), respectively. The trade diversion would thus almost wipe out the EU exports—the huge Japanese protection allowing TPP exporters to operate behind high barriers. However, a much less dramatic evolution would occur in the case of a lower elasticity of substitution, since the indexes of the EU exports would then be 79, 118 and 157. But trade diversion remains significant (included in “relative”

⁵³ USDA, Trans-Pacific Partnership, Benefits to US agriculture. October 9, 2015

⁵⁴ USDA, Trans-Pacific Partnership, Benefits to US agriculture. October 9, 2015

terms as mentioned above). Again it is only in scenario (iii) that EU and TPP5 exports enjoy roughly the same growth.

All these results simply reflect the “hard facts” documented in Tables 3 and 4. A very high protection of the Japanese market and a very substantial initial presence of TPP5 exporters in the Japanese market are destined to generate strong trade diversion against EU exporters.

From the EU perspective, the large asymmetry between the Japanese and EU production capacities in the pork sector has the same positive consequences as in the beef sector: vast opportunities exist in the much less protected, large Japanese market, with little risk of notable adverse impact due to very limited Japanese production. In the pork sector, this is all the more the case because of the most important distortion generated by the gate price mechanism, which has been to induce Japanese pork producers to specialize in low quality products (much more protected than the high quality products, as shown in Annex 2). However, this has not prevented Japanese pork producers from producing some specific products (*Kurobuta* pork), which would benefit from better market access into the EU.

6.4 Dairy and Cheese products

This section deals with a wide range of what are, from economic point of view, very different products. Dairy products in this section cover only products such as butter, non-fat dried milk powder, whole milk powder and whey, but not cheese, which are examined separately because the EU has traditionally strong export interests in cheese.

The current baseline in Japan

There is a big contrast between the EU, the world’s largest producer of milk with an annual production of 151 millions of tons of milk, and Japan which produces only 7.5 millions of tons (there are 18600 dairy farms in Japan).⁵⁵ Japan’s raw milk production is roughly half-way between Poland’s and Spain’s, and on a per capita basis is one fourth of its EU equivalent. Japan is also a relatively expensive producer of milk. Japan’s farm gate price is roughly twice the EU average price. The gap remains important even for the farms located in Hokkaido (estimated to be 15 percent more efficient than in the rest of Japan).⁵⁶

⁵⁵ OECD PSE for production data.

⁵⁶ Japan Dairy Council, Japan Dairy Farming, undated. Available at <http://www.dairy.co.jp/jp/engall.pdf>

Table 18 The basic parameters in dairy and cheese, 2014 imports⁵⁷

| | Origin | value mio USD | share % | unit price USD/kg |
|---------------------------------|----------|------------------|------------|----------------------|
| Dairy (excluding cheese) | | | | |
| Japan | World | 297.2 | 100.0 | 3.15 |
| | EU | 59.4 | 20.0 | 3.70 |
| | TPP-5 | 189.2 | 63.6 | 3.04 |
| EU | World | 287.1 | 100.0 | 1.79 |
| | Japan | 0.0 | 0.0 | 3.37 |
| | TPP-5 | 185.8 | 64.7 | 3.90 |
| | Intra-EU | 21010.1 | -- | 1.03 |
| Cheese | | | | |
| Japan | World | 1119.6 | 100.0 | 4.74 |
| | EU | 304.2 | 27.2 | 7.03 |
| | TPP-5 | 794.1 | 70.9 | 4.20 |
| EU | World | 580.0 | 100.0 | 7.55 |
| | Japan | 0.0 | 0.0 | 8.11 |
| | TPP-5 | 77.3 | 13.3 | 4.11 |
| | Intra-EU | 19347.5 | -- | 1.92 |

Table 18 shows that Japan imports large quantities from the rest of the world, especially of cheese products (almost four times more than from the EU). For both dairy and cheese, the EU share of Japanese imports is significant at 20 percent in dairy and 27 percent in cheese. The competitive pressures from the TPP-5 countries are high with the TPP-5 shares are three times larger than the EU's, with 64 (dairy) and 71 percent (cheese). The main EU competitors are Australia, New-Zealand and the US (with farm gate prices amounting to 0.40-0.43 USD per kilogram).

For both dairy and cheese products, the unit prices of the Japanese imports from the EU are (much) higher than the unit prices of the Japanese imports originating from TPP-5. This differential may reflect lower production costs in some TPP-5 countries, lower transport costs, and possibly different (quality) mixes of dairy and cheese products exported by the EU compared to the mixes exported by the TPP-5 competitors. It remains that competition from the TPP5 countries is high.

Table 19 provides a brief summary of the instruments of protection used by Japan. It shows that the Japanese protection is more complicated in dairy than in cheese products. In the dairy sector, the main features of Japanese protection are:

- 124 distinct tariff lines.
- Ad valorem tariffs ranging from 0 to 35 percent, with an average of 25.8 percent (most of these tariffs are high).
- Specific tariffs (on the top of ad valorem tariffs) ranging from 54 to 1199 yens per kilogram, with an average 632 yen/kilogram. These specific tariffs are equivalent to 14-317 percent of Japan's import unit price for all its imports.
- A quota clause ("pooled quota") to be imposed "in consideration of the quantity of prospective domestic demand in the current fiscal year (April-March), international market situation and other relevant conditions".

⁵⁷ UN Comtrade, 2014

- The preferences granted to Australian dairy products are limited both in terms of coverage and tariff rates.

By contrast, the Japanese protection of the cheese products is simpler:

- Only 8 distinct tariff lines.
- Ad valorem tariffs relatively similar, ranging from 22.4 to 40 percent, with an average of 32.3 percent.
- No specific tariff.
- The preferences granted to Australia are wider (6 tariff lines), but very limited in magnitude (except in one case) and apparently related the pooled quota.

Table 19 Protection in the dairy and cheese sectors, 2014⁵⁸

| | Ad valorem tariffs (%) | | | Specific tariffs (/kg, 100kg) | | |
|---------------|------------------------|------|---------|-------------------------------|-------|---------|
| | nbr | avg | range | nbr | avg | range |
| Dairy | | | | | | |
| Japan | 124 | 25.8 | 0-35 | 46 | 632.2 | 54-1199 |
| EU | 16 | 8.5 | 8.3-9.0 | 87 | 82.1 | 0-231 |
| Cheese | | | | | | |
| Japan | 8 | 32.3 | 22.4-40 | 0 | -- | -- |
| EU | 0 | -- | -- | 60 | 162.8 | 139-221 |

The current baseline in the EU

Table 18 shows that the EU is a relatively modest importer of dairy products but it imports as much as Japan. The Japanese share in total EU imports is nil, while the TPP5's share in total EU imports is the same as its share in Japanese imports. In sharp contrast, the unit value of dairy imports from the TPP5 countries is twice as high as the unit value of EU imports from the rest of the world. The situation is quite different in the cheese products. The TPP5 share is modest, despite a much lower unit value than that for all the EU imports.

Table 19 shows some similarity between the EU tariff structure and that of Japan. The EU structure for dairy is as follows:

- 87 distinct tariff lines.
- Ad valorem tariffs ranging from 8.3 to 9 percent, with an average of 8.5 percent.
- Specific tariffs (on the top of ad valorem tariffs in a dozen tariff lines) ranging from 0 to 231.3 euros per 100 kilograms, with an average 82.1 euro/100 kilogram. These specific tariffs are equivalent to 0-147 percent of the import unit price for all extra-EU imports.
- Additional measures consisting in export refunds and licenses applied basically on all product lines.
- Preferences are granted to EFTA countries and other countries with a FTA with the EU.

And as for Japan, the EU tariff protection for cheese products is simpler:

⁵⁸ Tariff schedules accessed at: <http://madb.europa.eu/madb/euTariffs.htm>, and www.customs.go.jp/english/tariff/2015_4/data/e_02.htm

- 60 distinct tariff lines.
- No ad valorem tariffs.
- Only specific tariffs ranging from 139.1 to 221.2 euros per 100 kilograms, with an average of 162.8 euro/100 kilogram. These specific tariffs are equivalent to 21-33 percent of the import unit price for all extra-EU imports.

Liberalisation scenarios and impact

According to the October 2015 TPP Agreement, Japan has agreed to eliminate its tariffs on cheese. In addition, Japan has undertaken various commitments for dairy products, namely immediate elimination of current tariffs on some lactose products and milk albumin, the creation of two TPP wide TRQs (3188 tons each to be increased to 3719 tons over five years) for butter and milk powder and new (yet unspecified) and the TPP-wide TRQs for condensed and evaporated milk.⁵⁹ The US commitments deal with TPP partners other than Japan (mainly Australia and New Zealand, but also Canada, Malaysia and Vietnam).

This partial liberalisation in dairy and total liberalisation in cheese could set the EU negotiating targets for the EU-Japan FTA. The simple partial equilibrium model allows an estimation of the impact on EU exports for the three scenarios envisaged for the Japan-EU negotiations: (i) TPP liberalisation with no Japan-EU agreement, (ii) TPP liberalisation with a 50 percent tariff cuts from both sides in the Japan-EU agreement, and (iii) TPP liberalisation with a 100 percent tariff cuts in the Japan-EU agreement.

In dairy, one can expect an important trade diversion since Japanese protection is high. Indeed, the indexes of the EU exports to Japan in the higher substitution case are 5, 91 and 177 in the scenarios (i), (ii) and (iii), respectively, with index 100 being the initial situation (2013 trade flows). Scenario (i) reveals the same dramatic trade diversion against EU exporters because Japanese dairy protection is very high. The same observations on scenario (ii) apply, and it is only in scenario (iii) that EU and TPP5 exports enjoy roughly the same export growth. The lower substitution elasticity gives less dramatic results, but still a significant trade diversion, with indexes of 79, 118 and 155 in the scenarios (i), (ii) and (iii), respectively.

In cheese, the situation is less dramatic, but still serious since the Japanese protection remains substantial and the TPP5 presence important. The indexes of the EU exports to Japan in the higher substitution case are 41, 92 and 144 in the scenarios (i), (ii) and (iii), respectively. Scenarios (ii) and (iii) produce the same outcome as above. The lower substitution elasticity gives a less dramatic, but still significant, trade diversion, with indexes of 87, 110 and 133 in the scenarios (i), (ii) and (iii), respectively.

Finally, it is important to stress that the close links between the production of dairy and cheese sectors can have unexpected consequences that would appear at first glance. In short, a liberalisation of the same magnitude in the dairy and cheese sectors may end up by increasing the dairy exports to Japan, but by decreasing the cheese exports.⁶⁰ The reason is that lifting barriers in dairy makes cheaper the price of milk ingredient in Japan, hence boosts the production of Japanese cheese using these ingredients. However, the Japanese liberalisation in the dairy sector may not be deep enough to generate such a result. Nevertheless, such interactions should be taken into account when designing the liberalisation scenario.

⁵⁹ USDA, Trans-Pacific Partnership, Benefits to US agriculture. October 9, 2015. The TRQ for butter amounts to 4.3 percent of the total Japanese demand.

⁶⁰ U.S. Department of Agriculture, Economic Research Service (USDA/ERS) and Pennsylvania State University. Trade Modelling Project. http://trade.aers.psu.edu/about_project.cm

6.5 Beverages: Wine

Wine illustrates a case where the two negotiating parties are at opposite extremes of the spectrum in terms of production size.⁶¹ The EU is the largest world producer, with a total of 144 millions hectolitres in 2012 (Italy, France and Spain being the three largest world producers). With a production estimated to 0.8 million hectolitres, Japan ranks 29th out of a total of 58 reported countries.

The current baseline in Japan

Despite its small domestic production, Japan's wine market is huge: it is estimated to be 7.5 billion euros (8.4 billion US dollars).⁶² Table 20 shows that Japanese wine imports from the EU represent a larger share (67 percent in value terms) than the share of EU production in the world wine production (56 percent in volume terms). Japanese wine imports from the TPP-5 countries (19 percent) echo roughly the TPP-5 share in the world wine production (20 percent in volume terms). In short, the Japanese wine market is huge, the EU is the dominant source of imports, and competition from the TTP5 countries is significant.

Table 20 The basic parameters in the wine sector, 2014 imports⁶³

| | Origin | value mio USD | share % | unit price USD/l |
|-------|----------|------------------|------------|---------------------|
| Japan | World | 1834.3 | 100.0 | 3.47 |
| | EU | 1227.5 | 66.9 | 7.03 |
| | TPP-5 | 349.2 | 19.0 | 3.39 |
| EU | World | 3308.4 | 100.0 | 2.26 |
| | Japan | 8.9 | 0.3 | 6.70 |
| | TPP-5 | 2269.0 | 68.6 | 2.47 |
| | Intra-EU | 13809.7 | -- | 2.50 |

Table 21 shows that Japanese protection consists mostly of specific tariffs, sometimes coupled with ad valorem tariffs. When the tariff schedule specifies an ad valorem and a specific tariff for the same wine product, it is the lower tariff (ad valorem tariff or specific) that is used (and subject to a minimum tariff expressed in yen per unit). Such a procedure tends to increase uncertainty about the tariff that will be ultimately imposed. It may open the possibility of "tariff shopping" since by acting on the import prices, exporters or importers may change the tariff imposed (leaving open the question of who gets these rents). Japan's MFN specific tariffs are equivalent to 2-30 percent of the import unit price for all imports. Finally, Japan has granted preferential tariffs, which are a little bit less than half the MFN ad valorem or specific tariffs.

⁶¹ International Wine Institute, available at <http://www.wineinstitute.org/> website.

⁶² Agriculture and Agri-Food Canada, International Markets Bureau, Consumer Trends: Wine, Beer and Spirits in Japan, May 2012.

⁶³ UN Comtrade, 2015

Table 21 Protection in the wine sector, 2015⁶⁴

| | Ad valorem tariffs (%) | | | Specific tariffs (/l) | | |
|-------|------------------------|------|---------|-----------------------|------|-----------|
| | nbr | avg | range | nbr | avg | range |
| Japan | 8 | 22.0 | 15-29.8 | 8 | 44.2 | 9.2-125.0 |
| EU | -- | -- | -- | 125 | 16.0 | 5.8-32.0 |

The current baseline in the EU

Table 20 shows that the EU imports a non-negligible amount of wine from the world. Two thirds of these imports come from the TPP5 countries, at a unit value that is roughly comparable with the unit value of the rest of the extra-EU imports.

Intra-EU imports are much larger (four times) than extra-EU imports. This ratio reflects to some extent the size of the EU market (production and consumption) in the world, but also the existence of important product differentiation in the sector.

Table 21 shows that the EU tariff protection relies largely on a very detailed set of many specific tariffs, generally defined on the basis of the geographical origin of the wines. The tariff regime is made more complicated by the use of several units of measure as a basis for the tariff rate. These specific tariffs are equivalent to 3-16 percent of the import unit price for all the extra-EU imports.

Liberalisation scenarios and impact

According to the October 2015 TPP Agreement, the core of the Japanese commitments consist of an elimination of all its tariffs on wine and related products in 11 years or less.⁶⁵ This liberalisation is subject to different timing: immediate elimination for bulk wine and 8 years for bottled wine (with some front-loaded reductions). The US will eliminate all its tariffs on wine in 10 years or less.

This outcome of total liberalisation based on tariff cuts from both sides could set the EU negotiating target. The simple partial equilibrium model allows an estimate the impact on EU exports for the three scenarios for the Japan-EU negotiations: (i) TPP liberalisation with no Japan-EU agreement, (ii) TPP liberalisation with a 50 percent tariff cut from both the sides in the EU-Japan FTA, and (iii) TPP liberalisation with a 100 percent tariff cut in the Japan-EU agreement. As Japanese protection in the wine case is less important than in the previous products, one should expect less trade diversion. Indeed, the indexes of the EU exports to Japan in the higher substitution case are 87, 94 and 123 in the scenarios (i), (ii) and (iii), respectively. The same observations hold for scenario (ii), and it is only in scenario (iii) that EU and TPP5 exports enjoy roughly the same growth. As usually, the lower substitution elasticity gives less dramatic results, but still a notable trade diversion, with indexes of 96, 100 and 118 in the scenarios (i), (ii) and (iii), respectively.

A last element of liberalisation consists of the question of wine additives. Additives are of products added on purpose by wine producers to improve the production process and product conservation. Wine additives in the Japan-EU context raise two main questions. One is the regulatory process by which Japan makes a decision on authorising (or not) an additive. This process is often slow and cumbersome. As the wine industry is expanding all over the world, it has become very creative in terms of additives. This creativity requires a smooth regulatory process—including for the best future of the

⁶⁴ Tariff schedules accessed at: <http://madb.europa.eu/madb/euTariffs.htm>, and www.customs.go.jp/english/tariff/2015_4/data/e_02.htm

⁶⁵ USDA, Trans-Pacific Partnership, Benefits to US agriculture. October 9, 2015

Japanese wines. The second question is the list of wine additives. Since Japan is not a large wine producer, its list of additives is not well adapted to this sector: on the one hand, it is too large for instance, it covers flavourings while, on the other hand, it does not include additives that are widely used by most wine-producing countries in the world. As a result, the EU is requesting Japan to update its list. Indeed, it is probably a request that has also been made by the large TPP5 wine producers countries (Australia, Chile, New Zealand and the US).

6.6 Beverages: Spirits

The current baseline in Japan

Japan's spirits market is huge: it is estimated to be 7.5 billion euros (8.4 billion US dollars).⁶⁶ The Japanese production of spirits was estimated to be 20 million hectolitres in 2012 if one includes the production of sake and shochu. Excluding these products (which are not well-known in the EU) it amounts to only 2,7 million hectolitres.⁶⁷ Table 22 shows that Japan imports amount to 672 million USD, that is 53 USD per capita (14 times the EU average import per capita). The bulk of Japanese imports come from the EU, despite the high unit value of these imports (three times higher than the unit value for the whole world), which is a possible indication of the multiple varieties and high-end products. Japanese imports from TPP5 countries are less than half (40 percent) those from the EU, despite a unit value that is only two-thirds of the import value of imports coming from the EU. In short, the Japanese spirits market as a whole is large, the EU is the major source of imports at a high average relative price, and potential competition from the TPP5 countries is strong.

Table 22 The basic parameters in the spirits sector, 2014 imports⁶⁸

| | Origin | value mio USD | share % | unit price USD/l |
|-------|----------|------------------|------------|---------------------|
| Japan | World | 671.9 | 100.0 | 4.33 |
| | EU | 339.7 | 50.6 | 11.15 |
| | TPP-5 | 139.0 | 20.7 | 7.04 |
| EU | World | 1838.1 | 100.0 | 9.37 |
| | Japan | 18.1 | 1.0 | 45.80 |
| | TPP-5 | 1049.6 | 57.1 | 15.08 |
| | Intra-EU | 8482.2 | -- | 3.51 |

⁶⁶ Agriculture and Agri-Food Canada, International Markets Bureau, Consumer Trends: Wine, Beer and Spirits in Japan, May 2012.

⁶⁷ Ministry of Agriculture, Fisheries and Forestry, website.

⁶⁸ UN Comtrade, 2015

Japanese tariff protection in the spirits sector is a mix of few ad valorem and specific tariffs (mostly on “white” spirits, such as gin or vodka). Ad valorem tariffs are on average high, with peaks up to 29.8 percent. These specific tariffs are equivalent to 4-24 percent of the import unit price for all Japan’s imports. However, Japanese protection in the spirits sector has two features. First and foremost, all these tariffs are subjected to exemptions, some that are annually renewed every fiscal year. Table 23 provides the information on Japanese protection before these exemptions. Second, Japan has fourteen preferential agreements that grant preferential tariffs in spirits.

Table 23 Protection in the spirits sector, 2015⁶⁹

| | Ad valorem tariffs (%) | | | Specific tariffs (/l) | | |
|-------|------------------------|-----|--------|-----------------------|------|---------|
| | nbr | avg | range | nbr | avg | range |
| Japan | 10 | 8.1 | 0-29.8 | 5 | 76.9 | 23-126 |
| EU | 80 | 0 | -- | 3 | 4.3 | 3.2-6.4 |

The current baseline in the EU

The EU production of spirits is estimated to 38.5 million hectolitres in the most recent years.⁷⁰ EU imports from Japan are very small, but exhibit a huge unit value suggesting that they consist of very special products. EU imports from the TPP5 are the bulk of EU total imports of spirits, despite a relatively high import unit value (1.5 times the unit value for the extra-EU imports from the world).

The intra-EU trade is much larger (4.6 times) than extra-EU trade, with a unit value roughly a third of the unit value of the extra-EU imports. The main reason for these huge differences is probably due to product differentiation because the EU protection is limited to a few spirits and countries.

The EU protection relies on specific tariffs equivalent to 0.1 percent of the import unit price for all the extra-EU imports (most products are exempted).

⁶⁹ Tariff schedules. <http://madb.europa.eu/madb/euTariffs.htm>, and www.customs.go.jp/english/tariff/2015_4/data/e_02.htm. Information on Japanese protection is before the annual exemption of all tariffs.

⁷⁰ Ernst and Young and Eurospirits Organisation. 2010. The contribution of the spirits industry to the EU economy. Available at <http://spirits.eu/files/56/december-2010-thecontribution-of-spirits-industry-to-the-eu-economy-summary.pdf>

Liberalisation scenarios and impact

According to the October 2015 TPP Agreement, Japan has agreed to eliminate all its tariffs on spirits in 11 years or less.⁷¹ The US will do the same in 10 years or less.

This outcome could be seen as the minimum EU negotiating objective for total liberalisation in the spirits sector. The simple partial equilibrium model allows an estimation of the impact on EU exports of the three scenarios for the Japan-EU negotiations if the Japanese annual exemptions are not granted anymore to the EU (of course, little if any trade diversion should be expected if exemptions continue to be granted on an annual basis): (i) TPP liberalisation with no Japan-EU agreement, (ii) TPP liberalisation with a 50 percent tariff cut by both sides in the Japan-EU agreement, and (iii) TPP liberalisation with a 100 percent tariff cut by both parties to the Japan-EU agreement. As the Japanese protection in spirits is similar to that in the wine case, one should expect similar trade diversion. Indeed, the indexes of the EU exports to Japan in the higher substitution case are 87, 101 and 116 in the scenarios (i), (ii) and (iii). The lower substitution elasticity gives less dramatic results, but still a notable trade diversion, with 97, 104 and 112 in the three scenarios, respectively.

6.7 Beverages: Waters

Waters is an agro-food sector dominated by large multinationals which actively pursue an elaborate strategies of product diversification and “branding” that tend to shape markets.

The current baseline in Japan

In 2013, Japan’s production of waters amounts to 28.6 million litres, with imported waters having a share of 12 percent.⁷² Table 24 shows that imports of waters by Japan are substantial—half a billion USD in 2014, or 3.9 USD per capita, that is 1.8 times the equivalent figure for the EU. Almost 40 percent of these imports originate in the EU, only slightly less than the imports originating from the TPP5 countries. Interestingly, this is occurring despite the fact that Japan’s imports from the EU exhibit a significantly higher unit import value (1.4 times) than those from the TPP5 countries. In short, the Japanese waters market is as a whole large, the EU is one of the major sources of imports at a relatively high average price, and competition from the TPP5 is stiff.

⁷¹ USDA, Trans-Pacific Partnership, Benefits to US agriculture. October 9, 2015

⁷² Suntory Water Report, 2014 <http://www.suntory.com/softdrink/news/pr/d/SBF0174.html>

Table 24 The basic parameters in the waters sector, 2014 imports⁷³

| | Origin | value mio USD | share % | unit price USD/l |
|-------|----------|------------------|------------|---------------------|
| Japan | World | 466.1 | 100.0 | 0.81 |
| | EU | 180.7 | 38.8 | 0.85 |
| | TPP-5 | 171.4 | 36.8 | 0.60 |
| EU | World | 1118.2 | 100.0 | 0.92 |
| | Japan | 3.5 | 0.3 | 4.09 |
| | TPP-5 | 85.4 | 7.6 | 2.47 |
| | Intra-EU | 7922.1 | -- | 0.24 |

The relatively similar shares of the EU and TPP5 products imported by Japan could be the sign of a strong potential rivalry. However, rivalry is a complex issue to assess in an industry where most goods are highly differentiated and produced by multinationals based in many countries. Table 25 provides a better sense of the potential EU-TPP5 rivalry in terms of products. It shows that the EU tends to export water products (HS 220110) mostly to Japan. Conversely, the TPP5 countries export a product (HS 220190) again mostly to Japan that the EU does not export at all. Rivalry between the two origins seems thus limited to waters with sugar content (HS 220210 and HS 220290), a situation that may reflect a higher number of producers in the world.

Table 25 Competition vs. complementarity in waters trade, 2014⁷⁴

| Product HS6 code | Imports by Japan | | Extra-EU exports to World |
|------------------------|----------------------------------|--|---------------------------------|
| | Imports from EU by product | Share in Japan's imports EU TPP5 | |
| 220110 | 76.0 | 71.6 26.9 | 2.1 |
| 220190 | 0.0 | 0.1 98.2 | 2.6 |
| 220210 | 8.9 | 36.2 46.1 | 53.1 |
| 220290 | 15.1 | 14.3 32.0 | 42.1 |
| All waters | 100.0 | 38.8 36.8 | 100.0 |

As shown by Table 26, Japan's tariff protection in the waters sector covers a few tariff lines, only moderate ad valorem tariffs with modest peaks. Preferential tariffs in case of free trade agreements have been granted generously to almost all countries with FTAs with Japan, but the preference margin is limited (roughly 3 percent on average). The main problem raised by Japanese protection is thus the existence of some (modestly) high ad valorem tariffs.

⁷³ UN Comtrade, 2015

⁷⁴ UN Comtrade, 2015

Table 26 Protection in the waters sector, 2015⁷⁵

| | Ad valorem tariffs | | | Specific tariffs (/100kg) | | |
|-------|--------------------|-----|--------|---------------------------|------|-----------|
| | nbr | avg | range | nbr | avg | range |
| Japan | 6 | 8.2 | 0-13.4 | 0 | -- | -- |
| EU | 13 | 5.4 | 0-9.6 | 4 | 17.5 | 13.7-21.2 |

The current baseline in the EU

In 2013, EU production of bottled waters is estimated to almost 514 million hectolitres.⁷⁶ As shown by Table 24, the EU imports more than 1 billion USD of waters a year from the world. The EU import structure differs vastly from Japan's structure. EU imports from Japan are very small, and EU imports from the TPP5 also small. The structure of the unit import prices is consistent with the observed import flows: Japanese waters imported by the EU are very expensive, TPP5 waters imported by the EU are much less expensive, and EU imports of waters from the rest of the world are even less expensive.

Intra-EU imports are much larger than extra-EU imports (seven times), and they exhibit a much lower unit import price (roughly one fourth) than the extra-EU unit import value. These huge differences suggest the co-existence of two unconnected markets (intra- vs. extra-EU) that can be the outcome of the differentiation policy of the producers, EU protection or both.

The EU tariff protection relies on more numerous and diverse instruments than Japan's: more tariff lines, a lower average ad valorem tariffs coupled with lower high tariffs, but a notable number of specific tariffs. These specific tariffs are equivalent to 17-26 percent of the import unit price for all the extra-EU imports.

Liberalisation scenarios and impact

According to the October 2015 TPP Agreement, Japan has agreed to eliminate immediately all its tariffs on flavoured waters without sugar and on mineral and aerated waters. Tariffs on waters with added sugar will be eliminated in 4 years.⁷⁷ The available information suggests that the US will do the same.

This outcome could be seen as the minimum EU negotiating target in liberalisation of the waters sector. The simple partial equilibrium model can again show the impact on EU exports of three scenarios for the Japan-EU negotiations: (i) TPP liberalisation with no Japan-EU agreement, (ii) TPP liberalisation with a 50 percent tariff cuts from both sides in the Japan-EU agreement, and (iii) TPP liberalisation with a 100 percent tariff cuts in the Japan-EU agreement. As the Japanese protection in the waters case is moderate, one should expect limited trade diversion. Indeed, the indexes of the EU exports to Japan in the higher substitution case are 86, 100 and 114 in the scenarios (i), (ii) and (iii). The lower substitution elasticity gives moderate trade diversion, with 96, 103 and 110 in the three scenarios, respectively.

⁷⁵ Tariff schedules accessed at: <http://madb.europa.eu/madb/euTariffs.htm>, and www.customs.go.jp/english/tariff/2015_4/data/e_02.htm

⁷⁶ European Federation of Bottled Waters. <http://www.efbw.eu/>

⁷⁷ USDA, Trans-Pacific Partnership, Benefits to US agriculture. October 9, 2015

6.8 Confectionery and bakery

This sector is vast and heterogeneous (it is estimated to amount to almost 18 billion euros), hence a separate examination of the baseline for its two very different sub-sectors: chocolate confectionery (hereafter confectionery) and bakery, biscuits, baked food (hereafter bakery). But the analysis of the liberalisation scenarios can be done for the two sub-sectors at the same time because the existing protection regimes in these two sectors are very similar in terms of the level of tariffs and basic features.

The current baseline in Japan: Bakery

In 2010, Japan's confectionery production amounted to 0.45 millions of tons, with an import share (in volume) of 13 percent.⁷⁸ Table 27 shows that Japan imports more than 1 billion of USD, that is, roughly 9 USD per capita, a significantly smaller figure than the one for the EU, which is close to 13 USD per capita. Almost one third of Japanese imports come from the EU, three times more than those originating from the TPP-5 countries. The unit import value of the imports from the EU is also 12 percent higher than that of the imports from the TPP5 (and it is substantially higher than the unit value for imports from the rest of the world). In short, the Japanese confectionery market as a whole is large, the EU is one of the major source of imports at a relatively high average price, and competition from the TPP5 countries is far from negligible.

Table 27 The basic parameters in the confectionery sector, 2014 imports⁷⁹

| | Origin | value mio USD | share % | unit price USD/kg |
|-------|----------|------------------|------------|----------------------|
| Japan | World | 1160 | 100.0 | 4.29 |
| | EU | 343 | 29.6 | 8.15 |
| | TPP-5 | 124 | 10.6 | 7.29 |
| EU | World | 6527 | 100.0 | 3.09 |
| | Japan | 4 | 0.1 | 12.30 |
| | TPP5 | 109 | 1.7 | 4.47 |
| | Intra-EU | 21433 | -- | 4.64 |

As shown by Table 28, the protection of the Japanese confectionery sector is characterized by many tariff lines, a high average rate ad valorem tariff coupled with a wide range of the tariff rates due to high peak tariffs, two specific tariffs (with ad valorem equivalents of 155 percent) and three quotas. There is a non-negligible preferential component on a few products (the main beneficiaries being Australia and Switzerland) with tariffs reduced by two-thirds.

⁷⁸ Caobisco, 2013 Statistical bulletin, available at <https://www.mah.se/PageFiles/55093/caobisco-statistical%20bulletin%202013.pdf>.14. Chocolate and Cocoa Association of Japan. http://www.chocolate-cocoa.com/english/pdf/index_001.pdf

⁷⁹ UN Comtrade

Table 28 Protection in the confectionary sector, 2015⁸⁰

| | Ad valorem tariffs | | | Specific tariffs (/kg) | | |
|-------|--------------------|------|--------|------------------------|------|-----------|
| | nbr | avg | range | nbr | avg | range |
| Japan | 33 | 19.8 | 0-35 | 2 | 799 | 799 |
| EU | 24 | 8.5 | 8-15.4 | 22 | 21.2 | 18.7-41.9 |

The current baseline in the EU

In 2010, EU's production of confectionary amounted to roughly 5 millions of tons.⁸¹ As shown by Table 27, the EU imports 6.5 billion USD of confectionary from the world. Its confectionary imports from Japan and from the TPP5 countries are small. This reflects the fact that many products concerned are semi-finished goods (often derived from cocoa) which can be imported from a wide range of countries.

Intra-EU imports exhibit a larger value than extra-EU imports (more than three times), but the intra-EU import unit price is close to the one of the imports from the TPP5 countries. These differences are not large enough to support the idea of a fragmentation between the intra- and extra-EU markets.

The EU tariffs protection for confectionary products consists also of a notable number of tariff lines, ad valorem tariffs ranging from moderate to high tariffs, and many specific tariffs. These specific tariffs amount to 7-16 percent of the unit price for all the extra-EU imports of confectionary.

The current baseline in Japan on bakery

In 2010, Japan's production of bakery amounts to 0,24 millions of tons.⁸² Table 29 shows that Japan imports slightly more than 2 billion of USD, that is, roughly 16.5 USD per capita or 2.6 times the EU level. Japan imports significantly more (1.3 times) from the TPP5 countries than from the EU. The unit value of the imports from the EU is 60 percent lower than the unit value of the Japanese imports from the TPP5. In short, the Japanese bakery market as a whole is large, the EU is an important source of imports, and competition from the TPP5 countries is again significant.

Table 29 The basic parameters in the bakery sector, 2014 imports⁸³

| | Origin | value mio USD | share % | unit price USD/kg |
|-------|----------|------------------|------------|----------------------|
| Japan | World | 2094.7 | 100.0 | 3.02 |
| | EU | 356.4 | 17.0 | 3.08 |
| | TPP-5 | 458.1 | 21.9 | 5.19 |
| EU | World | 3194.2 | 100.0 | 3.98 |
| | Japan | 29.4 | 0.9 | 9.99 |
| | TPP5 | 734.1 | 23.0 | 9.50 |
| | Intra-EU | 30587.1 | -- | 3.14 |

⁸⁰ Tariff schedules. <http://madb.europa.eu/madb/euTariffs.htm>, and www.customs.go.jp/english/tariff/2015_4/data/e_02.htm

⁸¹ Caobisco, 2013 Statistical bulletin.

⁸² Caobisco, 2013 Statistical bulletin.

⁸³ UN Comtrade, 2015

Japan's protection in the bakery sector consists of many tariffs (ad valorem and specific) with high average tariffs and very high tariff peaks. The specific tariffs amount to 7-376 percent of the unit import price for all the Japanese imports of bakery.

Table 30 Protection in the bakery sector, 2015⁸⁴

| | Ad valorem tariffs | | | Specific tariffs (/kg, 100kg) | | |
|--------------|--------------------|-------------|----------------|-------------------------------|--------------|----------------|
| | nbr | avg | range | nbr | avg | range |
| Japan | 115 | 21.4 | 6-115.9 | 84 | 364.5 | 26-1363 |
| EU | 57 | 8.6 | 0-17.3 | 38 | 22.0 | 0-60.5 |

The current baseline in the EU

The EU production of bakery in 2010 is estimated to 5.9 million tons.⁸⁵ The EU imports more than 3 billion USD of bakery products. Japan is an insignificant source of imports for the EU while the share of EU imports from TPP5 countries is roughly the same than the TPP5 share in Japan's case. It is worth noting that the unit import value of bakery from the TTP5 countries (and Japan) is much higher (roughly twice) than the unit value of the import from the whole world.

Intra-EU imports are much larger than extra-EU imports (ten times), but there is a notable difference between intra-EU and extra-EU unit values. The difference in market size seems to mostly reflect proximity (in distance or tastes) but, as documented below, protection may be significant enough in some products to play a role in the price fragmentation.

The EU protection in the bakery sector presents the same features as those in confectionary: a notable number of tariff lines, a moderate average ad valorem tariff coupled with a wide range of ad valorem tariffs due to peak tariffs, and a large number of specific tariffs. These specific tariffs amount to 0-17 percent of the extra-EU unit import price for all EU imports of bakery.

⁸⁴ Tariff schedules. <http://madb.europa.eu/madb/euTariffs.htm>, and www.customs.go.jp/english/tariff/2015_4/data/e_02.htm

⁸⁵ LEO-project. 2015. Bakery and Bake Off Market Study, available at <http://www.leo-fp7.eu/index.php/en/>

Liberalisation scenarios and impact

According to the October 2015 TPP Agreement, Japan has agreed to eliminate its tariffs in 8 years or less for a wide range on a wide range of confectionary and bakery products (what follows assumes that the liberalisation covers the whole sector because of a lack of detailed enough trade data).⁸⁶

This outcome can be seen as the minimum EU negotiating target aimed at total liberalisation in these two sectors. The simple partial equilibrium model can again be applied to estimate the impact on EU exports of three scenarios for the Japan-EU negotiations: (i) TPP liberalisation with no Japan-EU agreement, (ii) TPP liberalisation with a 50 percent tariff cuts from both sides in the Japan-EU agreement, and (iii) TPP liberalisation with a 100 percent tariff cuts in the Japan-EU agreement. As the Japanese protection in confectionery is substantial, trade diversion is notable, with the indexes of the EU exports to Japan in the higher substitution case being 75, 119 and 163 in the scenarios (i), (ii) and (iii), respectively. As usually, the lower substitution elasticity reduces the initial shock, with indexes of 94, 114 and 134 in the three scenarios, respectively. As the Japanese bakery sector is much more protected, the trade impact is more significant: the EU export indexes are 55, 136 and 216 in the case of the higher substitution elasticity, and 90, 124 and 159 in the case of the lower substitution elasticity.

Finally, differences in tastes and a strong focus on creating new varieties play an essential role—suggesting that total liberalisation is likely to lead to “intra-trade” specialization.

6.9 Starch, sorbitol and inulin

This section covers three products (starch, sorbitol and inulin) derived mostly from key crops (corn, potato, etc.) that are sugar substitutes largely used in processed food, paper or clothing. Sorbitol and starch are relatively similar in terms of use, and have relatively close unit prices in trade flows. Inulin is more specific and it is significantly more expensive. In what follows, the term of starch is used as a generic term for the three products.

The current baseline in Japan

As shown by Table 31, Japan’s imports are very small. The EU has a significant share of these imports, and the TPP5 countries’ share is negligible despite the fact that the US is the largest world producer of starch (facing increased competition from China). Japanese imports come mostly from South East Asia (Indonesia, Thailand and Mexico). The unit import prices structure is consistent with the observed import flows: Japanese starch imported by the TPP5 countries is very expensive, the starch imported from the EU less expensive, and the starch imported from the rest of the world even less.

⁸⁶ USDA, Trans-Pacific Partnership, Benefits to US agriculture. October 9, 2015

Table 31 The basic parameters in the starch sector, 2014 imports⁸⁷

| | Origin | value mio USD | share % | unit price USD/kg |
|-------|----------|------------------|------------|----------------------|
| Japan | World | 60.7 | 100.0 | 0.91 |
| | EU | 17.1 | 28.2 | 1.56 |
| | TPP-5 | 0.8 | 1.3 | 1.94 |
| EU | World | 44.3 | 100.0 | 1.02 |
| | Japan | 0.7 | 1.6 | 12.62 |
| | TPP-5 | 17.6 | 39.7 | 3.82 |
| | Intra-EU | 1239.4 | -- | 1.12 |

Japan's protection of the starch market consists of ad valorem tariffs, all of them high, specific tariffs quotas, price-based special safeguard clauses, supply and demand control, and direct payments. The specific tariffs are equivalent to 33-113 percent of the world-based import unit price. Japan grants a few preferential tariff-quotas (Mexico, Indonesia).

Table 32 Protection in the starch sector, 2015⁸⁸

| | Ad valorem tariffs | | | Specific tariffs (/kg, 100kg) | | |
|-------|--------------------|------|----------|-------------------------------|-------|-----------|
| | nbr | avg | range | nbr | avg | range |
| Japan | 3 | 22.3 | 17-25 | 7 | 106.9 | 34-119 |
| EU | 5 | 10.8 | 7.7-19.2 | 10 | 24.1 | 16.1-53.7 |

The current baseline in the EU

EU imports are also limited. A large share of these imports comes from the TPP5 countries. Imports from Japan are almost insignificant, and are characterized by a very high import unit value.

In sharp contrast with the small extra-EU imports, there is a very large intra-EU trade since it amounts to roughly 12 percent of the EU starch turnover (and 30 times the extra-EU trade). Moreover, the intra-EU unit price is higher than the extra-EU unit price. These huge differences suggest the existence of two unconnected markets (intra- vs. extra-EU) that can be the outcome of the differentiation policy of the producers, or EU protection or both.

As shown by Table 32, the EU protection consists of ad valorem rates (moderate on average, but with peaks) and specific tariffs for almost all the tariff lines. These specific tariffs amount to 16-54 percent of the import unit price of the extra-EU trade.

Liberalisation scenarios and impact

In the October 2015 TPP Agreement, Japan has agreed to eliminate tariffs in 8 years or less.⁸⁹ The US tariffs on corn and corn products will be eliminated in 5 years or less.

⁸⁷ UN Comtrade, 2015

⁸⁸ Tariff schedules. <http://madb.europa.eu/madb/euTariffs.htm>, and www.customs.go.jp/english/tariff/2015_4/data/e_02.htm

⁸⁹ USDA, Trans-Pacific Partnership, Benefits to US agriculture. October 9, 2015

This outcome could set the EU negotiating target to be aimed at total liberalisation in these two sectors. The simple partial equilibrium model allows estimating the impact on EU exports of three scenarios for the Japan-EU negotiations: (i) TPP liberalisation with no Japan-EU agreement, (ii) TPP liberalisation with a 50 percent tariff cuts from both sides in the Japan-EU agreement, and (iii) TPP liberalisation with a 100 percent tariff cuts in the Japan-EU agreement. As the Japanese protection in starch is high, the trade diversion effect is significant, with the indexes of the EU exports to Japan in the higher substitution case being 79, 123 and 167 in the scenarios (i), (ii) and (iii), respectively. As usually, the lower substitution elasticity limits the TPP shock, with 94, 114 and 134 in the three scenarios, respectively.

6.10 Conclusions, recommendations and flanking measures

Conclusions – Results of partial equilibrium analysis indicate significant EU export opportunities

Table 33 recapitulates the “hard facts” on the basic forces that will shape the impact of an EU-Japan Agreement in the food and food processing sectors of the two partners.

Table 33 Basic forces shaping the liberalisation impact: a summary

| | Domestic production [a] | | EU imports | Japan's | World imports | | Imports from TPP5 [d] | |
|---------------|-------------------------|-------|----------------|---------------------|---------------|------------|-----------------------|----------|
| | EU | Japan | from Japan [b] | imports from EU [b] | from EU | from Japan | by the EU | by Japan |
| | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
| Beef | 7.4 | 0.5 | 0.0 | 0.1 | 2.0 | 0.1 | 22.8 | 96.4 |
| Pork | 22.1 | 1.3 | 7.0 | 26.5 | 16.3 | 0.0 | 64.3 | 62.0 |
| Dairy | 151.0 | 7.5 | 0.0 | 20.0 | 16.5 | 0.0 | 63.6 | 63.6 |
| Cheese | 9.6 | 0.1 | 0.0 | 27.2 | 16.8 | 0.0 | 13.3 | 70.9 |
| Beer | 380.5 | 39.6 | 1.1 | 64.2 | 30.2 | 0.5 | 14.7 | 10.5 |
| Wine | 143.9 | 0.0 | 0.3 | 66.9 | 34.9 | 0.0 | 68.6 | 15.0 |
| Spirits | 38.5 | 2.7 | 1.0 | 50.6 | 37.2 | 0.2 | 57.1 | 20.7 |
| Waters | 513.8 | 28.6 | 0.3 | 38.8 | 21.4 | 0.4 | 7.6 | 36.8 |
| Confectionery | 5.0 | 0.5 | 0.1 | 29.6 | 13.9 | 0.3 | 1.7 | 10.6 |
| Bakery | 5.9 | 0.2 | 0.9 | 17.0 | 20.2 | 0.8 | 23.0 | 21.9 |
| Starch | 8.5 | 0.2 | 0.1 | 29.6 | 18.8 | 0.5 | 1.7 | 10.6 |

Notes: [a] Units: million tons (beef, pork, dairy, cheese, confectionery, bakery and starch); million hectolitres (beer, wine, spirits, and waters). [b] in percent of total imports. [c] share of world imports from the EU and Japan. [d] in percent of total imports. Sources: see previous Tables and text.

The impact of the EU-Japan Agreement is the outcome of two dominant factors: the vast opportunities for EU producers and the remote risks they could face. As a consequence, the resulting impact on employment and on environment is very likely to be positive.

The above text provides estimates of the extra-growth of EU exports. But, these estimates are “static” since they assume that “all other things are constant”, a reasonable assumption since the EU-Japan Agreement is likely to establish long periods of transition as does the TPP Agreement. But by doing so, these estimates miss two “dynamic” factors that are likely to play an important role:

- If one leaves aside the beef case, the EU’s shares in Japanese imports (column 4 of Table 33) range from notable (15 percent) to high (68 percent). In other words, the EU exporters have experience and knowledge of the notoriously difficult Japanese food markets. This is a key asset for future expansion.
- The EU’s shares in the imports of the rest of the world are also substantial for almost all the sectors, as shown by Table 33 Column 5. This situation

offers the option for EU exporters to “reallocate” some of their exports from the rest of the world to the Japanese markets. They may be induced to do so all the more because the Japanese markets would become much more profitable after the tariff cuts provided by the EU-Japan Agreement. Finally, the increased recognition of the intrinsic volatility of the emerging markets makes the large Japanese markets more attractive.

Japanese limited production capacities in all these goods suggest that the EU-Japan Agreement is very unlikely to have a notable negative impact on the EU food sector. Similarly, there will be neither benefits nor detriment to EU consumer prices, quality or choice except on the niche products that Japan exports. This conclusion is supported by the following observations drawn from Table 33:

- EU’s domestic production (column 1) is, on average, 20 times larger than Japan’s domestic production (columns 1 and 2).
- Japan’s share in EU imports (column 3) is very small. The outlier is pork (7 percent), but this is mainly related to the very small EU imports of pork from the entire world.
- The small shares of Japan in EU imports may leave the possibility that Japan could be exporting large amounts of food products to the rest of world, hence could reallocate part of these exports to the EU markets, once the EU-Japan Agreement is concluded. Column 6 does not support such an evolution. Japan’s shares in the world imports are very small. The trade diversion of Japanese exports from the rest of the world to the EU will thus be very limited, if present at all. The signature of the TPP Agreement makes this possible impact even more remote (since Japan could also reallocate exports to the TPP countries).

These “hard facts” are illustrated by the aggregate results of the impact of the TPP and the Japan-EU Agreement for all the products covered above. There are three main results. First, the TPP Agreement without a Japan-EU Agreement will generate strong trade diversion against EU exports to Japan: on average EU exports to Japan will be only 74 percent of the pre-TPP (baseline) level, if one excludes beef and pork for which calculations are impossible (beef) or subjected to many caveats (pork), as explained in the text above. This is the logical consequence of the high Japanese tariffs in processed foods and of the already significant presence of TPP exporters in the Japanese food markets: in the absence of a Japan-EU Agreement, TPP exporters will have a preference in Japan which amounts to roughly 25-35 percent on average (see the text above). If the Japan-EU Agreement cuts food tariffs by 50 percent, EU exports will on average stay at about the same level as today. It is only when the Japan-EU Agreement achieves the 100 percent tariff cuts (already achieved by the TPP Agreement) that EU exports will grow, by roughly 55 percent compared to baseline. That said, two factors need to be taken into consideration. First, negotiations on processed foods have to take into account the general context of the full Japan-EU Agreement. The second factor is the possibility for EU exporters to cope, at least partly, with trade diversion by improving their competitiveness.

Employment and social assessment

The strongly positive net balance between opportunities and risks suggests that the EU-Japan Agreement is very likely to have a positive net impact on the number of jobs in the EU agriculture and food industries. Moreover, the huge asymmetry between the size of the EU and Japanese labour forces in the food sectors leave little doubt that, if some adjustment problems emerge in the EU, they are likely to be limited. Indeed, the 2012 Impact Assessment concludes that the employment in the sector may change by +0.18% (weighted by skilled and unskilled labour) which is likely to be fulfilled. The fact that the Japanese food markets are high-end markets suggests that the jobs generated

by the additional exports to Japan will require more skilled labour: farmers implementing the latest farm technologies for ensuring the best products, innovative food producers looking for better varieties than for larger scale production in order to satisfy Japanese sophisticated consumers. Such a dimension reflects the likelihood that the EU-Japan Agreement will mostly promote intra-industry trade. As already underlined, intra-industry trade is more friendly to employment than inter-industry trade because it is based on labour adjustment which builds on—expands and reshapes—the specific skills that the existing workers have, rather than depreciate these skills.

Finally, the sectors covered differ in terms of the importance and nature of small and medium enterprises (SMEs). Beverages, confectionary, bakery and increasingly cheese and part of dairy are dominated by large firms. Some of them are traditional multinationals, but others are farm-related cooperatives. These sectors have SMEs that are accustomed to prosper in such a business environment (small vineyards, special cheese, etc.). By contrast, beef, pork and the rest of dairy have more fragile SMEs. The best instrument for addressing the problems they could face is appropriate farm policies—both in Japan and in the EU—which should be more oriented towards the “new” goals in food production (innovation for quality, environment concerns) and/or income support (in case of old farmers, an even more important issue in Japan than in the EU (the average age of Japanese farmers is 67 years). Income support for old farmers is particularly important not only because it addresses social issues, but also because it should allow young farmers to start afresh and grab the comparative advantages of Japanese and EU agriculture in a very different world.

Japan

What has been said about the asymmetry between the EU and Japan agriculture and food products may be interpreted as negative for the Japanese producers. Such an interpretation misses a key point. The huge and varied EU markets offer vast opportunities to a limited Japanese agriculture. High-quality beef or pork, alcoholic beverages still relatively unknown in the EU, processed foods with exotic tastes for European consumers can easily find niches that may be small in absolute size, but that are huge in relative terms for the limited Japanese production. Such niches will be attractive for Japanese farmers or food processors all the more because the corresponding Japanese markets are mature.

In such circumstances, there are several dimensions on the impact on Japanese employment. On the one hand, production (such as of pork) will inevitably undergo major changes. But this situation is largely the consequence of the protection of the last fifty years, which has tended to promote “specialization” of the Japanese farmers in the wrong products, as best illustrated by the pork sector. Opening these markets offers the opportunity to upgrade the quality of Japanese products. Such a shift requires new skills from Japanese farmers.

The impact of the TPP

There is one conclusion to be drawn from the signature of the TPP Agreement. Any Japanese concession to the EU more limited than the corresponding Japanese concession granted to the TPP countries will put the EU exporters in a difficult situation. This is all the more true because the TPP5 countries are substantial competitors for the EU exporters on the Japanese markets (see Table 33, column 8) and because they are often also much present in the EU markets (column 7). As a result, the target of the EU-Japan Agreement should be to reach the same outcome as the TPP Agreement—that is, total liberalisation from both sides for the products covered in this section.

The results of the partial equilibrium analysis of liberalisation impact (see Annex 3)

If there is no EU-Japan agreement, the EU food sectors covered by this exercise will lose on average 20-25 percent of their current sales in Japan. The losses are likely to be larger for some of them (for instance, more than 35 percent in cheese). The main beneficiaries in this scenario are of course the TPP5 countries which increase globally their exports to Japan by 45-50 percent. The Rest of the World is also losing.

If the EU-Japan Agreement consists of 50 percent tariff cuts from both sides, then the EU food exporters keep almost the same level of sales than today. But it should be stressed that at the same time the TPP5 countries (which may lose some ground compared to the previous case) still improve their sales to Japan by 35-40 percent compared to the base situation. The Rest of the World sees its export situation vis-à-vis Japan even more deteriorated.

If the EU-Japan Agreement agrees on 100 percent tariff cuts from both sides, the EU food exporters improve their sales by 30-40 percent compared to the base situation, while the TPP5 exports to Japan decline further — but continue to be 25 percent higher than the base situation.

On the individual product level, it is firstly useful to outline where TPP has the greatest negative impact on imports by Japan from the EU. The greatest negative impact can be observed in the cases of pork and dairy. In the absence of an EU-Japan FTA, TPP alone would reduce Japan imports of these products from the EU to zero. The loss is especially significant in the case of pork, as the EU currently exports much less dairy than pork to Japan. In relative terms, cheese is the next product where TPP would have the most severe impact is cheese, as mentioned above. Another important point on the product level is to outline where the partial liberalisation scenario would not be sufficient to offset the impact of TPP. This is the case for pork, dairy and cheese. In the case of wine and waters, the partial liberalisation would offset TPP and Japan imports from the EU would remain at a similar level as in the baseline situation without TPP. The partial liberalisation scenario would lead to a slight increase in Japan imports from the EU when it comes to confectionary, bakery, starch and spirits.

6.11 Annex to the sectoral analysis 'food and feed' – A brief analysis of the tariff-rate quota as a liberalisation instrument

It is important to examine tariff-rate quotas (TRQ) in detail, the instrument that has been increasingly used in the recent and current difficult negotiations in food and processed food. TRQs are often seen as the best way to balance market opening and domestic political considerations in a progressive manner. Moreover, they often enjoy strong support among exporting interests.

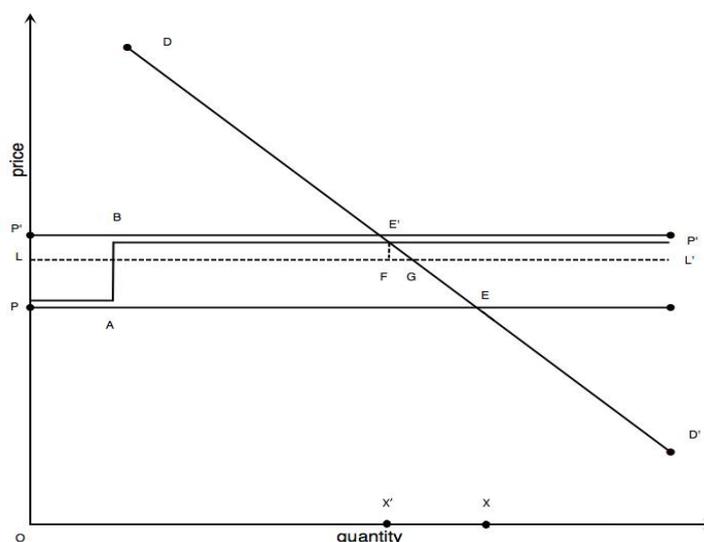
It is worth noting that TPP does not have recourse to this instrument in liberalising markets. TPP is almost entirely based on tariff cuts. However, TRQs might find application in cases of import surges. What follows shows the flaws of the TRQs as an instrument of liberalisation.

Economic analysis

Economic analysis shows that TRQs are unlikely to liberalize markets effectively, and that they have serious hidden costs for both producers of the exporting country and consumers of the importing country.

Figure 6 illustrates a typical TRQ in its simplest way. It is assumed that there is no domestic supplier. In case of free trade, foreign producers export OX units at a price OP (the supply curve is Pp). If the importing country imposes a tariff t , foreign exporters are forced to sell at a higher price ($OP'=OP+t$) a smaller quantity X' (the corresponding supply curve is $P'p'$).

Figure 6 The basic economics of TRQs



Opening this market by creating a TRQ of PA units with an in-quota tariff of (say) zero percent would generate a new supply curve $PABE'$. There are six main consequences:

- The global imported quantity is unchanged: consumers of the importing country can buy X' units under the tariff, and exactly the same under the TRQ (the intersection between the demand and the supply curves remains at E').
- As a result, the importing country gives up its tariff revenues $PABP'$ for no benefit for its consumers.

- Foreign producers will be quick to realize that selling the in-quota quantities (PA) at price lower than OP' will not change the global quota they can export.
- Hence, they will realize that selling at price OP (lower than OP') the quantity PA does not make sense: it does not increase their global sales. It is enough to sell the PA units at a price OP' .
- Then the difference between OP' and OP for the in-quota PA units becomes rents for those exporters that have access to the quota. If every exporter can have access to the quota, exporters will compete among themselves in order to get the right to export some units. In this process, exporters will spend the future money coming from the quota rents. Sooner or later, all their rents will be wasted in the struggle to get quota rights. In short, the whole TRQ morphs into a rent-seeking activity that hurts the exporting country.

To sum up, the consumers of the importing country do not get lower prices, the government of the importing loses its tariff revenues, the foreign exporters do not expand the global sales, but have to compete for getting access to the quota—a costly competition that hurts the exporting government. TRQs are very unlikely to be an effective instrument of liberalisation.

Figure 6 illustrates the simplest possible case. But introducing domestic producers of the importing country in this situation will not change fundamentally the outcome (E' will still be the equilibrium point) except that these producers are likely to blame the “liberalisation” for every difficulty they face in the future. And, taking into account the size of the quota does not change the outcome, except in one circumstance: if the in-quota is large and if there is a contraction of the demand (a not so rare situation in the food and processed food sectors). If the in-quota is OQ' with Q' close to X' , the demand curve could shift to the left (the contraction of the demand) to such an extent that it intersects the supply curve in its Pq' (Pq' being equal to OQ') section. The new price will become instantly OP . Such a non-progressive liberalisation is likely to be a source of social difficulties.

Taking into account negotiating imperatives

Economic analysis is not the main drivers in trade negotiations, and one needs to take into account negotiating imperatives. An option is to calculate the value of the tariff cut that would be equivalent to the value $PABP'$ of the in-quota. Figure 6 illustrates this option: the area $LFE'P'$ (generated by a tariff cut $P'L$) is drawn in such a way that it is equal to the surface $PABP'$. If negotiators agree on a tariff cut $P'L$ rather than on a TRQ $PABP'$, they do the same but they get the benefits of a true liberalisation. In particular:

- The tariff cut $P'L$ benefits the consumers of the importing country, since the price will decrease from OP' to OL .
- The tariff cut benefits the foreign exporters who can increase their exports—from LF ($=P'E'$) to LG .
- There is no rent-seeking situation in the exporting country.

Such a tariff cut is “equivalent” to the TRQ option often supported by the vested interests, but it delivers effective liberalisation and is thus often a preferable option – if such option exists.

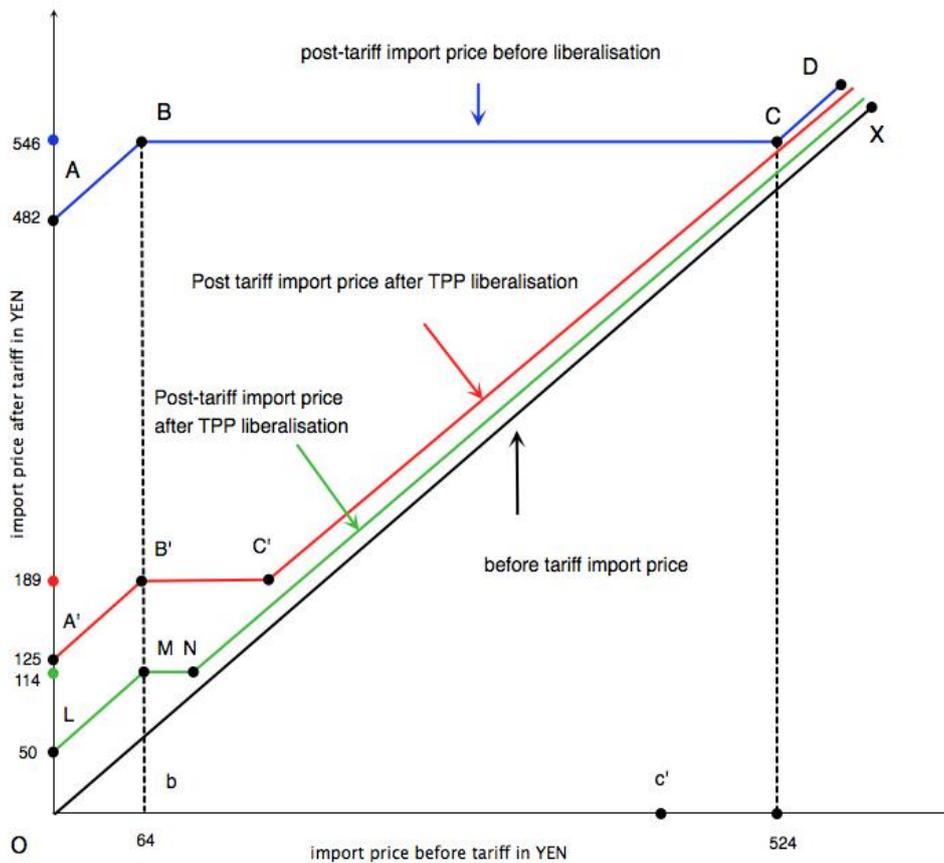
6.12 Annex to the sectoral analysis 'food and feed' – The Japanese protection regime in the pork sector

Figure 7 illustrates in more detail the Japanese protection regime described in the main text. The diagonal line OX illustrates the post-tariff Japanese prices for all the possible world pre-tariff prices if there was no Japanese trade barrier: in this case, a post-tariff price of 100 Yen (on the vertical axis) would correspond to a pre-tariff import price of 100 Yen (on the horizontal axis).

The three different forms of protection described above distort the line OX to the line ABCD.

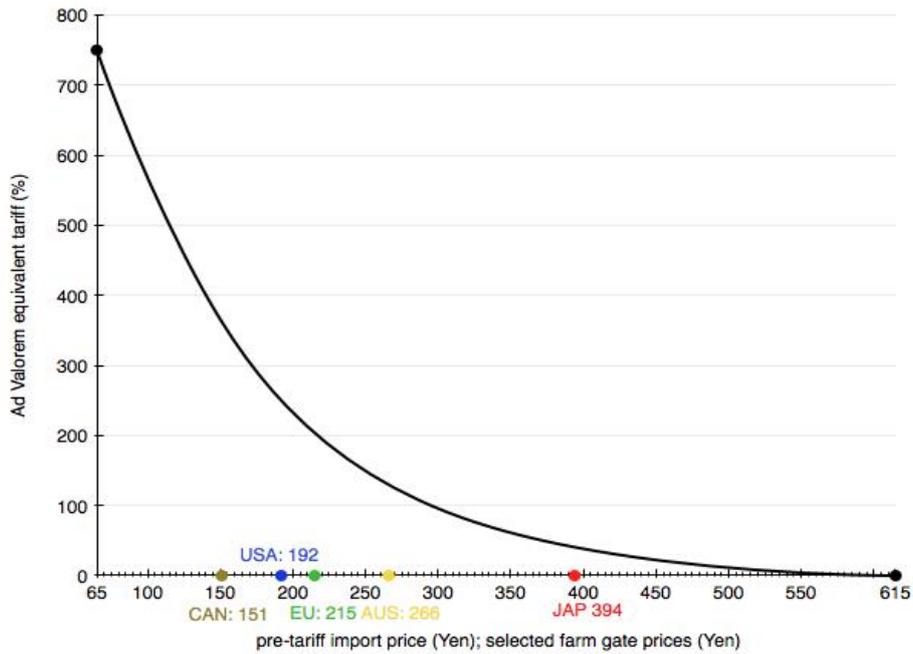
- The specific tariff of 482 yen per kilogram shifts up the segment Ob to AB, with B illustrating a post-tariff price of 546 yen per kilogram (482+64) for a pre-tariff price of 64 yen per kilogram.
- For any pre-tariff price ranging from 64 yen per kilogram to 524 yen per kilogram, the variable levy delivers a flat post-tariff price of 546 yen per kilogram on the Japanese market and "transforms" into tariff any difference between 546 yen per kilogram and the pre-tariff import price.
- Starting at C, the ad valorem tariff of 4.3 percent is imposed: it corresponds to the pre-tariff price of 524 yen per kilogram ($524 \times 1.043 = 546$).

Figure 7 Japan's protection in the pork sector



With this information, it is easy to calculate the ad valorem equivalent for any pre-tariff import price. Figure 8 illustrates these calculations (for reasons of space it ignores world prices lower than 64 yen per kilogram). The horizontal axis shows the full range of possible pork prices from 65 to 615 yen. The horizontal axis gives the corresponding ad valorem tariff equivalent. On Figure 8, EU and TPP-5 farm gate prices would range from 165 to 250 yen per kilogram hence would face a 200 to 100 percent ad valorem tariff equivalent.

Figure 8 Japan's protection in the pork sector: ad valorem equivalent



6.13 Annex to the sectoral analysis 'food and feed' – An outline of the methodology of the partial equilibrium analysis

In order to have a sense of the most plausible impact of the Japan-EU negotiations, it is important to take into account the results of the TPP Agreement. In order to do so the analysis uses a partial equilibrium model (GSIM4x4). This model assumes imperfect substitutes and takes into account the trade policies of four regions; in this case, the TPP5 countries, Japan, the EU and the Rest of the World.⁹⁰ The TPP5 countries are assumed to be one economy, an acceptable approximation since the five countries in this group have free trade agreements among themselves.

Four situations are examined: the base situation (pre-TPP outcome) and three scenarios which combine the full implementation of the TPP outcome with one of the three possible following scenarios: (i) no Japan-EU FTA, (ii) a Japan-EU FTA in which Japan and the EU commit to cut their tariffs on food products by 50 percent, and (iii) a Japan-EU FTA where Japan and the EU commit to cut their tariffs on food by 100 percent (the scenario where the Japan-EU FTA is very close to the TPP outcome). There is no estimate for the beef case because the base situation (almost no trade between Japan and the EU) makes such an exercise meaningless. All these estimates are subject to the many usual caveats of simulation models. Some sectors are more problematic than others. For instance, it is difficult to have a precise measure of the rate of protection of Japanese pork and of Japanese and EU dairy. Moreover, in the dairy case, the TPP outcome is assumed to deliver full liberalisation for all the products, which is not the case.

Finally, all the scenarios have one common feature: they assume no noticeable change in Japanese exports at the world level. This point is one more manifestation of the "size asymmetry" that characterizes EU-Japan trade relations in food products. However, it is worth stressing that this kind of simulation is unable to capture the detailed evolution of niche markets which will be so crucial for the future of a large portion of the Japanese farmers in the sectors examined in this section.

⁹⁰ Francois, J and H.K. Hall, 2002. Global simulation analysis of industry level trade policy. 2002. Downloadable from <https://ideas.repec.org/p/lnz/wpaper/20090803.html>

7 Sectoral analysis: Motor vehicles sector

7.1 Introduction

Implications of the economic analysis

As shown in the economic analysis, the remarkably high income growth per capita of the Japanese economy means that it is essential for sustaining export-driven economies such as the EU. Japan is a suitable market for a range of EU premium and capital goods including motor vehicles. Japan shows major potential growth for the commercial vehicle (CV) exports, while it is also one of the three major players involved in standard setting. The EU-Japan relationship is also characterised by an extensive network of industrial cooperation, with Japan being a major source of the capital and R&D that has fuelled EU production since the first plants and joint-ventures were established in the 1980s.

Following the economic analysis, there are three elements in the analysis of the impact of the FTA on the motor vehicle sector in the EU and Japan:

- The first element is the potential for increased bilateral exports. Exports drives competitiveness, especially given the high per capita income of Japan and spending on capital goods. The main indicator here is EU exports.

In a globalised and competitive sector such as motor vehicles, inefficient firms are unable to export. The impact on trade balance is secondary and less relevant compared to exports: The motor vehicles category provides the largest source of European trade surplus by a huge margin, accounting for 154% of Europe's trade surplus in goods. The EU motor vehicle industry exported 4.7 euro for each euro it imported from overseas. Since the 2012 Impact Assessment, both the European and Japanese markets have gone through a period of stabilisation, with structural adjustments on both sides. In recent years, the Japanese trade surplus with the EU in automobiles has effectively been erased (as it has for Japan's overall trade).

- A second element is how to adjust the impact given the Japanese production localised in the EU, whilst also taking into account the existing overcapacities in the passenger car (PC) segment. This is measured through both economic and social indicators, mainly through sector output and sector employment.

It is important to note that trade in the motor vehicles and related markets remains a complex issue in European trade policy due to the presence of local Japanese production. As an industry driven by economies of scale, internationalisation is a key factor in achieving sectoral growth. But increased competition, structural overcapacity and the perceived lack of growth opportunities on the home markets of the 'legacy markets' (meaning Europe, Japan and the United States) is also a genuine cause for concern. Such contentions are not unique for the EU-Japan relationship. For instance, the US auto tariffs have the longest staging periods in the TPP agreement.⁹¹

- The third element in the analysis is the risk of higher GHG emission from increased output. This is measured in the share of manufacturing emissions.

The first two questions – competitiveness and output – are deeply interlinked. The ability to export correlates strongly with recent productivity increases, investments in R&D and

⁹¹ US Trade Representatives, Trans-Pacific Partnership, October 2015 accessed at: <http://ustr.gov/tpp/#issues>

sourcing of technology and parts from the most competitive sources, including the EU and Japan. The impact of trade liberalisation clearly depends on the extent to which manufacturers have been successful in improving value-added, production efficiencies and export-orientation. The markets for commercial vehicles (CVs) and powered two-wheelers (PTWs) have also become increasingly international and competitive. European manufacturers have also successfully diversified their supply-chains of components and parts in order to tap into efficiencies and innovation on a global scale. With increasing dependency of overseas markets, trade analysts have argued, when looking at the future of automobiles, that “business as usual will be poor business”.⁹²

7.2 The current baseline

Stabilisation in Europe and Japan

On the global passenger car (PC) market, most of the world growth is found in the emerging markets. For example, China and India have three-digit growth figure, albeit from very low levels. However, not all legacy markets are stagnant. Car ownership in Europe and Japan is currently still growing, with purchases of PCs in Europe and Japan amongst some of the highest levels in the world, whereas the US market is clearly in deep decline. Although the density increase in both the EU and Japan is not comparable to the emerging markets, the new car registrations in Europe and Japan have returned to growth of 4.7% and 3.1% respectively in 2014.⁹³ However, this comes from mainly from the replacement by existing car owners rather than new car owners or population growth.

In the long-term, Europe’s population growth is stable at near-zero levels (-0.2% in 2012; +0.3% in 2013), but vary within the EU. In 2013, eleven EU Member States had same (4) or lower (7) lower rates than Japan, while more recent data (2015) shows that Germany has the world’s worst fertility rate in the world.⁹⁴ Japanese population peaked in 2010, and has since started to decline (-0.2% in 2014).⁹⁵ Although the car ownership has increased during that decline, representatives of the European industry correctly points to how the longterm market potential is affected by declining demographics. Yet future migration levels to Europe, or the current national strategy to improve birth rates via social programs in Japan may change such prospects. If not, projections show how PC sales in Japan (measured in units) could decline by 9% in the coming 15 years.⁹⁶

For the purpose of the impact assessment, it is important to note that demographics in Japan and the EU are constant factors that does not change whether the FTA is concluded or not. However, any market growth in the PC sector is likely to come from spending patterns – through higher replacement rates, or improving the value of each unit sold.

⁹² See Copenhagen Economics, *The impact of trade liberalisation on the EU automotive industry: trends and prospects*, 2014; also Lee-Makiyama, *FTAs and the crisis in the car industry*, ECIPE, 2012

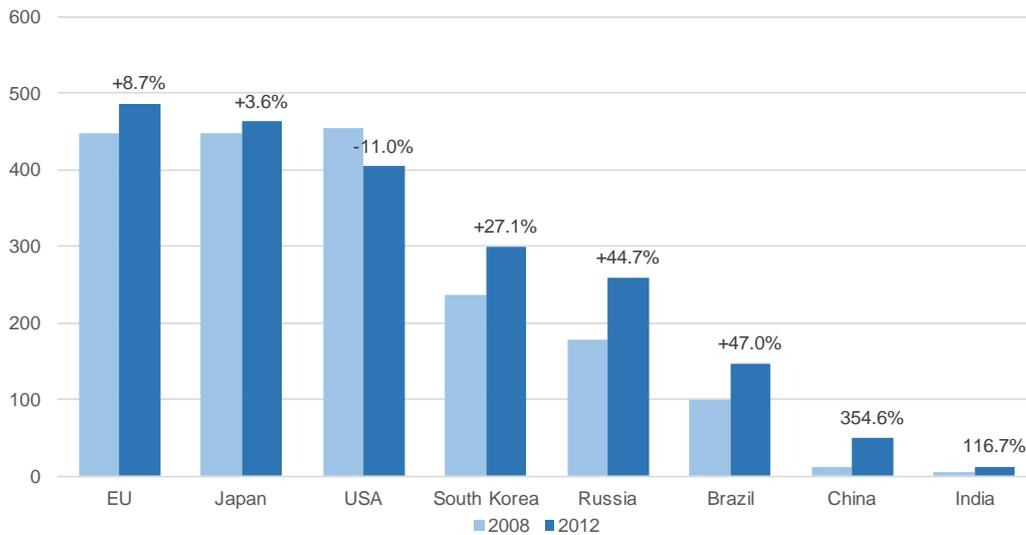
⁹³ ACEA, 2015; JAMA 2015.

⁹⁴ BDO, *Hamburgisches WeltWirtschafts Institut (HWWI)*, 2015. Reported also in BBC, *Germany passes Japan to have world's lowest birth rate*, May, 29th, 2015

⁹⁵ *World Development Index*, World Bank, 2015

⁹⁶ Nomura Research Institute, *乗用車(除軽)保有は世帯減少を上回り、15年後には9%減少*, accessed at: <http://www.nri.com/~media/PDF/jp/news/2015/150605.pdf>, 2015

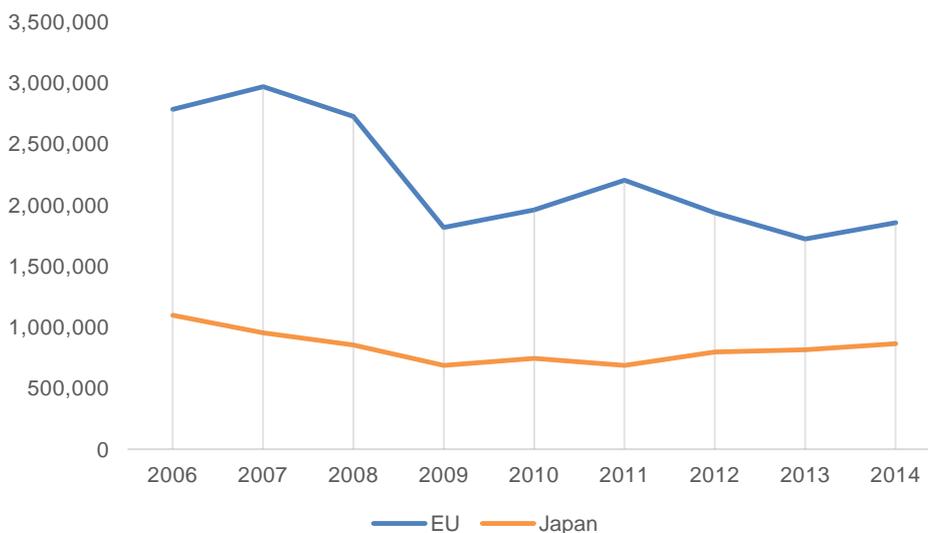
Figure 9 Car ownership per 1000 inhabitants; growth rate (2008-2012)



Source: ACEA, 2014

Markets for commercial vehicles (CVs) are stabilising in Japan and the EU. Like most industrial or business to business (B2B) markets, the demand for CVs fluctuates with the state of the general economy. The statistics show that the economic downturn since 2008 had a major impact on demand for buses and trucks in Europe, while the Japanese market has been more resilient. Historically, the Japanese market is also larger than that of Europe (relative to GDP); the Japanese demand is also less price-sensitive, but more sensitive to shifts in fuel prices. Also, policy-imposed measures, notably the high level of taxes on CVs (and motor vehicles in general) impedes growth in the sector in Japan, while in Europe it is primarily customs duties that impede trade and growth on the CV markets. Duties are relatively high in Europe at 16% for buses and 22% for trucks, while EU exports enter Japan duty-free.

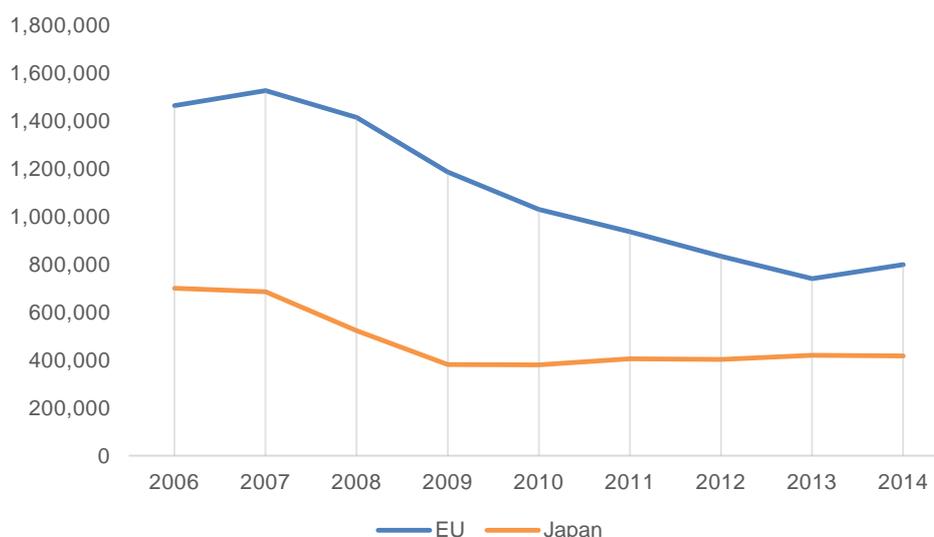
Figure 10 Market development for commercial vehicles (buses, trucks)



Sources: ACEA, 2015 (for all available years); JAMA, 2015

The market for PTWs (motorcycles, mopeds) is generally in decline across all OECD countries (including Japan and Europe), but growing in the emerging markets and Asia (especially for “class 1” vehicles of 50cc and under). As seen below, the European market is in rapid decline and the size of EU and Japanese markets for PTWs are converging. However, European exports account for less than 3% of the newly registered PTWs in Japan, while Japanese exports account for 25% of sales in Europe. This trade is similar to the trade in many other markets, where the EU and Japan are effectively trading their high-end and premium products with each other, and increasing the variety in these segments.

Figure 11 Market development for PTWs



Sources: ACEA, 2015; JAMA, 2015

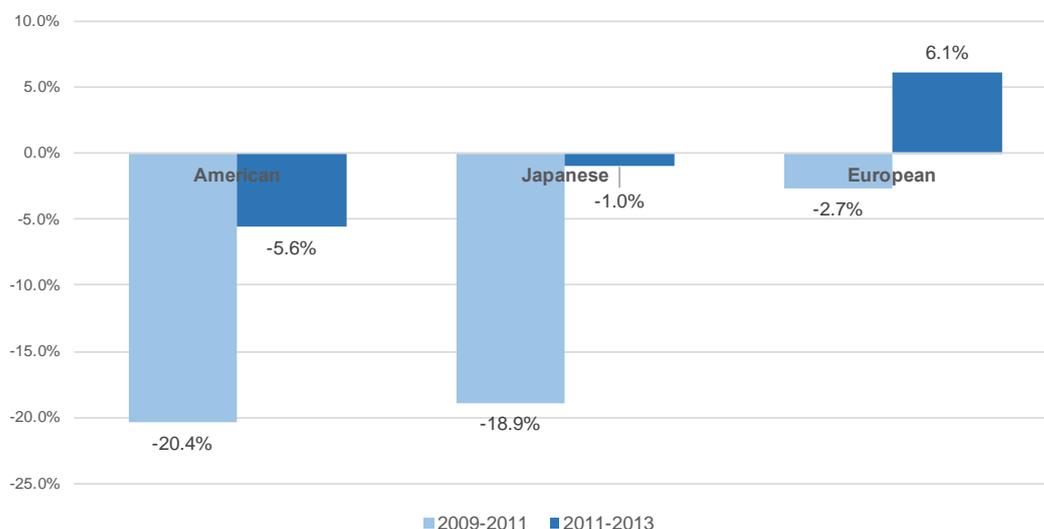
Internal EU competition is shaped by local brands and locally manufactured PCs

Given that the European and Japanese CV exporters have largely focused on other geographic markets, there are few sensitivities regarding more competition in their home markets arising from the EU-Japan FTA. The main debate on the impact on economic conditions on the EU and global motor vehicle market concerns PCs. On the PC market, the internal competition between cars manufactured inside the Single Market is far more important than the impact of imports from Japan or elsewhere.

When the European PC market contracted during the crisis, foreign PC brands (i.e. manufacturers headquartered abroad, but produced in Europe) carried and internalised a larger share of the losses. Meanwhile, the European brands increased their sales and market shares. As a result, the European brands successfully squeezed out foreign branded PCs, notably non-EU car brands such as Ford and Toyota, which both manufacture primarily in Europe.

An exception is the market share of Korean brands that has been expanding in Europe. This is, however, not due to the tariff liberalisation in the EU-Korea FTA because the Korean brands have opened new plants in the EU before the tariffs have been fully phased out. These developments reflect simply the commercial success of one single conglomerate (Hyundai-Kia) and it’s the popularity of its current product line-up that can be observed on markets with which Korea has no FTA.

Figure 12 Market contraction in Western Europe, compared to sales by brand origin



Source: ACEA, New Car registrations, 2012; 2014.

Extensive localised production by Japanese manufacturers

In the context of economic policy, the origins of a brand are irrelevant. Whether jobs and investment are created by domestic capital or FDIs makes little difference to trade policy. A vehicle manufactured in Europe is made in Europe, regardless of the brand it carries.

Despite the recent rise of production in the emerging markets, the global production of motor vehicles (PCs, CVs, PTWs) is still heavily concentrated in Europe, Japan and the United States that then export to overseas markets.

With some exceptions on the CV market, Europe's trade with Japan is entirely export-driven, with essentially all of the exported units manufactured in Europe. While Europe offloads its capacities abroad by exporting from Europe, Japanese manufacturers are less capable of exporting from Japan. Japan's presence on the European markets is primarily investment-led, through localised production inside the EU, using local supply-chains, often with market-specific models, developed in proximity to the European customers.

Japanese brands own 14 factories in the EU employing 32 000 workers who produced 2.3 million units in 2013.⁹⁷ At least 63% of Japanese branded cars sold in Europe are made in Europe.⁹⁸ Industry figures point to an even higher number of Japanese branded vehicles being produced in Europe, over two-thirds of local sales.⁹⁹ Moreover, Japanese manufacturers are also using Europe as a production base from which to export to third markets and exported 243,415 units to non-EU economies in 2013. This more or less offsets the Japanese imports into the EU at 371,576 units same year.¹⁰⁰ The "intra-

⁹⁷ JAMA, Common Challenges, common future, Japanese Auto Manufacturers contribute to the competitiveness of Europe's Motor Industry, 2014.

⁹⁸ Copenhagen Economics, The Impact of Trade Liberalisation on the EU Automotive Industry: Trends and Prospects, 2014.

⁹⁹ JAMA, Common Challenges, common future, Japanese Auto Manufacturers contribute to the competitiveness of Europe's Motor Industry, 2014.

¹⁰⁰ *ibid.*

Japanese" trade balance between the EU and Japan is therefore less than 130 000 units per year.

In effect, Japanese manufacturers exports from Europe almost as much as they import. The made-in-Japan cars that enter Europe are largely niche models, or minor brands without local production capacities (e.g. Mitsubishi and Mazda). The trend towards localised manufacturing is consistent with the Japanese growth model (noted also in the economic analysis), which has transitioned from the export-led growth to an investment-driven model, given the high production costs and shortage of labour in Japan.

Localised EU manufacturing inside Japan is marginal in the PC and PTW segments. Although the Japanese motor vehicle market is equal in size to the Chinese market (where European brands have considerable local production), the latter is largely due to the extensive joint-venture requirements imposed on EU suppliers in the Chinese market. The sales by foreign brands in Japan are still far too small to recover the greenfield investment required in local production and Japanese manufacturers may not even be able to make such investment viable in their home market. It is worth noting that the most recent production plant to open in Japan (2013 by Honda in Yorii in Saitama prefecture) was delayed three years (and on two occasions) due to the economic downturn.

Instead, there is a considerable exchange of technology and industry cooperation as Japan is the leading resource for motor vehicle technology. The European parts industry has also established factories in Japan. At least 8 European automotive parts producers (from France, Germany and the UK) have 35 production plants in Japan.¹⁰¹ In the CV segment, Volvo operates on the market through its subsidiary UD Trucks, which Volvo acquired from Nissan in 2007, and exports to the Asia-Pacific region from Japan.

Trade has not impacted EU overcapacities negatively

An important difference between the EU and Japan is in the degree of overcapacity in PC manufacturing. The current average capacity utilisation rate (per plant) is at 70% in Europe.¹⁰² If the break-even level for a plant is assumed to be around 75 to 80% utilisation rate, the EU industry average is below long-term sustainable levels. At least five plants in Europe have been closed down (in Belgium, France, Germany, Sweden and the UK) with a reduction of the capacity surplus by approximately 3-4%.¹⁰³ In comparison, plants located in Japan are currently operating at a 87% utilisation rate following the capacity reductions that took place after the Great East Japan Earthquake, a reduction estimated to approximately 11% that put the average utilisation rate of Japanese plants at more sustainable levels.¹⁰⁴ However, additional reduction of capacity may become necessary for both Japan and certain parts of Europe unless new markets can be secured outside the home markets.

It is also worth noting that the means of restructuring and capacity reductions differ considerably between Japan and the EU, and even within the EU. The average plants located in Japan, Germany, Spain, Central and Eastern Europe are scaled for large-scale production and exports, operating at more than 150 000 units per year.¹⁰⁵ These large-scale production plants tend to be recently built or upgraded, and manufacturers may

¹⁰¹ The firms identified are Bosch (10 plants), Mahle (6), Continental (3), Recaro (1), Valeo (8), Inergy (1), GKN (3), Johnson Matthey (1).

¹⁰² Clarke, Jennifer, European plant capacity usage improves, but breakeven still years away, AutoNews Europe, July 10th, 2014, accessed at: <http://europe.autonews.com/article/20140610/ANE/140609868/european-plant-capacity-usage-improves-but-breakeven-still-years-away>

¹⁰³ Own calculations.

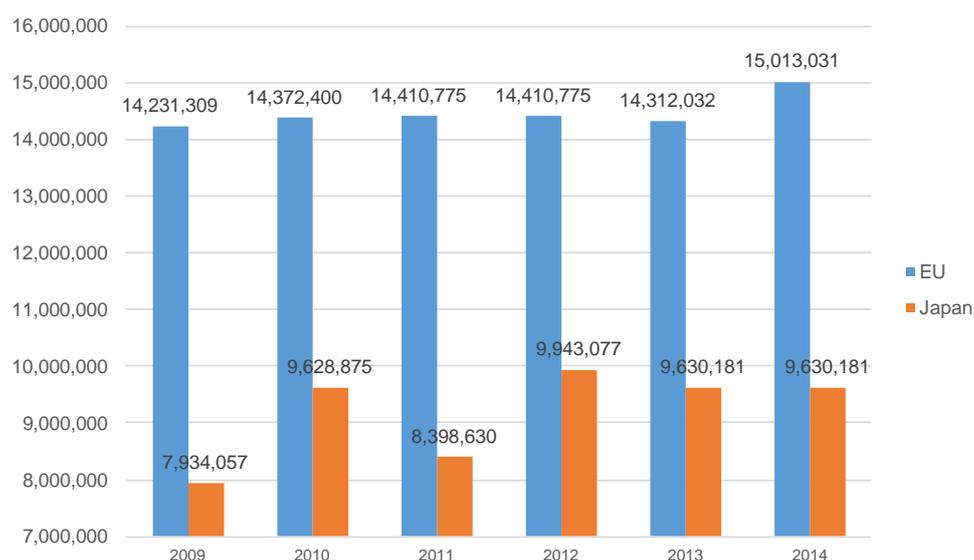
¹⁰⁴ IHS, 2014.

¹⁰⁵ JAMA, 2014.

more easily exploit economies of scale and vary production volumes. They may implement capacity cuts through adjustments in labour, whereas smaller plants may face closure or sell-off.

According to the stakeholders on the CV segment, such consolidation and modernisation had been ongoing ahead of the crisis and the developments on the PC segment. During the crisis years, the EU production of PCs and CVs remained stable primarily due to exports, further supporting the conclusion that trade is not detrimental for utilisation rates. Expanding sales of EU motor vehicles on overseas markets such as Japan would contribute positively to EU capacity utilisation rates, but even more so to profitability. Japan is a high-end market with larger premiums paid than in the EU on CVs, PTWs and imported PCs. As noted in the economic section, Japan's meagre growth translates to a growth per consumer that in absolute terms is twice the size of Europe's.

Figure 13 Production output, passenger cars, 2009-2014, (units) adjusted scale



Source: ACEA, Production, 2015; JAMA, Statistics AMDS, 2015.

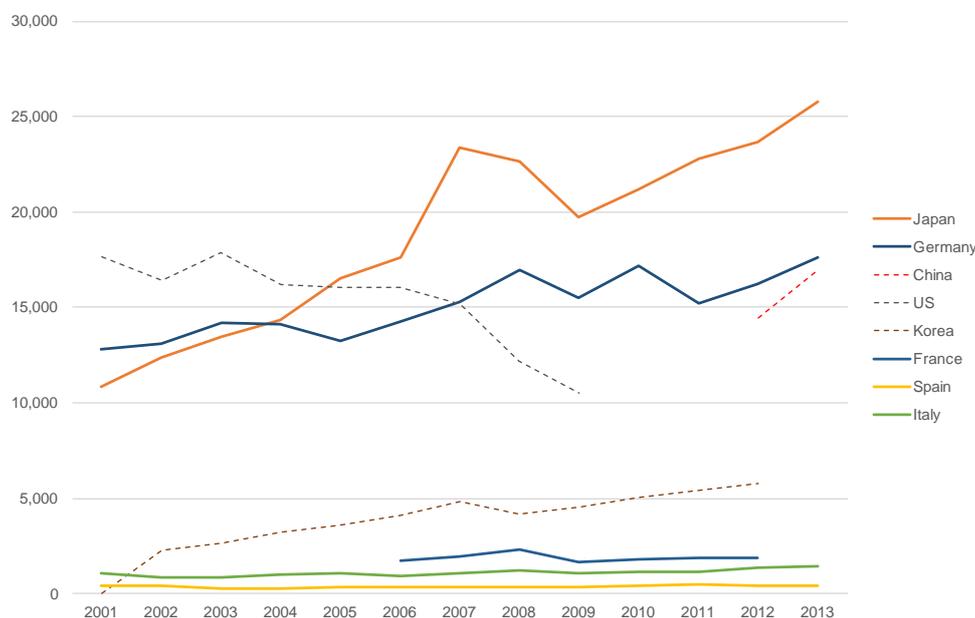
Varying degrees of investment in R&D and loss of competitiveness

Another long-term market factor that affects the shape of the competition concerns new market entrants. Due to technological factors and the importance of local production, the motor vehicle sector often represents the first step towards high-end industrialisation and exports in emerging markets such as Brazil, China and India. However, new entrants will not only come from emerging markets, but also possibly from other sectors such as the ICT industry. Such latecomers can respond to market incentives on global scale and with the minimal legacy costs in the shape of old production plants or technologies. In this context, the EU and Japan are both "legacy" economies, and share some similar challenges. Nonetheless, R&D is a key factor to upholding competitiveness on the export markets, where the spending amongst EU Member States varies considerably.

What Japan spends on R&D in the motor vehicle sector (PC, CVs, PTWs) is equivalent to the amount spent by Germany, France, Italy, Spain and the UK put together (even after PPP adjustment). Europe is underperforming while Japan sailed ahead as the global innovation leader in motor vehicles. This is a trend that has been ongoing for the past decade and such vast differences in R&D in the sector are bound to eventually have an effect on long-term productivity and competitiveness. This link between innovation and economic performance is expected to become more important, as the next generation of

technology-intensive market entrants (including those in the ICT sector) carve into the European and export markets.

Figure 14 Enterprise R&D expenditure in motor vehicles; constant 2005 US\$ (mn, PPP adjusted)



Source: OECD STAN, 2015.

In conclusion, utilisation, wages and employment may have stabilised in the EU, but the long-term prospects depend on investment and R&D in Europe. More specifically, it is the variation that is the matter of concern: The vast majority of PC, CV and PTW markets are performing well, while some limited parts (representing approximately 0.3% of EU value-added) are not.¹⁰⁶ The need for injection of foreign FDI and further diversification of supply-chains into more technology-intensive countries (like Japan, Germany and China) is a part of the current baseline, and even more so in the coming product cycles.

Europe is increasing its export dependency while Japan's is decreasing

Analysts have suggested that motor vehicles are naturally produced locally in the region (Copenhagen Economics, 2014). However, 37 to 41% of European production of PCs (measured in units) is destined for exports – a share that is still growing. The export dependency is even higher measured in trade value, as it is primarily premium models in each size and segment that are being exported from Europe. Therefore, European PC profits are highly dependent on exports and EU exports to Japan have 37% higher value than the average.

Europe's export ratio has risen and converged to the exact same levels as Japan's declining PC export ratio, which is currently at 40% and still declining. The similarities between the EU and Japanese PC segments are striking, although Europe is trending towards further export orientation and Japan is moving towards more localisation inside Europe.

¹⁰⁶ See note 89.

Figure 15 EU Export dependency in the PC market (% , units)



Source: ACEA, Production, Trade, 2015; JAMA, Statistics AMDS, 2015.

Both the Japanese and European CV producers have successfully transitioned towards export orientation. As much as 78% of Japanese production is for exports (where exports to Europe account for less than 1% of Japan's overall exports). Similarly, European export orientation on the CV market is high, with half of the production being exported, and with Japan accounting for less than 1%. Similar to the PC market, the EU and Japanese manufacturers dominate the global production of CVs. But there are some important distinctions. The EU and Japanese exports have focused on different geographic markets. While Japanese manufacturers primarily focus on Asia and the Middle East (together accounting for more than half of the export volume). The geographic division is in part driven by the EU and Japanese CV manufacturers having several strategic industrial ties. As noted above an EU manufacturer, Volvo, has a wholly-owned subsidiary in Japan through its acquisition of UD Trucks. The EU and Japan CV manufacturers also differ in industrial organisation. CV manufacturers in Japan are still integrated with PC manufacturing, such as Toyota, Suzuki, Daihatsu and Nissan, while European producers are in general operating more autonomously. As a result, where Japanese manufacturers have gained through synergies with the PC production, the European counterparts have gained in specialisation.

The European PTW market exports 30% of its production overseas, while Japan exports two-thirds (measured in quantity). Japan represents 6-7% of EU exports in both value and units, as the EU consistently exports high-end and premium motorcycles and mopeds to all markets. However, Japanese PTW exports are primarily geared towards low-end products in Asia, and therefore the EU is an important profit centre with 19% of the units but 34% of the value.

Trade balance is less meaningful as an indicator

Europe's trade surplus on motor vehicles (at the ratio of 4.7:1 for export: imports) is not only Europe's largest trade surplus, but also the largest manufacturing trade surplus in the world. The bilateral trade between the EU and Japan in this sector is in slight deficit, but only due to parts that are imported for assembling Japanese branded PCs in Europe.

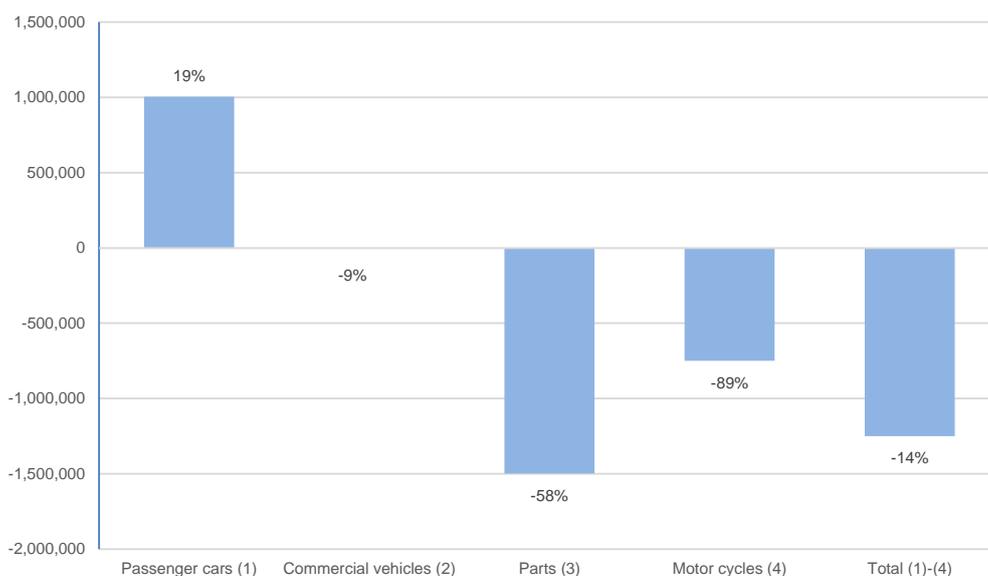
In the PC and CV categories, trade is overall in balance, and in recent years to Europe's favour on PCs. Japanese motor vehicle exports are currently at historically low levels. Whether this is the new equilibrium depends on a number of factors, such as whether

the European markets will continue to recover, but also on the commercial attractiveness of the coming product line-up of specific manufacturers. The vast majority of producers has invested billions locally in Europe with an investment horizon stretching over several decades. Whether the current surplus on PC will be maintained or deficit will return depends on the popularity of the niche and smaller Japanese brands without production capacities in Europe.

PCs made in the EU and Japan have a natural presence in each other's markets. With 79% of the import market (in value), the EU manufacturers dominate the Japanese market, whereas only 19% of imports to the EU are of Japanese origin.¹⁰⁷ Even in the often disputed small and mid-sized segments (less than 1500 cc), Japan's importance as an export market for EU-made PCs is obvious. EU exports to Japan already represent 13% of Europe's global exports although Japan only represents 5% of the world market, and the average value of PCs that the EU exports to Japan was 45% more valuable than the average of all EU exports of PCs.

Given that Japanese manufacturers localise production inside the EU and recent trends have led to foreign brands cannibalising on each other, EU imports from Japan have dropped more than 35% in the last five years. Given that the total imports have remained constant during this period, it is likely that the new imports from Japan could be at a new market equilibrium.

Figure 16 EU-Japan trade balance (€'000); trade surplus margin; 2014



Source: Eurostat, ComExt DS-016893, September 2015; Japan Ministry of Finance, 2015

As a result of these developments on the PC market, the EU is now running a considerable trade surplus against Japan on PCs. Measured by import side (as reported by the importing customs agencies in respective country), numbers indicate a large surplus margin in favour for Europe – i.e. Europe exports 19% more to Japan than it imports.¹⁰⁸

¹⁰⁷ UN Comtrade, 2015

¹⁰⁸ In any country, import-side data tends to be more accurate than export data: The surplus margin calculated by the import/export data from European customs shows a slightly lower number.

The balance on CVs is negligible in absolute terms, although the CV market represents a major interest in Japan. Europe's exports to Japan have increased by fifteen times in five years to 42 billion euro, while imports from Japan into Europe have been almost entirely displaced by domestic production. Stakeholders from the European CV manufacturers have maintained that Japan is one of their priority markets outside of the European market.

On parts (for PCs and CVs), Europe is running a considerable deficit with Japan. However, the imports in parts are heavily concentrated. About half of all imports from Japan are in gearboxes (HS870840). The UK alone (with four production facilities of Nissan, Toyota and Honda) accounts for 25% of part imports, and the seven EU Member States where Japanese automakers' production facilities are located account for half of part imports. Therefore, discounting Japanese intra-firm trade that is inevitably a necessity to keep Japanese production in Europe, the balance on parts between the EU and Japan is closer to parity. Moreover, the Japanese manufacturers purchase four times more local parts (over €12 bn)¹⁰⁹ than they import from Japan.

The EU competitiveness on parts and components is evident considering revealed comparative advantages (RCAs) above average on a number of products. Europe has several EU Member States that are competitive in each category of the motor vehicle parts sector. France and Germany are particularly well placed with positive competitiveness (measured in RCA) in 7 out of 14 tariff lines, with considerable benefits for SMEs. In particular, several EU Member States are competitive on clutches, steering wheels, breaks and safety belts. Also, approximately a quarter of the respondents of the SME survey were subcontractors of the motor vehicle industry. The main complaints were duties (electronics) and customs procedures by European respondents, while Japanese counterparts wished to see a "further enlargement of the Eurozone". No respondent envisaged a negative impact from the FTA.

Table 34 Competitiveness (RCA) of EU exports on motor vehicle parts to Japan

| Member States | Competitive EU exports to Japan in parts (5-year average RCA, indicating competitiveness compared to international average) |
|-----------------------|---|
| <i>France</i> | Safety belts (10.6 times international average), brakes (1.5), radiators (1.1), silencers (1.9), clutches (3.4), steering wheels, columns (1.7), safety airbags (2.0) |
| <i>Germany</i> | Safety belts (1.1), brakes (4.3), gear boxes (2.4), silencers (1.8), clutches (1.6), steering wheels (1.6), safety airbags (1.3) |
| <i>UK</i> | Bumpers (1.5), safety belts (21.5), road wheels and accessories (1.5), clutches (3.7), steering wheels (12.1), other parts (2.3) |
| <i>Italy</i> | Safety belts (3.1), clutches (3.8), steering wheels, columns (15.1), safety airbags (2.0) |
| <i>Spain</i> | Clutches (12.2), steering wheels, columns (1.7), other parts (3.3) |
| <i>Poland</i> | Brakes (1.6), gear boxes (10.4), road wheels and parts (1.6), suspension systems (3.5) clutches (29.6) |
| <i>Czech Republic</i> | Suspension systems (2.1), other parts (2.8) |
| <i>Hungary</i> | Gear boxes (1.6), drive axles (4.4) |

¹⁰⁹ JAMA, 2014

Impact of exchange rate fluctuations

Since the European Commission's 2012 Impact Assessment, monetary policy and market developments have caused JPY-EUR exchange rates to fluctuate within a corridor of -14% and +33% since 2011. In comparison, the EUR-SDR has moved within a narrower band, -4 to +13%. Nominal exchange rates tend to play a minor role in production decisions such as whether a Japanese manufacturer would produce in Japan or in Europe. Producers are unlikely to adjust their long-term investments on the basis reversible or short to medium term fluctuations, which are of bigger magnitude than tariff liberalisation in Europe.

It should be noted that monetary easing is neither a certain nor an effective macro policy instrument to boost exports, especially as Japan's motor vehicle industry depends heavily on a globalised supply chain. Whatever it gains from lower exchange rates will lead to losses in the price of inputs. Therefore, the analysis of the competitive devaluation of real exchange rates must take into account the true industry-specific cost of inputs, expressed as industry-specific real exchange effective rates (i-REERs) adjusted for the specific cost deflator of the Japanese transport equipment sector.¹¹⁰

An analysis of i-REERs for Yen and the Japanese transport equipment sector shows a weak or positive correlation between exchange rates and Japan's exports to Europe. The monthly data in the last five years, capturing the major policies of Bank of Japan, shows that the Yen depreciation compared to the 2005 average (index = 100) to as low as 79. However, the correlation with exports to Europe is positive for the motor vehicles category (HS87), passenger cars (HS8703), small cars (HS870321) and parts (HS8706-8708) with exports decreasing with Yen depreciation. In fact, the positive relationship between exchange rates and exports (with depreciation leading to decline in exports) comes with correlations from +0.52 to +0.79. Moreover, no negative correlation (depreciation leading to export increase) can be found with time lags at 3, 6 and 12 months between real exchange rate changes and exports. The same results follow if moving averages are used and when the observations following the Great East Japan Earthquake are removed from the sample. This conclusion is by no means unique to Japan or the automotive sector, as empirical evidence shows that export elasticity of REERs has generally decreased thanks to formation of global value chains.¹¹¹

7.3 The outcome of the FTA negotiations

All impact assessments have assumed that the relevant tariff lines will be liberalised in the EU-Japan FTA. While the EU applies tariffs, the exports to the Japanese market enter duty-free under MFN. Therefore, any increase in European bilateral exports is based on reduction of regulatory divergences and fiscal measures behind the border.

It is not possible to fully assess how far the compliance costs will be reduced in the EU-Japan trade until the final outcome of the negotiations. However, the analysis this section shows that the conclusions regarding the economic impact of the FTA holds if approximately 5% reduction in AVEs have been achieved in NTM negotiations.

The EU requests to the Japanese counterparts include:

Common for the motor vehicle category:

¹¹⁰ Industry-specific REERs are provided via RIETI daily and monthly for the transport equipment sector, accessed at: <http://www.rieti.go.jp/users/eeri/en/>

¹¹¹ Ahmed, Appendino, Ruta, Depreciations without Exports?, World Bank Policy Research Working Paper 7390, 2015

- Acceptance of UNECE safety standards in particular on PCs, which make up for the bulk of initial requests by the EU towards Japan.
- A harmonised test-driving cycle for the measurement of emissions and fuel efficiency, and testing of emission control devices.
- Addressing the diverging definitions on vehicle types that may set off costly inspections, deposition of sample vehicles, or to the requirement to register as a new vehicle type.

Examples of regulatory divergences in passenger cars (PCs)

- As in the period prior to the FTA negotiations, the main category of measures to address NTMs concerns adoption of UNECE standards. Both the EU and Japan are signatories of the UNECE 1958 Agreement concerning the Adoption of Uniform Technical Prescriptions. According to industry sources,¹¹² Japan has already unilaterally adopted 40 out of 47 passenger vehicles regulations, and the outstanding seven regulations are subject to discussion in the FTA negotiations.¹¹³
- Other divergences between EU and Japanese safety regulations and testing procedures also exist outside the scope of UNECE standards – notably safety regulations concerning use of explosives and gas. Additional requests were also added (in a second list of NTMs) on radio frequencies, tires, lamps, lights and seating space.
- Marking and stamping requirements of chassis, electrical vehicles and type readability on engines.
- EU and Japan are jointly discussing the Worldwide harmonized Light Vehicles Test Procedures (WLTP) to define a global harmonized standard for determining the levels of emissions, pollutants and fuel consumption for PCs and certain light CVs.
- There is also a shared objective to agree on a common International Whole Vehicle Type approval (IWVTA) in Geneva at a later stage.
- NTMs concerning zoning issues for dealerships and auto-servicing shops, which are technically services barriers. These issues are solved through MLIT government guidelines issued to prefectural governments, with more service shops being approved.

Examples of regulatory divergences on commercial vehicles (CVs)

- Added list include diverging standards on specification for trucks (gross combined vehicle weight of tag axle systems which do not exist in Japan), buses (dimensions, axle loads)
- Non-UNECE requirements on ventilation and tyres.
- Every model (even with minor variations) must be type certified under Type Notification systems (TNS) and Preferential Handling Procedure (PHP).

Examples of regulatory divergences on powered two-wheelers (PTWs)

- Type approvals of motor cycles (as Japan is still in the process of adopting UNECE Standards on PTWs). Also, Japan has already acceded to noise regulations under UNECE but each single motorcycle is still tested.

¹¹² Stakeholder information provided at roundtable

¹¹³ *ibid*; these regulations are illumination of rear registration plates, interior fitting, fire risks, safety glazing, indirect vision, noise levels, steering equipment, tyre rolling and grip, indicators, forward vision. Pedestrian safety and child restraint system.

Quantification of cost reduction in all quantitative studies reviewed (with the exception of the Deloitte study) and information from European stakeholders suggests a cost reduction of more than 5% AVE from resolving the first two items separately (or at least jointly). This was further validated by questionnaires completed by stakeholders who put the trade costs savings at at least 6% from the use of international standards and harmonisation of rules.¹¹⁴ The issue of test-drive cycle is particularly seen as prohibitive for both PCs and CVs, given that the fixed costs of the cycle are spread over a relatively small sales volume. Particularly in the case of CVs, the high fixed costs of market entry (e.g. endurance testing, type notification or designation systems) must be spread over a very small number of units.

Although these are almost exclusively horizontal regulations not specific to EU-Japan trade, overcoming these divergences should have considerable positive spill-over effects, where benefits are accrued 'erga omnes' to all parties. But given that the EU is the main and dominant exporter to Japan, preference erosion should not be a concern.

Finally, innovation in motor vehicles is currently in a phase of rapid evolution. The industry as a whole is moving towards alternative fuels; connectivity and the smart car concepts bring competition from new entrants outside of motor industry, and primarily from the US. Stakeholders of both Japanese and EU PC manufacturers have explained that regulatory barriers in this area "would be fundamentally different". Motor vehicle connectivity is not a topic on which the EU-Japan FTA is expected to have a major impact. However, it highlights the evolving regulatory environment, with potentially new regulatory divergences, including data privacy and cross-border data flows (see corresponding analysis under the social section). On the CV market, connectivity and related applications for fleet management and efficiencies are already a pre-requisite for data-driven optimisation.

7.4 The impact of the EU-Japan FTA

2012 Impact Assessment on exports and output

The very specific market conditions of the automobile sector – such as brand loyalty, very local and specific customer preferences and localised production – make any quantitative assessment of trade liberalisation between the EU and Japan very difficult to capture in most common models used to estimate the economy-wide impact from trade liberalisation.

- The 2012 Impact Assessment (CGE-modelling by Francois, Manchin, Norberg) shows an increase of EU exports of approximately 13%, compared to an increase of 56% for Japan, based on an assumption of complete tariff elimination and symmetrical reduction of NTMs.¹¹⁵
- According to this methodology, sectoral output increase by 4.7% in Japan (which is the highest amongst all sectors) and decreased by -0.56% in the EU. Employment decreased in the EU by an estimated -0.76% to -0.78% (long term).

The CGE model used is a solidly proven model with several benefits and takes into account demand side changes and cross-sectoral effects using input-output tables. The 2012 Impact Assessment takes into account productivity improvements in the EU and Japan derived from investment, but the CGE methodology cannot capture the effects from localised production. Moreover, the methodology considers consumer preferences

¹¹⁴ Copenhagen Economics, 2009

¹¹⁵ Francois, Manchin, Norberg, Economic Impact Assessment of an FTA between the EU and Japan, 2011.

for domestic production, but does not capture how the market is segmented into different types of vehicles that are not substitutes for each other. Instead, the model assumes that automobiles (and parts thereof) are supplied under conditions close to perfect competition. Nor do such models consider that price elasticity (output changes due to price changes following trade liberalisation) is distorted by brand loyalty for a manufacturers' brands or particular models, rather than by the country of assembly.

Empirical analyses of previous FTAs, such as the EU-Korea FTA, show that given the presence of local production, actual cross-border trade in PCs is often concentrated on very few manufacturers, with effects on trade flows highly dependent on the popularity of certain models rather than on tariffs. Ex post analysis of EU-Korea FTA shows the share of Korean branded cars that are locally manufactured in the EU has substantially increased since the entry of the FTA. While the number PCs imported from Korea has decreasing since the entry of the FTA by -15%,¹¹⁶ the sales of Korean brands have increased by at least 14%.¹¹⁷

Alternative impact assessments

Besides the 2012 Impact Assessment, there have been three sector specific studies that estimate the effects of the EU-Japan FTA. The first two (Deloitte Belgium 2012 and MRI 2012) are projection formula based on market data and arithmetic based on author's assumptions. Unlike the 2012 Impact Assessment model, neither of the models takes into account any markets other than the EU and Japan, and therefore have quite distinct features and limitations.

The first, by Deloitte Belgium (2012),¹¹⁸ is based on the assumption that the EU market will grow by a compound annual growth rate of 1.4% up to 2020 (+11.8% from 2011), while the Japanese market would shrink by 10% in the same period. Deloitte Belgium does not take into account any demand increases from the FTA at all in either of the markets. Interestingly, trade liberalisation does not affect the model. Instead, the model is based on an assumption that the sale in the EU of Japanese branded cars would increase by an additional 443,000 units (based on Japanese market shares increasing from 4 to 6.7% of the market), equivalent to an increase of 67% of the EU market that is already assumed to be expanding. Unlike real life observations, the Deloitte study assumes that this market expansion by Japanese brands would take place exclusively at the expense of EU manufacturers, not of other foreign competitors. Moreover, Deloitte assumes that Japanese manufacturers would repatriate their current EU production back to Japan so that local manufactured PCs in the EU would drop from 60% to 50% of European sales – which has no support in empirical evidence, as evident from EU-Korea FTA as seen above.

The second study is by Mitsubishi Research Institute (MRI, 2012),¹¹⁹ which assumes that the FTA leads to improved purchasing power from real GDP increases in both the EU and Japan. Lower unemployment rates in Europe lead to further improved spending power, whereas interest rates and higher petrol price increases lead to marginal adjustment of Japanese purchases of PCs. Under these assumptions, total demand would increase by 4.6% (+0.45% CAGR) in Europe and by 2.2% (0.22% CAGR) in Japan compared to a scenario where the FTA is not concluded. The FTA impact is compared to a baseline scenario where the European market contracts slightly (-5%), but the impact on Japan is more severe (-26%). The assumed GDP increase of +0.51% from the FTA for the EU is

¹¹⁶ ComTrade, Eurostat, 2015, indicating change between 2011 to 2014

¹¹⁷ ACEA, 2015

¹¹⁸ Deloitte Belgium, EU-Japan Free Trade Agreement: Impact Assessment on the Automotive Industry, 2012.

¹¹⁹ Mitsubishi Research Institute, Assessment of the Impact on the Automobile Market of an EU-Japan Economic Integration Agreement (EIA)

generally in line with 2012 Impact Assessment (cf. +0.39 to +0.76%), while +1.2% for Japan differs greatly (cf. +0.12 to +0.29%). The calculations assume a symmetrical trade barrier reduction (10% tariff cuts in Europe and 10% AVE reduction in Japanese NTMs) set against MRI's proprietary price elasticity.

The third study, conducted by Copenhagen Economics,¹²⁰ looks at trade liberalisation with various counterparts, including Japan. It uses a partial equilibrium (PE) model which, unlike a CGE model, does not look at the influence of other sectors or the increase in real income from trade liberalisation overall. However, the model uses NTM AVEs and price elasticities that are estimated on the basis of model and brand specific price and demand, addressing some of the limitations of the CGE model. The model also singles out localised EU production by foreign brands.

Table 35 Comparison of quantitative assessments

| | <i>Francois, Manchin, Norberg (2012), Scenario G</i> | <i>Deloitte Belgium (2011)</i> | <i>Mitsubishi Research Institute (2012)</i> | <i>Copenhagen Economics (2014)</i> |
|--|---|---|--|--|
| <i>Assumptions</i> | General Equilibrium model based on relative prices, productivity and elasticities in GTAP | European market grows +1.4% CAGR up to 2020 while the Japanese market contracts by -10%. Japanese manufacturers increase their sales by 67% | The baseline assumes that the EU and Japanese PC markets contract by 5% and 26% respectively up to 2020. | Full effect from EU-Korea FTA implemented. Micro estimated elasticities. |
| <i>Impact on the general economy (demand) from the FTA</i> | 0.76% economy wide (GDP) increase in the long-term for the EU; +0.29% for Japan | Does not affect model | +4.0% increase in sales in the EU; +2.2% increase in sales in Japan | Does not affect model |
| <i>Effects of trade liberalisation</i> | 9.9% AVE on Japanese exports; 1.04% AVE for EU exports | No trade impact estimated by the model, the authors make assumptions on export increase | 10% AVE for both JPN and EU | 11% AVE on Japanese exports; 5% AVE on EU exports |
| <i>Results on bilateral trade flows and output</i> | Exports: +56% for Japan, +13% for the EU. Output: -0.56% for the EU | Exports (in units): +87% for Japan, -10% for the EU. | Exports (in units, recalculated from brand sales): approx. +17% for Japan; +22% for the EU | Exports (in units): +5% for Japan; +1% for the EU; Output: less than <0.1% for the EU |

Comparison of the social and economic impact

The differences in the outcome between the four studies are striking:

- Given that a CGE model cannot reflect the very strong and specific preferences that exist on the PC market (between brands and model types), these estimates are likely to be in upper bounds of real life effects. Sector aggregation in GTAP database does not accommodate disaggregation to PCs, CVs, PTWs and parts. Nor does the study quantify whether cross-border trade could lead to increased investment and local production in the

¹²⁰ Copenhagen Economics, The impact of trade liberalisation on the EU automotive industry: trends and prospects, 2014

EU by Japanese firms. Effects on output and employment are likely to be in the extreme upper bound.

- Unlike the other studies, the Deloitte Belgium assessment does not calculate the trade policy shocks in its analysis, but simply assumes a given increase of Japanese exports of 87%. The authors assume that Japan's market share in the EU would increase from 4 to 6.7%. Similarly, the study merely assumes that a market contraction in Japan will lead to near 10% decrease in exports, with little impact from the FTA (a 0.2% increase in market share from removing NTMs). As mentioned, these volumes are exclusively taken from EU brands, whereas bilateral tariff reduction leads to trade being diverted away from other imports that continue to pay the duties. Employment losses of -34 500 to -72 760 jobs in the study, which are calculated against current employment in PC manufacturing, would be equivalent to -1.6 to -3.3%. This number is 2-4 times the extreme "upper bound" of the 2012 Impact Assessment. The disproportionate difference must be due to the multiple the authors apply to number of jobs at assembly, and/or support functions such as distribution, sales, services. However, employment in support functions is constant – whether the car is assembled in the EU or overseas.
- The MRI study does not quantify imports and exports between the EU and Japan, but presents the results as sales by Japanese and European brands. Assuming 63% of Japanese branded PCs sold in the EU are manufactured in Europe,¹²¹ the study expects an increase of Japanese exports of approximately 17% compared to a no-FTA scenario. It assumes that every percentage point in NTM reduction leads to a 1% increase in sales (which is all exported). Unlike the other studies, the MRI study leads to a relatively modest increase in employment of +0.7% for the EU.
- The partial equilibrium model in Copenhagen Economics (2014) is the only model specifically tailored to the European PC market, also taking into account volumes produced locally. Regarding the FTA outcome, all authors assume full tariff reduction in the EU, i.e. approximately 10% reduction in AVE for Japanese exports. Assumptions on NTM reduction in Japan vary between 1-5% reductions in AVE. Moreover, each study measures the effects from different benchmarks: both MRI and Deloitte measure the changes from an assumed baseline based on what they find to be a likely market development (MRI with increase spending as a dynamic effect from the FTA), whereas the equilibrium-based models assume a change "given all else equal".

To summarise, it is difficult arrive at a conclusion where the impact from the trade liberalisation alone would exceed the results in the 2012 Impact Assessment. Motor vehicles are not easily traded due to their weight and local preference. Therefore, its results should not reflect how the PC market behaves. Moreover, the Deloitte study does not calculate the impact from trade liberalisation, but presents certain assumptions about demographics affecting the baseline (that may or may not be correct) and shifts in market shares between brands; these, however, are not estimates of the impact from tariff reduction. In contrast, the Copenhagen Economics' PE model is the most detailed and describes the most likely outcome with a near-zero result on output or -0.1% impact on EU output for the PC sector.

For some segments in the motor vehicle sector, the results of the 2012 Impact Assessment could be by and large accurate, especially in regards to CVs and PTWs that

¹²¹ See Copenhagen Economics, 2014

are more likely to be traded than locally produced. With regard to parts, the impact may be slightly less as the market is more rigid with locally established supply-chain networks. Moreover, duty drawbacks are already in place for parts going into motor vehicles which narrows the difference between the baseline and FTA impact considering also that a large portion of PCs, CVs and PTWS where the parts end up are being exported.

Environmental impact

The motor vehicle sector is generally known to be a low energy and emission intensive sector. It produces about 1.5% of total emissions from the manufacturing sector in both Japan and the EU.¹²² Also in terms of overall industrial waste intensity, it produces about 5% in the EU and 3% in Japan of total waste of the manufacturing sector.¹²³ Even in the upper limit case (the 2012 Impact Assessment), the impact is still negligible on emissions and waste. There is a zero impact on the EU, and within the margins of error (<0.1%) for emissions and waste for Japan.

Furthermore, according to the International Council for Clean Transportation, the emission standards for new vehicles are very similar in Japan and the EU (currently Euro VI in the EU and Post New Long-Term Standards in Japan) and with similar targets in terms of future GHG emission standards.¹²⁴ The FTA more likely has the potential to stimulate the advancement and diffusion of emission control technologies that satisfy the new requirements, leading to increased trade in low-emission vehicles or trade in technologies. Strategic cooperation in developing technologies to meet tightening world emission standards is already taking place with European manufacturers acquiring hybrid technologies from Japan. Considering that the GHG emissions from transport fuels are larger than those from manufacturing, the positive effects from new technologies can easily offset any potential negative effects arising from minor changes in increased industrial activity in the sector.

7.5 Case study: FTA impact on Kei cars

The current baseline

Another outstanding issue in the negotiations concerns the prevalence and preferential treatment of mini vehicles or kei cars on the Japanese market. Kei cars were initially produced to make motor vehicle ownership more popular in post-war Japan. Their appearance is different from other light vehicles in general, because most of kei vehicles sold are built as a micro vans or with a so-called 'tall wagon' appearance with expanded head room to facilitate entry and exit for elderly. Another characteristic is that they have a maximum of 660 cc engines. Although a niche product unique to Japan, the share of kei cars on the Japanese market is actually steadily increasing and currently comprises 42% of Japanese ownership.¹²⁵

- 19% of the newly registered kei cars (effectively 8% of the newly registered vehicles) are trucks often used by SMEs, and fall into a completely different usage category to most European light vehicles,¹²⁶ The remaining kei cars

¹²² See EIA data (2011) and Shinichiro Nakamura, Yasushi Kondo, Waste Input-Output Analysis: Concepts and Application to Industrial Ecology, Eco-Efficiency in Industry and Science, Vol. 26, Springer, February 2009

¹²³ *ibid.*, OECD

¹²⁴ See: <http://www.theicct.org/info-tools/global-passenger-vehicle-standards>

¹²⁵ JAMA Statistics, 2015

¹²⁶ *ibid.*

belong to a category called “mini vans” that could be either small vans or sedans, where the latter could compete with European sub compact PCs.

- Ownership is concentrated predominantly in the suburban or rural regions of the country, with 46% of the owners in areas with lowest levels of population density (towns of < 100,000 people).¹²⁷
- 39% of the owners belong to the lower income bracket of less than 4 million JPY (€29,000). 54% of kei car owners are married women. Only 16% are single, either female or male.¹²⁸ The Japanese family structure suggest that a substantial part of this 54% are second cars in either urban or rural households.
- 49% of the owners are 50 years old or older.¹²⁹
- Most models offer more space than the average European small car for loading and easier entry and exit.

The five points above suggest that European sub compact/light PCs may not be suitable for all target groups amongst current kei car owners, but certainly some. This is an assessment which is not disputed by EU exporters. However, the top 10 selling imports in Japan are all European and premium models in each segment and all of German origin (VW, BMW, Audi, Daimler). None of the models are typically targeted at the low-end income group, elderly or rural users, with the possible exception of VW Up! which retails at approx. 1,548,000 yen and is the 9th most popular foreign car. Sales of other models (e.g. Mercedes Smart; Fiat 500, Panda) could see their sales in Japan increase, albeit from extremely low numbers – but they are not typically suitable for the low-end, elderly and rural segments of kei customers; models like Citroen C1 and Peugeot 108 have no real market presence in Japan at all.

However, this could be a circular argument: The EU manufacturers may indeed compete on high-end models because of the kei car tax preferences bars entry with their low-end models. However, the focus on European exports is consistently in the high-end products, not least towards mature markets like Japan. In fact, historical sales shows lowest degree of substitutability between kei cars and imports with periods of simultaneous growth and decline. Sales data (1993 to date) show that kei cars steal sales from domestic Japanese PCs (with a correlation of -0.52), in particular with small cars (-0.75), and show no correlation with imported cars (correlation -0.25).¹³⁰ Thus, both imports from the EU and kei cars are competing for market shares with the regular passenger cars, rather than against each other. Addressing kei car issues in trade negotiations is thereby more likely to help Japanese manufacturers than EU exporters.

¹²⁷ Report by Japan Mini Vehicle Association, 2012, accessed at: <http://www.zenkeijikyo.or.jp/pdf/kei-car2012.pdf>

¹²⁸ JAMA, 2014

¹²⁹ *ibid.*

¹³⁰ JAMA Statistics, 1993 to 2014

Table 36 Top 10 selling newly registered foreign brand PCs in Japan (units sold/year)

| | |
|----|-------------------------|
| 1 | VW Golf (31 419) |
| 2 | BMW Mini (17 596) |
| 3 | MB C-class (15 867) |
| 4 | BMW 3 series (15 835) |
| 5 | VW Polo (13 766) |
| 6 | Audi A3 series (10 400) |
| 7 | MB A class (9 461) |
| 8 | MB E class (8 938) |
| 9 | VW Up! (7 884) |
| 10 | BMW 1 Series (7 723) |

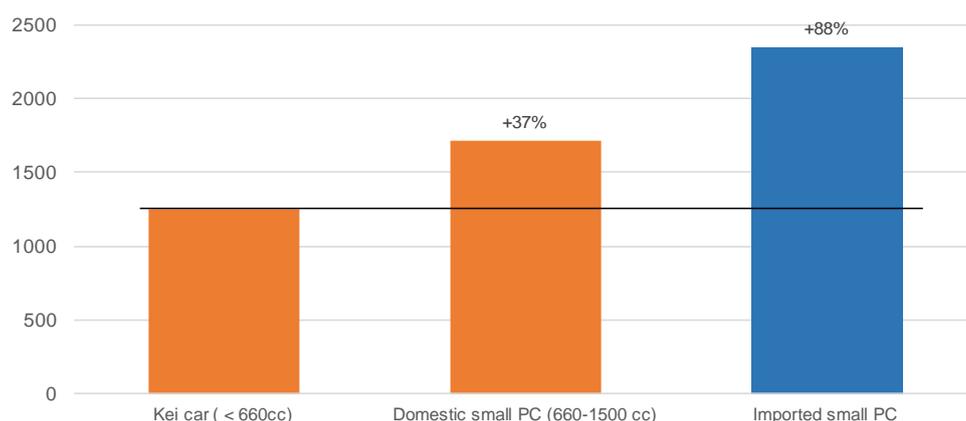
Source: JAIA, 2015

Representatives of the European industry have asserted that kei cars “enjoy a number of special financial and other regulatory advantages” and that EU manufacturers are “effectively locked out of a huge chunk of the Japanese market”.¹³¹ Their request is that kei cars should be taxed more directly in proportion to their engine size, so that all segments of the market, including European small cars, can compete on an equal footing. In some rural regions kei cars are also exempt from motor tolls or the requirement to certify that adequate parking for the vehicle exists.

Preferential treatment of kei cars

Indeed, it is clear that kei cars come with clear and significant economic benefits. The largest cost-saving comes from the vast difference in acquisition costs, where the average “regular” non-kei light car costs +37% more than an average kei car. An average imported small car costs 88% more than a kei car.

Figure 17 Average pre-sales prices of small vehicles in Japan



Source: Retail Price Survey, Statistics Bureau of Japan, Ministry of Internal Affairs and Communication

¹³¹ ACEA position paper on EU-Japan, 2012

The tax structure for car purchase and ownership is also a matter of dispute in Japan. The recent tax revisions of 2014 and 2015 have incrementally reduced the preferential gap on the road tax, with compensatory measures for eco-friendly vehicles, including a full exemption on the purchase tax. The tax gap (benefit) is still considerable, at 150,000 JPY (€1100) over the course of an average length of car ownership in Japan (8 years) and even higher towards an imported non-kei car.

Table 37 Comparison of total cost of ownership of kei cars vs imported small cars (JPY)

| | Average kei car | Average imported small car | Share of cost difference between kei and imported cars |
|--|-----------------|-----------------------------|--|
| Average purchase price | 1,278,600 | 2,344,270 | 59% |
| Purchase tax | 38,358 | 117,214 | 4% |
| Tonnage tax | 22,500 | 67,500 | 3% |
| Automobile/kei car tax | 86,500 | 316,000 | 13% |
| Liability insurance | 210,960 | 222,720 | 0.7% |
| Voluntary insurance | 1,290,808 | 1,574,160 | 16% |
| Fuel consumption | 358,400 | 551,680 | 5% |
| Total cost of ownership | 3,286,126 | 5,218,303 | 100% |
| Cost comparison with kei car with tax benefits | 0 (+0%) | +1,797,669 (+55%) | |

Source: own calculations¹³²

As the table suggests, there are considerable differences in the costs of owning an average Kei car compared to an average imported small car. Over the course of the average length of car ownership in Japan, the difference in total cost of ownership amounts to almost 1.8 million yen (approx. €13,000) or 55% higher than ownership of a kei car. More than half of the cost difference (59%) is attributable to the actual price of the car, whereas all taxes together amount to just 20% of the difference. This relative insignificance of taxes compared to the price of European cars is not affected by future reforms of acquisition tax into environmental levies (the difference in tax rates would be reduced to just 1%). Moreover, assuming the same distance travelled, the fuel consumption accounts for 5% of the difference. Moreover, the calculation above does not take into account out-of-warranty repairs or spareparts for foreign cars that can be costly in Japan.

The relationship between purchase price and taxes for five typical European small cars (two of which, Peugeot and Fiat, do not appear in the top 10) shows that successful models are the premium vehicle in their size. They retail at considerably higher price than an average kei car, and only Volkswagen Up! is within the same price range at +21% above the price of an average kei car.

¹³² Based on 8-year ownership given average ownership of kei cars is 8.4 years (non-kei car is 8.07 years) according to Japan Automobile Inspection & Registration Information Association, 2014; acquisition tax of 3%/5%; Weight tax based on 9 years (3 + 2 + 2 + 2) years; road tax according to new tax rate for fiscal year 2015; insurance prices based on market quotes; fuel consumption based on average travel distance 7,354 km and fuel efficiency of 26.2 litre and 160 yen/litre according to Statistics Bureau of Japan, 2014).

Table 38 Price difference between leading EU export models and kei cars

| | <i>Fiat 500 1.2</i> | <i>VW Golf</i> | <i>VW Up!</i> | <i>Mini Cooper</i> | <i>Peugeot 208</i> |
|---|---------------------|----------------|---------------|--------------------|--------------------|
| <i>Price in yen</i> | +719,400 | +1,597,400 | +269,400 | +1,381,400 | +955,400 |
| <i>(+% above price of average kei car)</i> | (+56%) | (+125%) | (+21%) | (+108%) | (+75%) |
| <i>Price in Japan vs retail price in EU¹³³</i> | +15% | +31% | +24% | -2% | +27% |
| <i>Purchase tax compared to kei</i> | +21,582 | -3,846 | -19,782 | +9,522 | +28,662 |
| <i>Tonnage tax compared to kei</i> | +112,500 | +78,300 | +45,000 | +112,500 | +128,700 |
| <i>Automobile tax compared to kei</i> | +189,500 | +189,500 | +149,500 | +189,500 | +189,500 |
| <i>Total tax impact</i> | +323,582 | +263,954 | +174,718 | +311,522 | +346,862 |

Source: Manufacturers' own websites; own calculations.

Another observation is how the mark up on European cars sold in Japan and the prices compared to identical models in Europe vary significantly – up to 31% amongst surveyed models, while one model type – the Mini Cooper – even retails at same price in Japan and Europe. The variation suggests that the price increase may not be explained solely by transport costs, horizontal NTMs or small volumes. There may also be a difference in economic rent, i.e. profit margins. For some models, this price differential between the Japanese and European retail price is larger than the kei car tax impact.

Potential impact of the FTA

The assessment of total cost of ownership suggests that even if the fiscal measures were fully addressed, it is not a given that the prospective buyers of kei cars would consider the current line-up of European small cars because the main differences in purchase price, insurance costs and fuel consumption remain. Furthermore, there seems to be some difference in model types, price range and demographics.

Since the 2015 reforms of the acquisition tax that allows tax deduction based on emission levels upon application from the manufacturer, three of the models (Mini Cooper, Volkswagen Golf and Up!) pay similar (or even lower) taxes than kei cars. It is clear that the differential on the acquisition taxes between kei cars and regular cars has been largely eliminated.

The remaining tax benefits, the tonnage tax and the annual road tax, create an evident fiscal incentive for consumers to choose a kei car. But even if all the tax advantages for kei cars were abolished (and kei cars and imported small cars were subjected to same tax rates regardless of their environmental performance), the cost of ownership of some European models would be comparable to kei car, while others still considerably more expensive: The total cost of ownership of a Fiat 500 is +31% above the average kei car; VW Golf and Mini Cooper are +65% or above. The analysis indicates that only one model among the top 10 imported cars in Japan (Volkswagen Up!) would realistically compete with kei cars if tonnage and automobile taxes were addressed.

However, some European premium small cars could enter into price competition against kei cars. Environmentally friendly models priced around 2 million yen (approx. 15 000

¹³³ Based on a comparison with the recommended retail price in Belgium of same model and configuration in September 2015 with JPYEUR=135.0

euros) could compete for the outliers amongst the kei car buyers in metropolitan upper-income demographics who are neither elderly nor have need for spacious interiors. By any measure, the size of such segment should be considerably less than 20% of all kei car PCs. This means a very limited number of European models (currently just one among the top 10 selling imported cars) will be competing over a theoretical target group that is much smaller than 350 000 units per year. Sales statistic also proved that Japanese buyers of European PCs are much more likely to choose between an import and a small-sized non-kei car, while much less likely to choose between an import and a kei car.

7.6 Conclusions, recommendations and flanking measures

The baseline factors pointing towards further internationalisation

The baseline analysis has shown that the export dependency of the EU is likely to increase. High-income premium markets like Japan have a decisive impact on European profits, and contribute to the overall transition towards higher value-added and productivity. Considering the growth projections in both the EU and Japan, the minor occurrences of overcapacities can only be addressed by boosting exports or restructuring. As most of the competition is internal between EU manufacturers, tariffs cannot remove the need to restructure the least profitable and unproductive clusters, or at best can only slightly delay this need. Considering that the negative trade balance is primarily a product of motorcycles and gearboxes imported by Japanese for manufacturing PCs within the EU (that are also exported to third countries), the trade balance in the sector is an irrelevant factor.

As the European motor vehicle industry continues to recover and grow, it is crucial to avoid a scenario where a minority defensive interest locks Europe into isolation and decline. Given that all segments of the motor vehicle sector are further globalising, seeking market access overseas remains the only policy option.

Impact on economic, social and environmental indicators

This assessment shows that export gains as envisaged in the Copenhagen Economics partial equilibrium model and 2012 Impact Assessment (+1 and +13%) are feasible and within the scope of the current negotiations for PC, CV, PTWs and parts. However, to what extent kei car tax benefits are likely to contribute to these increases could not be established conclusively.

Given that the first objective postulated by the economic section is fulfilled, it follows from the relevant impact assessments (Copenhagen Economics; 2012 Impact Assessment) that the tariff elimination is not likely to significantly change the production levels or employment in the EU compared to a non-FTA scenario. In sum, less than 0.1% of output in the PC segment is affected (and much less if measured as a share of the overall motor vehicle sector outputs) compared to a non-FTA scenario. It is important to note that while the FTA can change the economic conditions and thereby income and demand in the sector (a factor that are taken into account in CGEs and MRI's model). However, demographical developments are not affected by the FTA and must be identical under both scenarios. The relative increases and decreases in trade and output indicators are compared to a non-FTA scenario.

Moreover, a survey on compliance costs and the current state of negotiations supports that the assumption on NTM reductions behind the model can or is already achieved, while no facts supporting the opposite have been presented. However, even in the case if negotiations does not reduce any NTMs or kei cars at all (unilateral tariff cuts), only 0.2~0.3% of the capacities are affected, according to the most relevant model that weighs in local production (Copenhagen Economics, 2014).

Employment impacts are also within the same range. As for environmental indicators (GHG emissions and waste), the impact is within the margin of error even in the extreme scenario and is likely to be offset by exchange of environmentally friendly technologies.

The conclusion that the impact on social and economic indicators for the EU will be marginal is also supported by historical data from recent changes in real effective exchange rates in the sector. Depreciation brought about bigger relative price decreases than tariff cuts foreseen in the FTA, without affecting either European competitiveness or localisation of production inside the EU. The most likely impact is that trade liberalisation on both sides will lead to economic rents. Tariff elimination on Japanese imports (whether through parts or fully assembled vehicles) will lead to improved profit margins re-invested into production in the EU, rather than towards direct price competition.

A partial equilibrium analysis on the motor vehicle market suggests that 50% of the trade impact is actually “cushioned” by economic rents, which means half of the margins and trade created by tariff cuts is used towards increasing profits rather than engaging in price competition.¹³⁴ On the PC segment, another 29% of the trade impact is softened by trade diversion (i.e. trade is “stolen” from other exporters rather than from domestic producers), with just 21% of the impact coming from new trade generated. The equivalent number for the other segments are even less – trade creation amounts to only 15% of the trade impact on the CVs; 18% for parts and 21% for PTWs. As these numbers do not take into account inelasticity of demand (brand loyalty), the likelihood of displacing EU manufacturing through price competition is even less.

Similarly, European exporters are more likely to improve their profit margins in Japan on their relatively small volumes rather than to engage in price competition. Domestic producers are thereby able to maintain the current prices, but that also means that the welfare effect (the share of gains that are passed on to the local consumers) is extremely limited, with just 2% of the total trade effects.

As a result, the impact on consumer prices is limited. However, there are no detrimental consumer effects either. For example, there are no changes to consumer safety and sustainability of consumer goods are negligible on the EU side. Also, product quality and variety may improve from more effective organisation of supply compared to baseline.

Recommendations

Considerable negotiation effort and political capital has been spent by the European Commission, EU Member States and the Government of Japan to cater to the sensitivities of the PC market. This is a segment where the EU is enjoying a large trade surplus with the world, and (at least for now) also with Japan.

- Given the specificity of some NTMs in the PC segment, there is some risk that the benefits might only apply to a very limited number of manufacturers or model types. Prioritisation among the list of NTMs is perilous task, but must be done with respect to market segments and model types with existing market potential, most likely already exported to Japan. It is evidence that the stakeholders intend to utilise the market access that the FTA will provide.
- The relation between the premiums paid by Japanese customers (up to 30%) for European PCs is significantly higher than the levels from trade cost reductions envisaged through NTMs (at 5-6%). This relation suggests that the EU-Japan FTA may not generate new types of trade from the EU into

¹³⁴ Using the formula GSIM developed by Francois and Hall (2003) in SMART with import substitution elasticity at $e=2.8$

Japan (depending on the cost structure of EU exporters), but will always expand the trade of existing types of PCs.

Similarly, given the export orientation of the CVs, PTWs and parts sub-sectors, non-PC sub-sectors must be given equal priority. These sub-sectors tend to be export-led rather than based on local production and would contribute to offset any potential negative employment effects.

- Given the globally competitive CV manufacturers in the EU, the generally broad and horizontal NTMs in CVs (testing of emission control devices, type certifications, non-UNECE requirements) ought to be resolved. Given the extremely small share of Japanese exports destined for Europe (less than 1%), the European CV production will be able to withstand the tariff elimination. There are also transport efficiency gains for the general economy.
- Similarly, NTMs on PTWs affects all PTWs exported to Japan.

Given the already high mutual compatibility on safety standards through the 1958 UNECE agreement (which did not exist in prior FTAs) and the joint work on international whole vehicle type approval, it would be logical to establish the more ambitious level of mutual recognition or equivalence between the EU and Japan in order to minimise compliance costs for EU industry and to create pressure to harmonise outstanding divergences. It should be noted that this has not been raised by the stakeholders on either side, but is nonetheless a necessity to ensure that no new NTMs hinder trade in the future. This is particularly true for CVs.

- In extension, there is a long-term logic in institutionalising regulatory cooperation and harmonisation in CVs (as well as PCs), where Japan and the EU account for the majority of world exports. The long-term competition against UNECE-based norms comes from new entrants, including new national standards set by China and industrialisation of the ICT sector.

The analysis on parts and component trade shows an unusually high concentration of Japanese imports of a single product, while EU exports are well-diversified over products and EU Member States. Considering the majority of trade flows are intra-firm, with duty-draw back available for production destined for export, the impact of tariff elimination ought to be less detrimental than expected. Tariff cuts incentivise the extensive technology exchange already in place (especially on engine technology), industrial cooperation or “improve” margins for those assembling in Europe, rather than actually displacing local production.

- This assessment has also arrived at the conclusion that liberalisation is likely to improve profit margins. Considering the moderate growth and profitability prospects in both the EU and Japan overall, such margins are necessary to maintain investment flows (and thereby also jobs) in Europe and maintain production. Cutting tariffs on parts may therefore be a necessity.
- In expanding exports of parts, strengthening the market situation on aftermarkets (spare parts) may have been overlooked.

Flanking measures

- Given the limited impact compared to the baseline, phased liberalisation or staging periods as implemented in previous FTAs would suffice to accommodate any transition or adjustment costs on the PC market. It is worth noting that the TPP agreement implemented staging periods of 25 years, but that this outcome was the result of linkage with import quotas on rice.

- TPP also includes “snapback” provisions on US car parts tariff where tariffs may be reintroduced if US market shares in Japan do not improve. Considering the interest in maintaining production in Europe, this may have adverse effects for the EU. However, eliminating tariffs on parts may affect SMEs, which may be displaced in very limited cases. Unfortunately, there are few flanking measures that can be provided except for creating reciprocal opening on such products, either in Japan or on other markets.
- Flanking measures on PC manufacturing are primarily possible through assisted structural adjustments and improving intra-EU labour factor mobility, through which displaced workforce can more easily move into the majority of successful PC exporters, or into motor vehicle sub-sectors.

8 Sectoral analysis: Railways

8.1 Introduction

Implications of the economic analysis

The railway equipment industry (REI) is, in economic terms, the smallest of the sectors in the TSIA sectoral analysis. Like all sectors, firms on both sides wish to increase their own output, but it is delinked from many of indicators, or the strategic and economic aspects described in the economic analysis.

With 160,000 jobs in Europe it is also by far the smallest employer in the analysis, even smaller than the pharmaceutical industry (which employs 690,000).¹³⁵ Neither are there specific SME aspects of trade, at least not more than in other manufacturing sectors. However, it cannot be disputed that the sector is politically and symbolically important for many EU Member States, and the EU-Japan FTA must resolve some of the issues in the REI sector before the relationship can move on.

Market access in the REI (consisting of locomotives, rolling stock, tracks, signalling, etc.) has therefore become an important part of the EU-Japan negotiations. Unlike most other products or services covered by this TSA, the demand side does not consist in a mix of households and firms but entirely of the operators of the passenger rail services (PRS) acting on behalf of the ultimate consumers in the shape of individual passengers.¹³⁶

As a result, the welfare analysis of the rail sector needs to assess the changes that the EU-Japan FTA could bring to the REI firms (the production side) and to the PRS operators (the demand side) for the ultimate benefit of the European and Japanese passengers. Such an economic approach echoes the negotiations that have largely focused on the purchasing policy of the large Japanese PRS operators. And the EU-Japan FTA will be positively received by the Europeans and Japanese only if it visibly improves their daily life. In the rail sector, that means better quality rail services at more affordable costs for the passengers (as well as for the governments that grant subsidies to the rail sector).

Following the reasoning above, the main analytical element of this sectoral analysis is a comparison of societal gains for producers on the one hand and consumers/passengers on the other.

- The assessment is of the impact on the REI sector in comparison to the gains for consumer (impact on PRS services).

8.2 The current baseline

The baseline starts with an analysis of the demand side (PRS operators) before examining the supply side (REI firms). This order is consistent with both the focus on

¹³⁵ The figure of 160,000 jobs is based on data that have been used by the 2011 Sector Overview and Competitiveness Survey of the Rail Supply Industry commissioned by the European Commission. This figure ensures that there is no double counting and no inconsistency with the other various economic variables (production, value added, etc.) used in this TSIA report.

¹³⁶ A good reason for such a focus on passenger rail services is that the Japanese rail freight services represent only 1 percent of Japanese total freight services, a much smaller proportion than in the EU (from 17 percent in Greece to 86 percent in Latvia). In the EU overall 407.2 billion km freight was carried by rail in 2012, while in Japan the corresponding figure was only 20.5 billion tkm.

public procurement issues in the EU-Japan negotiations and the need to include the demand side in the context of a welfare analysis.

Baseline in the passenger rail services (PRS)

Two major parameters define the current baseline: the relative *size of the markets* at stake and the *legal status* of the PRS operators:

- **The size of the PRS markets:** The relative size of the markets at stake is an important factor in trade negotiations. Table 39 shows that the Japanese and EU PRS markets are roughly the same size when measured by the most frequently used indicator of number of passenger-kilometres.¹³⁷ The Japanese PRS market is roughly 90 percent of the combined size of all the EU PRS markets. As Japan’s population is one-fourth of the population of the whole EU, the “PRS intensity” — defined as 1,000 passenger-kilometres per capita — is on average three times larger in Japan than in the EU. This intensity indicator reflects the key role of the passenger rail transport in Japan compared to the EU.

Table 39 Passenger kilometres (pkm) in Japan (2009, 2014) and in the EU (2012)¹³⁸

| | EU | | | Japan | | |
|--------------|--------------|-------------------|------------------------|----------------|-------------------|------------------------|
| | pkm [a] | pkm share % | pkm per cap. [b] | pkm [a] | pkm share % | pkm per cap. [b] |
| France | 89.1 | 21.3 | 1346 | JR East | 131.1 | 34.6 |
| Germany | 88.4 | 21.1 | 1090 | JR Central | 58.1 | 15.3 |
| Britain | 61.0 | 14.6 | 941 | JR West | 55.9 | 14.7 |
| Italy | 44.6 | 10.7 | 735 | West Japan [d] | 29.3 | 7.7 |
| Spain | 22.5 | 5.4 | 485 | Tokyo 9 [e] | 62.3 | 16.4 |
| Netherlands | 17.1 | 4.1 | 1012 | | | |
| Poland | 17.8 | 4.3 | 462 | JR-Hokkaido | 4.3 | 1.1 |
| Sweden | 11.8 | 2.8 | 1204 | JR-Kyushu | 9.2 | 2.4 |
| Belgium | 10.3 | 2.5 | 920 | JR-Shikoku | 1.4 | 0.4 |
| Austria | 11.3 | 2.7 | 1314 | | | |
| 19 Others | 44.5 | 10.6 | 433 | 149 Others | 27.8 | 7.3 |
| Total | 418.4 | 100.0 | 825 | Total | 379.4 | 100.0 |

Notes: [a] pkm: passenger-kilometres in 2014 for the JR companies, 2009 for the other Japanese companies. [b] pkm per cap.: 1,000 pkm per capita. [c] The pkm per capita is calculated for the whole Honshu region (without taking account of the 149 other PRS operators). [d] The major 5 private railway operators in Western Japan. [e] The major 8 private railway operators in Tokyo (excluding the Tokyo Metro run by the Tokyo Traffic Bureau)

Table 39 shows that the diversity in terms of the size of the individual Japanese PRS operators is matches the whole range of EU PRS operators. The three major Japanese

¹³⁷ This analysis excludes the underground operations. Indeed, urban transport does not raise specific issues since it is run by public entities in both Japan as the EU, hence raises only the usual issues related to the enforcement of public procurement disciplines on both sides. Japan and the EU have 10 and 35 (respectively) cities running metros. On both sides, some undergrounds are run by PRS operators (for instance, JR East in Tokyo, SNCF in Paris) while the others are run by special public entities (for instance, Tokyo Metro, RATP in Paris). The total number of daily passengers is estimated to roughly 10 millions in Japan (5.7 millions for the Tokyo area alone) and 9.6 millions in the EU cities.

¹³⁸ [a] Eurostat, EU transport in figures (2014). [b] Ministry of Land, Infrastructure, Transport and Tourism (MILT) for Japan (2009). Union Internationale des Chemins de fer (2015).

PRS operators (JR-East, JR-Central and JR-West) are larger or comparable in terms of passengers-kilometres to the national PRS operators of the four largest EU Member States. JR-East alone is twice the size of the whole British PRS market and almost three times the whole Spanish PRS market. In addition, there are no less than 150 PRS operators in Japan, with 13 PRS operators of some significant size in addition to the six JR companies. Compare this to the German rail market, the most diverse market in the EU, which hosts 311 train (mostly freight) operators [IRG-Rail 2015] but only 3 PRS operators of any size in addition to the incumbent Deutsche Bahn (see below).

Figure 18 shows the areas of operation of the six successors of the PRS operations of the defunct state-owned Japan National Railways (JNR). These six successors operate in well defined regions: three (JR-East, JR-Central and JR-West) on the main inland (Honshu) and three in each of the three other large islands (JR-Hokkaido, JR-Kyushu and JR-Shikoku). The fact that the three JR located in Honshu operate trains over longer distances than the three other JR explains their dominant share of passenger-kilometres (67 percent). However, their share in terms of passengers (hence eliminating the distance factor) is still large at almost 40 percent of all the passengers carried by trains (and metros).¹³⁹

Figure 18 Geographical specialization of the PRS JRs



Ownership of PRS operators

- **Ownership of PRS operators** has been a critical topic of the EU-Japan FTA negotiations. Concerns have been expressed about the possibility of more effective access to the sector given the former or current public ownership of PRS operators. Table 40 summarizes the basic information in these matters.

In Japan most of the 160 or so Japanese PRS operators are privately owned. The main exceptions are the three small “regional” successors of the defunct national state-owned JNR (JR-Hokkaido, JR-Shikoku and JR-Kyushu) which altogether represent 4 percent of

¹³⁹ Ministry of Land, Infrastructure, Transport and Tourism (MLIT).

the whole Japanese PRS market.¹⁴⁰ As a result, almost 95 percent of the Japanese PRS market is supplied by private operators.¹⁴¹

In the EU, most of the EU PRS operators are state-owned enterprises using a wide range of legal regimes from private joint-stock companies with the State as the unique shareholder (Deutsche Bahn AG) to entities regulated under public law (France's SNCF). Britain stands as the apparent exception since almost all the British PRS operators are private. British PRS operators are small compared to the three private JRs. Thameslink (TSGN), the largest private PRS firm in Britain, operates less than one-tenth the passenger-kilometres a year of JR-East [House of Commons 2015b].

Table 40 Main characteristics of selected PRS operators¹⁴²

| Countries | PRS name | Ownership | Year of privatization | Main shareholders |
|-------------------|--------------------|------------------|------------------------------|--------------------------|
| France | SNCF | Public | -- | French State |
| Germany | DB AG | Public | -- | German State |
| Britain | [a] | Private | 1996 | EU PRS [b] |
| Netherland | NS | Public | -- | Dutch State |
| Poland | PKP | Public | -- | Polish State |
| Japan | JR-East | Private | 2002 | [c] |
| | JR-Central | Private | 2006 | [c] |
| | JR-West | Private | 2004 | [c] |
| | JR-Hokkaido | Public | -- | Gov. of Japan |
| | JR-Kyushu | Public | -- | Gov. of Japan |
| | JR-Shikoku | Public | -- | Gov. of Japan |

Notes: [a] Eight parent groups operate most of the roughly 20 franchisees (the number of franchisees has changed over time). [b] see some details in text below. [c] see text below on ownership of Japanese PRS operators.

Since the beginning of the discussions on the EU-Japan FTA, concerns have been expressed that private ownership does not necessarily preclude government influence. However, in Japan the 10 largest shareholders own altogether only 24.7, 28.0 and 20.1 percent of the total shares of JR-East, JR-Central and JR-West, respectively. Moreover, none of these 10 largest shareholders owns more than 7 percent of all the shares of the JR companies.

¹⁴⁰ In Japan, nationalization was a rare event before WWII (the first train Tokyo-Yokohama in 1872, a very limited public rescue operation in 1906-1907, after a frenzy of investments). During WWII, it was limited to the tracks critical for military operations. These tracks were the basis for the creation of the state-owned JNR by the US authorities in 1947, and the nationalization left the many other private rail companies to continue their business. In the 1970s, the comparison of the way JNR and the private companies operated was a powerful argument for privatization in public opinion [Terada 2001].

¹⁴¹ Negotiators raised the question whether specific commitments could apply to private companies which were public entities in the past. Voluntary codes of conducts have been suggested as a possible solution and discussions are still ongoing, which could result in commitments on both sides. The fact that relevant Japanese firms are not operating under exclusive government license as it is the case in the EU, and also the number of years since companies were privatised and without government involvement, could be important elements in these discussions.

¹⁴² IRG-Rail Monitoring Report 2015 [website] for EU PRS operators. House of Commons [2015b] British PRS operators. "4-traders" website financial reports for the private Japanese PRS operators.

On the EU side, the ownership is much more concentrated. By definition, the state-owned PRS operators have one shareholder. But, all the British operators have also a very concentrated ownership with two to three shareholders for each PRS operator. Moreover, most of these shareholders are three EU state-owned enterprises that are the sole owner or co-owner of 11 British PRS operators:

- Deutsche Bahn AG (via its subsidiary Arriva) is the sole shareholder of three PRS operators carrying 13 percent of all British train-passengers.
- NS is the sole shareholder of three PRS operators carrying 25 percent of the whole British train-passengers.
- SNCF (via its subsidiary Keolis) is the co-shareholder of four PRS operators carrying 21 percent of British train-passengers.

In sum, the three state-owned EU PRS operators have thus a global market share of 59 percent of the whole British market (and have been beneficiaries of the British subsidies granted to the PRS operators). The two main private owners of British PRS operators are Stagecoach (initially in a bus services company) and Virgin which runs almost 24 percent of the whole British PRS market (the other significant private owner is the FirstGroup).

Baseline in the rail supply industry (RSI)

RSI products are generally divided into three segments: locomotives and rolling stock (hereafter locos), infrastructure (which ranges from steel rails through fixtures to pebble) and signalling equipment (hereafter signalling). Locos represent the bulk of the world RSI trade (64 percent) with trade in infrastructure at 33 percent and trade in signalling a tiny 3 percent. These proportions are roughly the same in the EU and Japan trade flows.

RSI firms can be divided in two main, very different, types: the (often small or medium size) "equipment firms" ("équipementiers") specialized in the production of a well-defined range of products and their related services (for instance Knorr-Bremse for brakes or Koito for vehicle monitoring systems) and the (often large or very large) "assembling firms" ("assembleurs"), which provide a wide range of products and services (for instance, Bombardier or Hitachi). As most rail equipment are expected to last long (25 years at least, in practice much beyond) delivering appropriate maintenance is important, and failure to do it is a sure source of reputational problems.

The baseline situation is described in three steps:

- (i) the bilateral trade in RSI products between Japan and the EU;
- (ii) the inter-actions between Japanese and EU RSI firms in the major third country rail markets; and
- (iii) the regulatory regimes in terms of norms and procurement.

The EU-Japan bilateral trade in RSI products

Concerns have been often raised about the unbalanced nature of bilateral RSI trade between Japan and the EU. These concerns deserve two preliminary remarks. First, economic analysis warns that bilateral trade imbalances are not a robust basis for assessing a trade situation for two reasons. A country may have a bilateral trade deficit with a partner and a global trade surplus with the rest of the world (which, as shown below, is the case for the EU RSI production).¹⁴³ The existence of a bilateral trade deficit

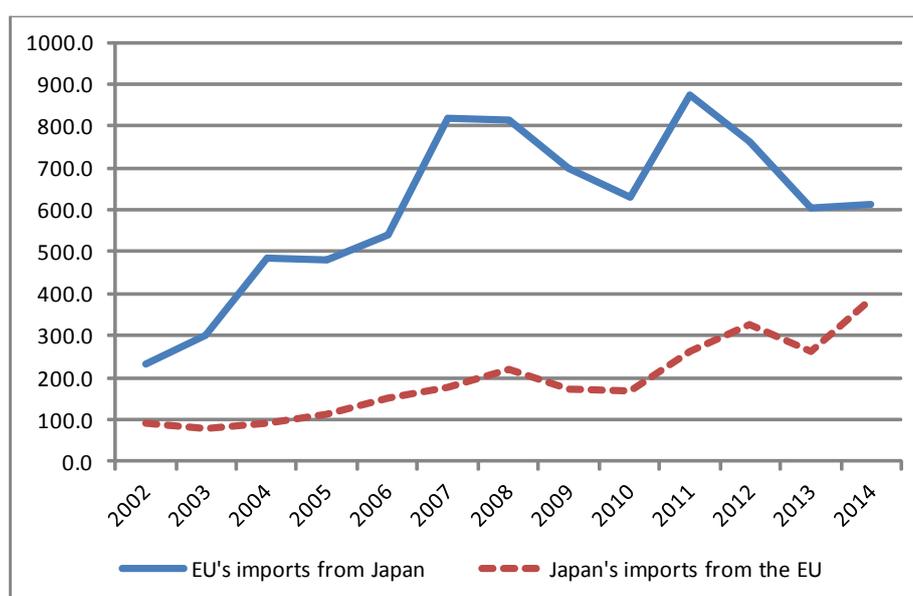
¹⁴³ Moreover, the economic approach of not limiting the analysis to bilateral trade flows is a consistency requirement imposed by the fact that the whole TSIA report is based on a general equilibrium analysis (CGE model).

can be the result of special circumstances that should be interpreted with care (as is again the case in EU-Japan bilateral RSI trade).

Second, assessing bilateral trade is always a delicate exercise because of the poor quality of the export data, in sharp contrast to the high quality of the import data which is much better reported and monitored for tax and economic reasons. This is not an issue specific to RSI products. But, as the bilateral trade has been a source of a debate in the EU-Japan rail negotiations, special care needs to be taken in addressing this issue. What follows therefore relies only on import data. And Japanese import data for RSI goods from the EU are used and EU imports of RSI products from Japan are used as the most accurate available information on the Japanese exports to the EU.

Figure 18 illustrates the import flows. This shows relatively modest trade volumes from both sides that never reaches a billion euros in any one year. Second, it illustrates two very different trends over the decade covered. EU imports from Japan increased substantially between 2002 and 2007, before stagnating up to 2011 and then decreasing substantially by roughly 200 million euros. In sharp contrast, Japan's imports from the EU slowly increased up to 2010, but have increased substantially since then also by roughly 200 million euros. The resulting difference between these two import curves can be interpreted as the best estimate of the EU-Japan "trade imbalance". Figure 18 shows that this trade imbalance has substantially decreased: from a 642 million euro peak in 2007 to 229 million euros in 2014 (roughly back to the level in 2003).

Figure 18 Bilateral imports of RSI products, millions of euros¹⁴⁴



The "scissor" effect illustrated by Figure 18 is too fast and short-lived to be due to economic forces in the RSI supply side. Indeed, trade data provide evidence that the key source of the ballooning and then shrinking trade imbalance comes from the demand side. Detailed imports from Japan by EU Member State show that British RSI imports represent 20 percent of the whole EU imports, a share much larger than the British share in terms of passenger-kilometres (14 percent) or tracks (10 percent). The British "hike" in the EU demand of RSI products is particularly strong between 2007 and 2012,

¹⁴⁴ Source: UN Comtrade, 2015

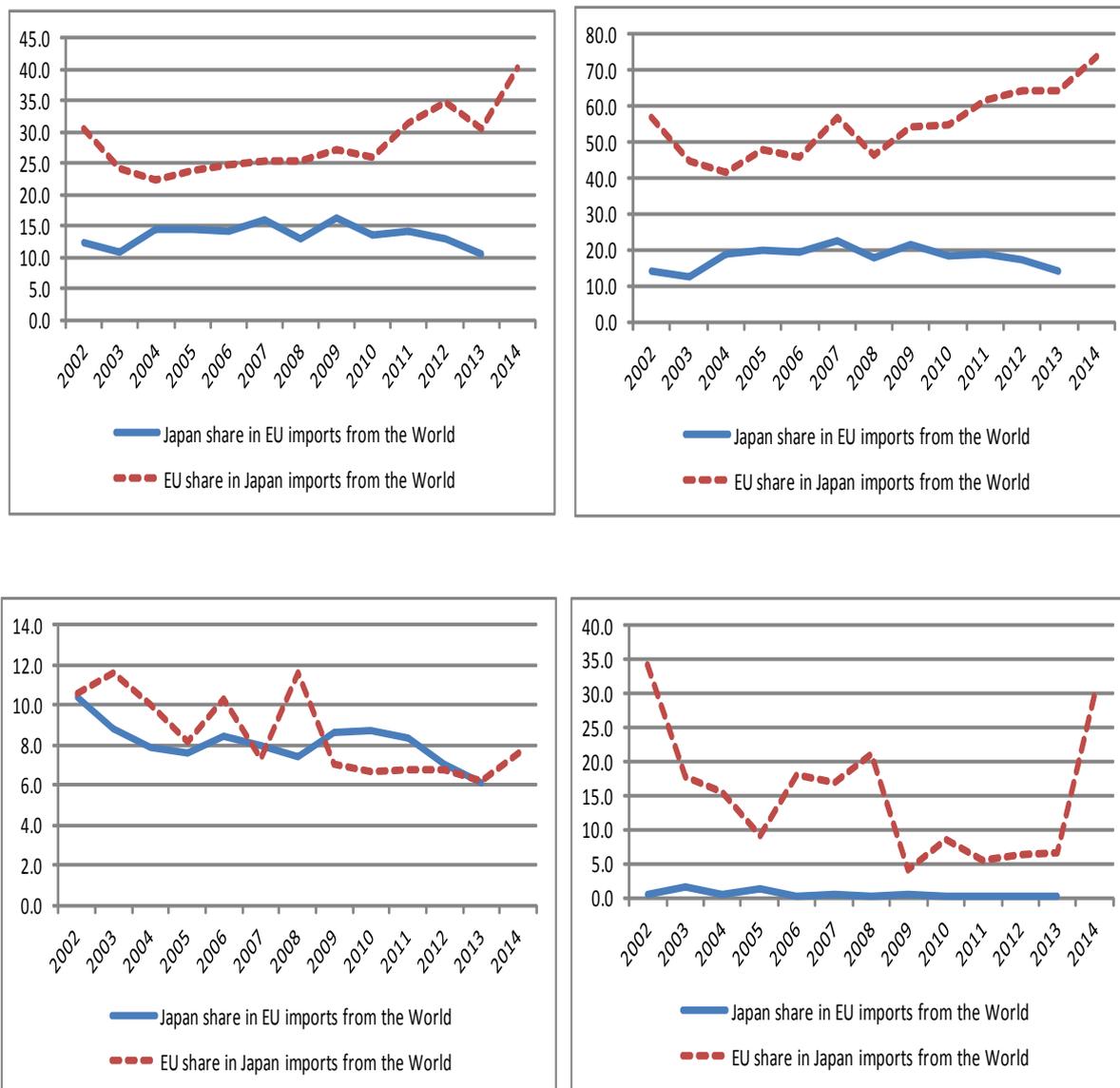
the peak years for EU imports from Japan (see Figure 18). A similar, though earlier, smaller and shorter demand hike happened in Ireland. In short, massive and urgent investments in British (Irish) locos and infrastructure at an acceptable level in terms of price, quality and delivery were seen as requiring a large diversification of suppliers, beyond the traditional circle of EU RSI producers.

The EU-Japan bilateral trade deserves one last essential set of observations. Figure 19-A to 19-D illustrates (i) the share of imports from Japan in the total EU imports from the world, and (ii) the share of imports from the EU in the total Japanese imports from the world. They show these shares for the RSI products as a whole, and for the individual segments of locos, infrastructure and signalling, respectively.

Figure 19 reveals another form of trade imbalance. For the RSI products as a whole, Japan imports from the EU 30-40 percent of its total imports from the world, while the EU imports from Japan only 10-15 percent of its total imports from the world.¹⁴⁵ This trade imbalance is even higher in the locos segment. Moreover, Figure 19 shows that Japan imports an increasing proportion of its world imports from the EU, while the EU imports a relatively stable share from Japan over the period covered. The only exception is the infrastructure segment where Japan's and EU's share are very similar and declining over time.

¹⁴⁵ It is sometimes argued that imports from abroad represent only 0.03 percent of the total value of the Japanese rolling stock. This figure raises two issues. First, by definition, this ratio is bound to be very low since its numerator is an annual trade flow (imports) and its denominator a multi-year (at least 20 years) stock of equipment. Second, leaving aside this first limit, the figure for Japan may have a meaning only if it is compared with the figures to be calculated on the same basis for the EU Member States capable of producing rail equipment.

Figure 19 A to D: Bilateral shares in total imports from the world, 2002-2014¹⁴⁶



Note: Figure 19A (all RSI products) is in the top left corner, 19B (locos) in the top right corner, 19C (infrastructure) in the bottom left corner and 19D (signalling) in the bottom right corner.

Japan and the EU in the world RSI trade

Thirteen countries represent 94 percent of the world trade in locos, 89 percent of the world trade in infrastructure and 96 percent of the world trade in signalling¹⁴⁷. These countries are: Brazil, Canada, China, the EU, India, Japan, Korea, Mexico, Russia, Singapore, Switzerland, Turkey, and the US. What follows focuses thus on the 11 world markets which are the major export markets for the Japanese and EU RSI firms.

Table 41 provides a broad overview of the situation of the Japanese and EU RSI firms on these 11 major export markets for the years 2002-2014, divided in two sub-periods

¹⁴⁶ Source: UN Comtrade, 2015

¹⁴⁷ Data show a twelfth major market comparable to the 11 ones examined in the text. It consists of the Other Asian Countries. This entity is left aside because it is a pure statistical aggregate.

(2002-2007 and 2008-2014, that is, before and after the global financial crisis). It divides these 11 markets into three groups:

- Three “large” markets (US, China, Canada) which can also be qualified as relatively stable since they show no big ups and downs in terms of imports during the period 2002-2014.
- Five “medium-size” markets (Russia, Mexico, Brazil, Turkey and India) with (much) more volatile import flows than the other countries.
- Three small markets (Korea, Singapore and Switzerland), which can also be qualified as stable.

These three groups are defined on the basis of the imports of locos, but they also reflect relatively well the situation in the infrastructure and signalling segments.

Block A of Table 41 provides three main observations in the case of locos segment:

- The combined share of imports from Japan and the EU is higher than 50 percent in seven markets: the US, China, Turkey, India and all the small markets—although the shares in two of these markets (Singapore and India) are below 50 percent for the second period 2008-2014.
- In four of these seven markets (Turkey, India, Singapore and Switzerland) the share of the imports from the EU constitutes most of the combined share of imports from Japan and EU. The EU RSI firms have almost a complete and stable dominance in the Swiss market.
- The evolution is quite different for the three last markets (the US, China and Korea): the share of the imports from the EU is notably smaller than the combined EU-Japan share. In these markets which represent more than half of the imports from the 11 countries (50-55 percent for locos and infrastructure, 60-65 percent for signalling), the share of the imports from the EU differs between the pre and post (2008) crisis years: slightly increasing in the US, but significantly declining in China and Korea. It is worth underlining that the share of the imports from the Japan in these three remaining markets has followed the same pattern as that of the EU.

Table 41 EU and Japanese producers in the major RSI markets, 2002-2014¹⁴⁸

| | Large and stable markets | | | Medium-size and volatile markets | | | | Small and stable markets | | | |
|---|--------------------------|-------|--------|----------------------------------|--------|--------|--------|--------------------------|-------|-----------|-------------|
| | USA | China | Canada | Russia | Mexico | Brazil | Turkey | India | Korea | Singapore | Switzerland |
| A. Locomotives and rolling stock | | | | | | | | | | | |
| Imports from the world (millions USD) | | | | | | | | | | | |
| 2002-07 | 2830 | 1218 | 1066 | 776 | 595 | 289 | 201 | 146 | 308 | 248 | 510 |
| 2008-14 | 3433 | 3565 | 1323 | 2462 | 922 | 965 | 782 | 517 | 588 | 332 | 694 |
| Shares of aggregated imports from the EU and Japan in world imports (%) | | | | | | | | | | | |
| 2002-07 | 56.3 | 77.4 | 9.8 | 17.0 | 14.3 | 22.5 | 71.8 | 56.5 | 77.4 | 67.7 | 99.4 |
| 2008-14 | 62.0 | 74.9 | 11.5 | 23.6 | 15.0 | 28.6 | 53.8 | 47.5 | 73.0 | 49.4 | 98.9 |
| Shares of imports from the EU in world imports (%) | | | | | | | | | | | |
| 2002-07 | 30.4 | 52.0 | 6.4 | 16.7 | 13.6 | 18.7 | 69.6 | 49.1 | 52.2 | 53.5 | 99.2 |
| 2008-14 | 34.9 | 41.4 | 8.8 | 23.2 | 13.8 | 26.3 | 52.0 | 45.3 | 36.4 | 43.5 | 98.6 |
| B. Infrastructure | | | | | | | | | | | |
| Imports from the world (millions USD) | | | | | | | | | | | |
| 2002-07 | 1924 | 733 | 764 | 132 | 776 | 193 | 132 | 67 | 101 | 233 | 276 |
| 2008-14 | 2457 | 1518 | 1044 | 732 | 1150 | 628 | 307 | 291 | 274 | 429 | 436 |
| Shares of aggregated imports from the EU and Japan in world imports (%) | | | | | | | | | | | |
| 2002-07 | 31.9 | 55.0 | 16.5 | 28.3 | 16.3 | 65.7 | 83.0 | 72.5 | 54.9 | 28.9 | 92.6 |
| 2008-14 | 34.0 | 63.9 | 20.5 | 36.4 | 18.7 | 55.0 | 72.9 | 42.9 | 35.7 | 12.6 | 88.4 |
| Shares of imports from the EU in world imports (%) | | | | | | | | | | | |
| 2002-07 | 12.2 | 25.7 | 7.0 | 27.5 | 10.2 | 51.0 | 77.3 | 62.0 | 32.8 | 10.1 | 91.7 |
| 2008-14 | 15.0 | 30.9 | 10.7 | 22.8 | 11.0 | 37.8 | 68.6 | 35.1 | 24.9 | 7.5 | 87.8 |
| C. Signalling | | | | | | | | | | | |
| Imports from the world (millions USD) | | | | | | | | | | | |
| 2002-07 | 109 | 65 | 37 | 8 | 25 | 4 | 12 | 6 | 29 | 5 | 26 |
| 2008-14 | 186 | 100 | 59 | 27 | 44 | 38 | 46 | 17 | 67 | 16 | 37 |
| Shares of aggregated imports from the EU and Japan in world imports (%) | | | | | | | | | | | |
| 2002-07 | 27.3 | 68.8 | 14.2 | 81.1 | 16.1 | 52.6 | 96.6 | -- | 94.3 | 54.7 | 97.9 |
| 2008-14 | 15.4 | 79.3 | 8.0 | 88.9 | 9.9 | 66.3 | 97.7 | 66.5 | 50.4 | 57.9 | 96.6 |
| Shares of imports from the EU in world imports (%) | | | | | | | | | | | |
| 2002-07 | 25.5 | 66.4 | 14.1 | 81.1 | 16.0 | 51.7 | 86.0 | -- | 70.2 | 47.7 | 97.7 |
| 2008-14 | 14.4 | 73.8 | 7.9 | 88.9 | 9.6 | 66.1 | 97.4 | 76.1 | 51.6 | 57.5 | 96.6 |

Block B of Table 41 on infrastructure shows relatively similar features to those observed for the locos segment. But, there are some notable differences. The combined shares of the Japanese and EU RSI firms are more modest, often half those observed in the locos segment. Moreover, the share of the imports from the EU is a much more modest part of the share of the combined imports from Japan and EU, and it declines in major markets.

Block C of Table 41 on signalling shows that trade flows are much smaller in absolute values than in the two other segments. That said, the situation and its evolution are a mix of those prevailing in the locos and infrastructure segments.

All these observations suggest that the dialogue on railways that is part of the wider EU-Japan dialogue on industrial cooperation could be internationalised, involving those markets (e.g. the US, China, Korea) where, the positions of Japan and the EU are increasingly challenged by powerful local and foreign competitors. An EU-Japan FTA offers an opportunity to launch an initiative for such a strategic dialogue.

Regulatory regimes in matter of norms and procurement¹⁴⁹

The dialogue on railways that is part of the wider EU-Japan dialogue on industrial cooperation has contributed to a clarification of the apparent differences between the two regulatory regimes and has shown that real differences are limited. What follows briefly describes the situation.

¹⁴⁸ UN Comtrade, 2015

¹⁴⁹ This section relies heavily on Magnien, Airy, 2010. A quick analysis of railway regulatory differences between EU and Japan (unpublished material).

Note that both sides have a similar objective. Japan and the EU put railway safety at the top of their priorities, while making efforts not to overregulated the railways with excessively detailed technical specifications in order to retain the incentive to improve on the existing technologies. Japan's and the EU's regulatory regimes have also a similar broad legal structure. General objectives in terms of safety, interoperability and, to some extent, environmental protection, are defined in broad terms by the "essential requirements" in the EU Directives and by the 2002 Ministerial Ordinance in Japan. Both legal instruments avoid reference to industry standards, in order not to restrict the choice of technologies.

As always, compliance is the most delicate issue since a variety of responses to the same requirements is possible, and indeed desired. However, the real differences between Japan and EU regulatory regimes are smaller than apparent for the following reasons:

- In the EU, high-level safety requirements are expressed in the Directives and detailed in the Technical Specifications for Interoperability (TSIs). These specifications are mandatory. They are normally functional specifications, and compliance with harmonized EN standards (if available) provides sufficient (not necessary) proof of compliance with the requirements. When functional specifications are impractical, TSIs include technical prescriptions. In either case, PRS operators may ask for "derogations" under the conditions stipulated in the Directive. Derogations are processed on evidence that the proposed design fulfils essential requirements (i.e. safety, technical compatibility, etc.) in an equivalent manner, in the context of the particular project under scrutiny.
- In Japan, the MLIT has set up "interpretative criteria" to ease compliance with the Ministerial Ordinance. These interpretative criteria are not mandatory. They are publicly available documents detailing a possible way of satisfying the technical standards, and they refer to national (JIS) standards (themselves not mandatory) only for the sake of clarification. The interpretative criteria are used by Japanese PRS operators to set up their own design standards (called "internal standards" or "implementation standards") that will be the basis for the procurement and the maintenance of their railway systems. Any deviation from the informative "interpretative criteria" has to be notified to public authorities which may instruct the PRS operators to modify their internal standards so as to comply with the Ministerial Ordinance.

That being said, there are a few differences, but again limited:

- In order to comply with the EU Treaty, the EU Rail Interoperability Directives have to cover a wider range of essential requirements than the Japanese Ordinance, including health and safety, reliability, availability and technical compatibility.
- Technical compatibility is not stated as an issue in Japan. Formally, this difference may appear significant. In practice, the difference is small, because lack of technical compatibility often gives rise to increased safety risks. This is best illustrated by the clearance gauge as encroaching on the clearance gauge is a safety hazard, not surprisingly, the "interpretative criteria" describe the current clearance gauges in use with Shinkansen and narrow gauge in Japan. In other words, the "interpretative criteria" deal with technical compatibility in a significant way.
- Another significant case is the requirement that brake systems should be free from defects, which of course cannot be fulfilled with 100% certainty in any part of the world. Such requirements would pose difficulties for design offices, and the "interpretative criteria" have to propose better understandable and enforceable, hence technical, requirements. Regulators

in both EU and Japan had to strike a balance between “wide” requirements with difficult proof of compliance, and “narrow” requirements, the compliance with which can be more easily demonstrated.

- Furthermore, both Japanese interpretative documents and EU technical specifications for interoperability occasionally refer to industry standards for further clarification. In such a case, the quoted standards become mandatory¹⁵⁰. Here too, one observes some convergence between Japanese (JIS) and EU (EN) standards through worldwide standards. About two thirds of all EN standards are identical or equivalent to ISO or IEC standards. Key safety domains (concerning reliability, availability, maintainability and safety for railway applications, or electromagnetic compatibility) have, or will have in the near future, equivalent EN and JIS standards.

In the EU, procurement is based on publicly available technical specifications for interoperability and industry standards. Derogations remain possible, and are scrutinized in a two-stage process by the EU Member States and the EU Commission (Art. 9 of the Interoperability Directive 2008/57). The results of the derogation process are also made public. In Japan, procurement is based on detailed in-house safety standards (the “implementation standards”) that reflect the Ministerial Ordinance and the interpretative criteria. These implementation standards have to be notified to public authorities, and any departure from the Ministerial Ordinance or from its interpretative standards must be notified and justified, subject to approval by either the MLIT or the Prefectures concerned. However, the process and its publicity are not described.

To sum up, Japan’s and the EU’s rail regulations are actually closer to each other than they look, although the extent of enforcement is less clear in the case of Japan. Such a conclusion flows from the basic fact that both aim to allow the deployment of advanced technologies in a safe manner.

Interestingly, this conclusion is consistent with the observations made above when examining trade flows with a rapidly diminishing trade imbalance in the EU-Japan bilateral trade and the larger share of imports from the EU in total Japan’s imports (compared to the share of imports from Japan in total EU’s imports). It is also consistent with the higher import penetration in Japan compared to the EU in the RSI markets (see below section 8.3).

8.3 The outcome of the FTA negotiations

At the time of writing this report the overall negotiations of the EU-Japan FTA have not reached their final stage. On the Japanese side there are two distinct sets of proposals and decisions. First, for all the PRS operators listed in the WTO Government Procurement Agreement (GPA), Japan’s Ministry of Land, Infrastructure, Transport and Tourism (MLIT) has suggested to adopt an “administrative notice” instructing all the PRS operators listed in the WTO Government Procurement Agreement (GPA) to follow closely the GPA rules ensuring non-discrimination between foreign and domestic suppliers. In addition, Japan would make it easier for EU RSI firms to be involved in the public consultation process, for instance by establishing a correspondence between Japanese regulations and the EU technical specifications for interoperability. Such a move could be followed by the EU side taking measures in order to allow Japanese RSI firms to be aware of future EU ERTMS specifications. Second, on the side of the private PRS operators, the three private JRs

¹⁵⁰ It should be underlined that, in the absence of regulations enforcing them, industry standards (ISO, IEC, EN...) are, by definition, voluntarily adhered to.

have already agreed to make public their voluntary codes of conduct on their respective websites.

On the EU side, the ultimate targets of the negotiations are four fold. First is about the "Operational Safety Clause" (hereafter OSC) introduced by Japan in order to take into account high earthquake risks. The OSC is seen by many EU stakeholders as a non-transparent NTB discriminating against non-Japanese RSI firms. The EU requests a complete abolition of the OSC, or a limitation of its scope coupled with alternative measures to ensure market access for EU companies on a fair and equal basis. Second, the EU is looking for increased legally secured market access by the coverage of additional railways operators. The third EU request is to ensure total transparency and a monitoring of the effective implementation on a regular basis. Finally, the EU wants to promote a high level of regulatory cooperation and recognition of standards.

8.4 The impact of the EU-Japan FTA

The potential impact of a EU-Japan FTA depends on (i) the magnitude of the concessions agreed by both sides (assuming their full implementation) (ii) the extent to which better bilateral market access will generate more competitive RSI markets in Japan and in the EU and (iii) the extent to which the PRS operators will use the benefits offered by these more competitive RSI markets and "pass them on" via lower prices and/or higher quality services to the train passengers as final consumers.

At this stage of the negotiations, very little can be said on point (i) beyond what has been reported and suggested above. However, it is still possible to get a useful sense of the potential impact of an agreement on the RSI and PRS sectors in the EU-Japan FTA by answering two questions. To which extent are the Japanese and EU RSI in a position to deliver better and cheaper products if the bilateral markets are more opened? And to which extent are the Japanese and EU PRS operators capable of "passing on" the benefits from more competitive RSI markets to the Japanese and European consumers?

Potential impact in the RSI markets

The answer to the first question, the ability of the Japanese and EU RSI to deliver better and cheaper products, can be found in the existing level of competitiveness of these two industries. Table 42 uses a set of data on competitiveness generated by Ecorys (2012) in order to assess the main competitiveness factors of the Japanese and EU RSI.

Block A of Table 42 focuses on production and trade. It shows the wide and widening difference in terms of production size between the Japanese and EU RSI, with a huge expansion of the EU RSI and a slightly declining Japanese RSI. The volume of exports also differs, but exports from both Japan and the EU are increasing. In the EU, export growth has been greater than that of production, meaning a moderate increase in reliance on third markets. This shift to third markets is stronger in Japan since export growth counterbalances production erosion. These evolutions are summarized by the higher growth of Japan's export "intensity" (measured by the export/production ratio) compared to EU's. They are made possible by the fact that Japan's revealed comparative advantage has constantly improved (while the EU indicator has tended to deteriorate over the whole period).

Block B of Table 42 focuses on productivity and profitability. Japan and the EU show two contrasting finding. First, a stable labour force in the EU RSI despite the huge increase in output and a significantly growing labour force in Japan despite slightly declining output. As unit labour costs have evolved almost in parallel in the two RSI, labour productivity is improving in the EU (from a low basis) and deteriorating in Japan (from a high basis). Second, the gross operating profit (a crude measure of profitability) of the RSI EU improves substantially over time, although from a relative low level, while Japan's

profitability deteriorates significantly from its very high initial level. At the end of the period, Japan's profitability is still almost twice the EU's.

Table 42 Basic indicators of the RSI sector in Japan and in the EU, 2000-2009¹⁵¹

| | | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2009/ 2002 [a] |
|---|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------------------|
| A. Production and exports | | | | | | | | | | | | |
| Production | EU | 14.7 | 16.0 | 18.2 | 20.4 | 20.6 | 21.8 | 23.0 | 26.4 | 28.7 | 27.1 | 184 |
| <i>billion euros</i> | Japan | 3.7 | 4.0 | 3.8 | 3.2 | 3.7 | 3.6 | 3.4 | 3.4 | 3.9 | 3.1 | 84 |
| Exports | EU | 1.64 | 1.79 | 1.84 | 2.05 | 2.03 | 1.92 | 2.25 | 3.10 | 2.98 | 3.90 | 238 |
| <i>billion euros</i> | Japan | 0.40 | 0.57 | 0.43 | 0.26 | 0.30 | 0.22 | 0.54 | 0.34 | 0.56 | 0.69 | 173 |
| Exports/Production | EU | 11.2 | 11.2 | 10.1 | 10.0 | 9.9 | 8.8 | 9.8 | 11.7 | 10.4 | 14.4 | 129 |
| <i>percentage</i> | Japan | 10.8 | 14.3 | 11.3 | 8.1 | 8.1 | 6.1 | 15.9 | 10.0 | 14.4 | 22.3 | 206 |
| Revealed comparative advantage [b] | EU | 2.11 | 1.96 | 1.80 | 1.81 | 1.85 | 2.13 | 1.65 | 1.61 | 1.63 | 1.72 | 82 |
| | Japan | 1.07 | 1.00 | 1.01 | 1.06 | 1.13 | 1.17 | 1.17 | 1.16 | 1.28 | 1.85 | 173 |
| B. Labor, profitability and productivity | | | | | | | | | | | | |
| Employees | EU | 165.0 | 168.0 | 173.0 | 175.0 | 173.0 | 170.0 | 163.0 | 160.0 | 167.0 | 161.0 | 98 |
| <i>'000</i> | Japan | 14.0 | 15.0 | 14.0 | 14.0 | 15.0 | 14.0 | 15.0 | 16.0 | 18.0 | 17.0 | 121 |
| Unit labor cost | EU | 0.75 | 0.72 | 0.79 | 0.83 | 0.96 | 0.85 | 0.82 | 0.83 | 0.87 | 0.91 | 121 |
| <i>number [d]</i> | Japan | 0.30 | 0.32 | 0.33 | 0.35 | 0.32 | 0.38 | 0.35 | 0.34 | 0.30 | 0.35 | 117 |
| Labor productivity | EU | 25.0 | 25.7 | 24.3 | 24.1 | 23.1 | 27.8 | 29.6 | 31.9 | 31.7 | 30.2 | 121 |
| <i>euro per employee</i> | Japan | 117.1 | 111.1 | 113.5 | 91.6 | 101.6 | 83.1 | 80.6 | 78.5 | 91.2 | 82.9 | 71 |
| Gross operating rate | EU | 7.1 | 8.8 | 11.1 | 14.1 | 8.1 | 11.0 | 13.4 | 12.8 | 13.9 | 12.6 | 177 |
| <i>percentage [c]</i> | Japan | 30.4 | 29.7 | 31.4 | 29.3 | 28.1 | 19.1 | 20.8 | 22.0 | 22.7 | 22.8 | 75 |
| C. Consumption and openness of the domestic market | | | | | | | | | | | | |
| Consumption | EU | 13.9 | 14.8 | 16.9 | 19.3 | 19.4 | 20.5 | 21.5 | 24.3 | 26.9 | 23.2 | 167 |
| <i>billion euros</i> | Japan | 3.4 | 3.5 | 3.4 | 3.0 | 3.4 | 3.4 | 3.0 | 3.2 | 3.5 | 2.4 | 71 |
| Imports | EU | 0.80 | 0.59 | 0.56 | 0.92 | 0.85 | 0.66 | 0.73 | 0.99 | 1.19 | 1.25 | 157 |
| <i>billion euros</i> | Japan | 0.08 | 0.10 | 0.07 | 0.05 | 0.05 | 0.07 | 0.11 | 0.11 | 0.17 | 0.15 | 178 |
| Imports/Consumption | EU | 5.8 | 4.0 | 3.3 | 4.8 | 4.4 | 3.2 | 3.4 | 4.1 | 4.4 | 5.4 | 94 |
| <i>percentage</i> | Japan | 2.5 | 2.7 | 2.1 | 1.7 | 1.4 | 2.0 | 3.7 | 3.5 | 4.8 | 6.3 | 250 |
| Imports/Production | EU | 5.4 | 3.7 | 3.1 | 4.5 | 4.1 | 3.0 | 3.2 | 3.7 | 4.1 | 4.6 | 85 |
| <i>percentage</i> | Japan | 2.3 | 2.4 | 1.9 | 1.6 | 1.3 | 1.9 | 3.2 | 3.3 | 4.3 | 4.9 | 212 |

Notes: [a] ratio 2002/2009. [b] RCA is measured by the product's share in the country's exports in relation to its share in world trade. [c] GOR is measured by the share of the value added minus wages and other salaries in the value added. ULC is measured by the share of wages and other salaries in the value added.

Block C of Table 42 focuses on consumption and openness of the domestic markets. Consumption is always smaller than production for the whole period, revealing the export bias of the Japanese and EU RSI. Interestingly, Japan exhibits growing import penetration, in contrast with the EU evolution, so that Japan's import penetration is higher than the EU's at the end of the period.

All these indicators do not suggest problems of competitiveness in the Japanese and EU RSI that could be serious enough to create difficulties with a bilateral opening of the two markets in EU-Japan FTA. This conclusion is reinforced by the following remarks on bilateral relations.

Table 42 provides key information for assessing the risks for employment in the Japanese and EU RSI that could be generated by the FTA.

- Block C shows that imports are a modest share of the domestic production: 4.9 percent for Japan and 4.6 percent for the EU. These shares are not large enough for the FTA to threaten the EU or Japanese RSI. But they are large enough to constitute a good basis to stimulate competition in both markets and thus improve the situation of the PRS operators as shown below.

¹⁵¹ Ecorys, 2012.

In this context, it is worth stressing that anti-cartel complaints in countries enforcing anti-cartel laws underline the need for more competitive RSI markets. This is best illustrated by the Deutsche Bahn's complaint against the rail steel cartel led by ThyssenKrupp, Schreck-Mieves and Voestalpine, which has led the Bundeskartellamt to impose heavy fines in July 2013.

- Block A shows that in contrast exports are a substantial share of the domestic production: 22.3 percent in Japan and 14.4 percent in the EU. This high level of exports to third markets provides "breathing space" for the Japan and EU RSI firms to the extent that large orders from the third markets protect these firms from any turbulence that could occur in bilateral trade relations. It also suggests that the main way for "protecting" the labour force in both RSI is to become even more competitive in the third markets.

The situation on the third markets has been examined in more detail when discussing Table 41. The main conclusion from Table 41 was that the challenges in the third markets are very similar for Japan and the EU. Both the EU and Japanese industries have been dominant but face greater competition in the same major markets, in particular the US and China. The exposure to such similar challenges in third markets suggests that a key factor in addressing these challenges would be to work on industrial cooperation between the Japanese and EU RSI in third markets. Such a result could be more easily achieved if bilateral market access were improved.

Employment issues in the Japanese and EU RSI have a last critical dimension. Purchases of RSI generally represent a high share of PRS operators' investments. Being such a crucial input makes the PRS employment dependent on RSI efficiency. In other words, a more efficient RSI should be seen as a key contributor to PRS employment. "Protecting" RSI employment by keeping RSI closed to bilateral trade is unlikely to be successful when the real challenges facing the Japanese and EU RSI are coming from the third markets, as shown above. More importantly, such a choice would also put PRS employment in Japan and the EU at risk. Employment in the Japanese and EU RSI amounts to 17,000 and 160,000 jobs, respectively. Employment in the Japanese and EU PRS amounts to roughly 150,000 and 1,050,000 jobs, respectively. Such a large difference in the size of the respective RSI and PRS labour forces is a strong incentive to take the right decisions in the RSI markets.

Potential impact in the PRS markets

The potential impact of the EU-Japan FTA on the PRS markets depends also on the capacity of the PRS operators to "pass on" efficiency gains made the RSI firms to the Japanese and European train users. This capacity is largely determined by two factors: market structures and recent economic performances.

Market structures

Market structures are key for ensuring a smooth process of "passing on" these gains. PRS operators should be induced to use all the benefits offered by more competitive RSI markets, and to morph them into lower prices and/or better services in order to improve the welfare of the Japanese and European passengers. In this perspective, Table 43 allows a discussion the various aspects of the Japanese and EU PRS market structures.

- (1) In Japan PRS operators run vertically integrated operations in which they own the tracks on which they run their own trains.¹⁵² This market

¹⁵² The Shinkansen tracks are partly under a *de facto* unbundling since there are owned by an entity which charges the three JR private firms for the use of the tracks.

structure has always been the main one used in Japan. Since their origin, Japanese private PRS operators have seen their business as above all “urban developers” building tracks for bringing passengers to the stores that their affiliates were running.

Table 43 Market structures in selected Japanese and EU PRS markets¹⁵³

| Countries | PRS name | Market structure [a] | First new entrant [b] | Incumbent market share (%) |
|------------|-------------|----------------------|-----------------------|----------------------------|
| France | SNCF | VS-HC | 2014 | 99 |
| Germany | DB AG | VS-HC | 1997 | 99-75 [c] |
| Britain | [a] | VS | 1996 | 13 [d] |
| Netherland | NS | VS | 1998 | n.a. |
| Poland | PKP | VS | 2004 | 72-42 [e] |
| Japan | JR-East | VI | [b] | 100-40 [f] |
| | JR-Central | VI | [b] | [g] |
| | JR-West | VI | [b] | [g] |
| | JR-Hokkaido | VI | [b] | [g] |
| | JR-Kyushu | VI | [b] | [g] |
| | JR-Shikoku | VI | [b] | [g] |

Notes: [a] VS: vertical separation between distinct track and trains (“unbundling”) operators. VS-HC: vertical separation operated by distinct track/train operators under the same holding company. VI: vertical integration with each operator operating trains on its own tracks. [b] Competitors were in place before the privatization of the three larger JR companies. [c] Market shares for long distance and regional PRS markets, respectively. [d] Market share of the largest British PRS franchisee in 2015 (Thameslink TSGN). [e] The lowest estimate considers as a new entrant part of the incumbent PRS operator (PKP), which was bought by regional authorities. The highest estimate considers this new PRS operator as a de facto incumbent. [f] The second estimate refers to the market share in areas under “track-intensity” competition in Tokyo area (see text below). [g] No available estimate for the market share in areas under “track-intensity”.

At a first glance, vertical integration suggests that PRS operators enjoy a monopoly on their area of operations. However, competition in such a market structures works via two other channels. First, it relies on the density of the tracks built by the PRS operators. In the very densely populated and urbanized environment that has Japan for more a century, Japanese PRS operators behaving as urban developers have produced an abundance of track. As a result, many Japanese rail passengers often have the choice between two (or more) itineraries run by different PRS operators. A rough estimate of this “track intensity” has been calculated for a few itineraries of competing tracks in the Tokyo area. JR-East’s estimated market share is only 40 percent on itineraries where competitors run operations.¹⁵⁴ Second, competition also occurs in services provided. For instance, in the Shinkansen case, the three JR operators compete via the principle of the “through-train services”: a passenger who boards a Shinkansen train operated by one of these three JRs will stay on the same train until his final destination even if this destination is in the operating area of another JR. Passengers have thus the ability to compare train services among the three JRs — from carriage maintenance to punctuality.

¹⁵³ IRG-Rail Monitoring Report 2015 [website] for EU PRS operators, except British PRS operators. House of Commons [2015b] for British PRS operators. Author’s calculations for JR East’s lower estimate (see text).

¹⁵⁴ The six itineraries covered are Ikebukuro-Kawagae, Ikebukuro-Yokohama, Shinjuku-Hachloji, Shinjuku-Fujisawa, Shinagawa-Yokohama, Ueno-Narita-Airport. Source: MLIT 2014.

In contrast with this situation faced by the private JR PRS operators, the market structures met by the three state-owned JRs are more similar to the ones prevailing in the EU.

- In the EU, the 1991 First Rail Directive introduced the “unbundling” approach. With this approach, the tracks are owned by one entity (public or private, often the heir of the incumbent state-owned PRS operator) and the trains are owned and run by (public or private) operators, often including the incumbent state-owned PRS operator. New PRS operators can enter the markets with their own rolling stock or with rolling stock rented from (public or private) specialized entities (such as “ROSCOs” in Britain). And they can operate train services with the energy (electricity) rent from specialized firms or from the incumbent public PRS operator.¹⁵⁵

The current level of implementation of the unbundling principle in the EU Member States is shaped by the fact that the unbundling approach is opposite to the traditional vertically integrated (monopoly) structure of the state-owned PRS operators. As a result, the level of implementation varies substantially among EU Member States, as illustrated by the following selected cases.

- For most EU Member States, the PRS markets have not yet been opened or the opening has been limited to a few itineraries. For instance, the first case of new entrants in France dates from 2014 and it is limited to two itineraries.
- In Germany, only the regional PRS markets have been open since 1997. The global market share of the new entrants in these markets is 25 percent which can be broken down as follows: (i) roughly 10 percent run by PRS owned by German States (Hessen for instance) or cities and running in a very limited area, (ii) 5 percent of tiny operators, (iii) the remaining 10 percent are run by three new entrants that are the only ones which could develop a Germany-wide strategy in the future: Veolia Verkehr, Netinera (owned mostly by Ferrovie) and Keolis (owned by SNCF).¹⁵⁶
- In Britain, there is an ongoing debate among the rail experts on the true level of competition which has been achieved to date (House of Commons, 2015). Some observers argue that the current PRS operators enjoy a situation close to a de facto monopoly because the “track-intensity based” competition and the services-based competition are too limited. On the other hand, some experts argue that “track-intensity based” competition is already substantial.
- In the whole EU, most PRS operators classified as “new entrants” are state-owned PRS operators originating from other EU Member States (Britain being the best illustration), or state-owned PRS operators having shifted from the federal or central State ownership to regional ownership (Germany or Poland). This origin casts some doubts on the intensity of the resulting competitive pressures exerted by such new entrants.

¹⁵⁵ In such a framework, the EU Member States implement the independence between the network entity and the train operators in two main different ways. A minority of EU Member States, such as Britain, have imposed a strict institutional independence: the network entity and the train operators are not linked at all. However, a majority of EU MS, like Germany, have kept their network entity and train operator under the same holding structure (the incumbent state-owned company). In these cases, the independence relies mostly on separate accounting.

¹⁵⁶ Indeed, entrants on German regional PRS markets have complained about cases of unfair competition between themselves and their DB-AG competitors. Source: European Commission.

Recent economic performance

A smooth passing-on of the price changes generated by an opening to more competitive RSI markets also depends on the current economic performances of the individual PRS operators. Table 44 presents the available information on key variables for a few selected PRS operators. This illustrates two important indicators of economic performance:

- The average gross labour productivity (turnover by employee) is much higher for the private Japanese PRS operators than for the selected operators in Europe (with the exception of NS, the Dutch public PRS operator) and for the state-owned Japanese PRS operators.
- The average train ticket price (turnover by passenger-kilometre) is lower (on average by 23 percent) for the Japanese PRS operators than for their European counterparts, despite the different situations in the shares of public compensation payments in operating revenues. There are two outliers: The Polish state-owned PRS operator PKP and the Japanese private PRS operator JR-Central.

Table 44 Recent economic performances¹⁵⁷

| Countries | PRS name | Turnover bn euros [a] | PCP in % revenues [b] | Empl- yees (000) [c] | Labor produc- vity [c] | Turnover by pkm [d] |
|-------------------|--------------------|--------------------------------------|--------------------------------------|---|---------------------------------------|------------------------------------|
| France | SNCF | 12.9 | na | 149 | 87 | 15.4 |
| Germany | DB AG | 14.9 | 42 | 186 | 80 | 18.8 |
| Britain | [e] | 8.3 | 0 | 49 | 170 | 14.1 |
| Netherland | NS | 3.0 | na | 8 | 370 | 17.4 |
| Poland | PKP | 0.6 | 45 | 90 | 7 | 5.3 |
| Japan | JR-East | 14.5 | 0 | 57 | 254 | 11.0 |
| | JR-Central | 9.6 | 0 | 21 | 458 | 16.5 |
| | JR-West | 6.7 | 0 | 27 | 247 | 11.9 |
| | JR-Hokkaido | 0.6 | na | 7 | 83 | 13.6 |
| | JR-Kyushu | 1.2 | na | 7 | 166 | 12.7 |
| | JR-Shikoku | 0.2 | na | 3 | 65 | 13.9 |

Notes: [a] Passenger traffic turnover (market sales of goods and services supplied to third parties), that is, revenues from train tickets. Average over the years 2009-2013, except 2009 for JR East, 2011 for JR Central, 2009 and 2011 for JR Kyushu. [b] PCPs: public compensation payments in operating revenues. This indicator does not take into account public investments in rail infrastructure which is significant in Japan as well as in the EU. [e] Turnover per employee, in thousands euros. [f] Turnover per passenger-kilometres. [g] British Association of Train Operating Companies.

These results suggest that, at a first glance, a smooth pass-on purely based on economic performances may face better prospects in Japan than in Europe. However, this first conclusion needs to be amended in order to take into account broader key considerations.

First, the revenues from rail operations are only part of the total revenues of the PRS operators. The larger the share of the revenues other than train tickets, the more the PRS operator will have the capacity to grab the benefits from a more competitive environment in the RSI markets.

¹⁵⁷ Union Internationale des Chemins de fer. IGR-Rail 2015.

- In Japan this share is substantial in the non-JR PRS operators—the logical consequence of the traditional “urban development” strategy of most of these firms. For the private JRs firms, the situation is somewhat different because, during the nationalisation period, JNR was prohibited from buying assets or running operations outside the PRS scope. But, since then, the JR companies have invested in other services, such as real estate and property management, accommodation, retail, bus services, and tourism services.¹⁵⁸
- In the EU the diversification strategies have been roughly the same as in Japan. But the scale has been more modest because of legal constraints (state-ownership was often associated with a ban of operating other activities) and poor economic performance. However, since the 1990s, most EU state-owned PRS operators have mimicked the Japanese “urban development” approach by upgrading their railway stations into shopping centres and by investing in other services (bus services, tourism services, etc.). Finally, as already noted, a few state-owned EU PRS operators have invested outside their country of origin (as in the British rail market, see above).

Second, it should be stressed that different ownership, market structures and economic performances of the companies shape the channels for competitive pressures. There are two main polar cases.

At one end of the spectrum there is a diversified portfolio of stakeholders, market structures that allow for track intensity and services-based competition as well as good economic performance that should make such PRS operators eager and capable to use the opportunities of more competitive RSI markets and pass on the benefits in the form of lower prices and/or better services. At the other end there is strict state-ownership or privatization relying on too few or dominant shareholders, market structures with too limited track-intensity or services-based competition and poor economic performances. This seems less propitious for a smooth passing on of benefits. However, the PRS operators facing these conditions in Japan and in the EU will be induced to use the benefits of more competitive RSI markets for the following powerful motives:

- The current macro-economic situation of most EU Member States makes a cap or a reduction in the public subsidies granted to the PRS operators more likely, which is a key point when one notes the substantial share of public compensation payments in the PRS operators’ revenues (see Table 44).
- Public authorities (central/federal or regional governments in the EU and Japan) have always been reluctant to allow state-owned PRS operators to increase the prices of their rail services.
- There is an increasing number of progressively more competitive alternatives to PRS in the shape of buses, a market that most PRS operators have already invested in and which may solve the problem of the regional markets (as best illustrated by Korea). And there are the emerging internet-based initiatives of long and short distance “car-pooling”. All these alternatives constitute powerful incentives to improve the PRS operations.

All these reasons are very likely to make PRS operators eager to pass on the benefits from more competitive RSI market to the train passengers in order to maintain their current employment levels as much as possible.

¹⁵⁸ After 1987, the three private JRs started to utilize better its real estate assets obtained upon privatisation.

8.5 Conclusion, recommendations and flanking measures

Conclusions towards industrial cooperation

The impact analysis shows that the RSIs are competitive, and could increase their presence on overseas markets. Therefore, the EU-Japan FTA unleashes some uneasiness about market liberalisation. The import penetration in Japan is increasingly higher, higher than in the EU.

An efficient RSI sector brings more employment in the PRS, where the latter employs nearly ten times more people than the RSI sector. While Japan is just a fraction of the EU population-wise, its PRS sector employs seven times more people than Europe. Apart from social benefits, passenger railway services are likely to pass on the benefits from more competitive RSI market to the train passengers in order to maintain their current employment levels. In conclusion, the social and economic benefits in passenger services outweigh trade balances in the RSI sector.

The impact on the EU consumer's ability to benefit from the internal market is potentially significant, as the FTA improves prices, quality and safety.

It is hard to lay down recommendations or propose flanking measures for such large, heterogeneous and complex activities when the exact magnitude of the commitments to be taken in the EU-Japan FTA are not known. It is also hard to envisage an agreement that includes private operators beyond the voluntary agreement with the three JRs, or whether such agreement would have been concluded outside of the current timing and context of an FTA negotiations.

Recommendation towards intensified industrial cooperation

The main recommendation is an intense effort at industrial cooperation. The kind of industrial cooperation mentioned above concerns more the RSI firms than the governments since they focus on how to reap the joint benefits and compete on the increasingly large and sophisticated competitors based on huge domestic markets with enviable growth rates.

Flanking measures

Industrial cooperation could also be envisaged as a part of the flanking measures. This would consist of a dialogue between the government officials on how each partner has found solutions to make increased competition acceptable to domestic labour, including coverage of how foreign investment contribute to new employment opportunities. The sector analysis on motor vehicles and the analysis on the social impact elaborate on the role of investment in manufacturing.

Second, flanking measures work at best when they are pre-emptive. In this perspective, there is no better solution than to create an EU-Japan Observatory on the PRS activities, whose role would be to review regulation on both sides, and to suggest solutions if the existing regulations slow down reform. Such pre-emption can avoid creating distortions or 'inappropriate situations' due to delayed decisions that are then put off indefinitely because they become harder and harder, forcing the governments to take economically drastic, hence socially very costly solutions.

8.6 A minor note on Civil aircraft/airspace sectors as well as ships and vessels sectors

In addition to the coverage the railway sector above, this section briefly covers civil aircraft and airspace sectors, as well as ships and other vessels.

Concerning the ships and vessels sector, the impact of the EU-Japan FTA negotiations is considered negligible. This is, for example, due to the fact that Japan does not impose any tariffs in this sector. In addition, stakeholder consultations regarding this sector confirmed that the impact is expected to be negligible.

Concerning the aircraft sector, the US has enjoyed a longstanding partnership with Japan thanks to strategic and historical ties, with Japanese operator preferring Boeing consortium over Airbus. This is also partly explained by Boeing having created 22,000 local jobs (Boeing Japan, August 2012). Since 2013, Japan Airlines, ANA Holdings and Skymark Airlines have ordered over 70 aircrafts.¹⁵⁹ Overall, this analysis finds that there are only marginal indications that FTA is going to affect the trade in civil aircraft and the resulting impact is expected to be negligible.

In the field of civil aviation, the EU and Japan cooperate extensively as illustrated by a number of cooperation agreements as well as the work in this sector in EU-Japan industrial dialogue. There are also other areas of discussion such as in the EU-Japan Space Policy Dialogue and working arrangements between the aviation safety agencies, covering certification and maintenance activities. Stakeholders have expressed the view that the EU-Japan FTA negotiations could provide an impetus for an upgrading of these working arrangements a (Bilateral Aviation Safety Agreement) BASA agreement, or through the establishment of a Regulatory Council.

Similarly, cooperation in space technology for civil purposes, for example concerning future satellite launches, could be areas of further cooperation. In order to allow a maximum level of cooperation in the field of research and development, the establishment of common standards is an important issue, where the mutual recognition of standards is particularly important. These could be important issues for the final stages of the EU-Japan FTA negotiations.

¹⁵⁹ Note, in this context, Skymark's bankruptcy and potential acquisition of its assets by competitors, (see Financial Times, July 15, 2015, accessed at: <http://www.ft.com/intl/cms/s/0/89d5fdbbc-2a98-11e5-8613-e7aedbb7bdb7.html>) as well as the general context of the realignment of the LCC sector under either JAL or ANA.

9 Sectoral analysis: Pharmaceuticals (and related chemical products)

9.1 Introduction

Implications of the economic analysis

The pharmaceutical sector is another key sector in EU-Japan trade relations due to the high performance of the European industry, and the potential opportunities for growth given the economic and demographic structures. The sector encompasses both patented (or innovative) medicines and generics, and further distinction can be made between chemical and biological products. The latter includes biopharmaceuticals and biosimilars, which is an area where the EU has taken the lead in establishing a regulatory framework driving their development. This analysis, given the sectoral segregation determined in the terms of reference, will also look at related chemical products and the negotiation issues within quasi-drugs sector, a unique classification used in Japan for cosmetic products with quasi-medicinal applications.

Following the economic analysis, two analytical elements are used to assess the impact on the pharmaceutical sector in the EU and Japan in addition to interpreting the regular trade indicators (measured in imports, exports):

- Pharmaceuticals and the related chemical sectors are, according to the CGE models, facing a diminishing work force. The analysis will therefore look at the effect on sectoral employment in the EU and Japan (measured in employment and output in the EU and Japan).

Japan is still the world's second largest national pharmaceutical market, valued at approximately \$88 to \$127 bn per year,¹⁶⁰ second to the US in size. While the Chinese consumption and imports from overseas are rapidly rising, Japanese imports of overseas pharmaceuticals are still larger (at \$19.9 bn per year) bringing the import penetration to between 16 to 20%. Import penetration is similar to the levels of the US, and more than half of the imports originate from the EU. Japan is, therefore, a major market for the EU.

In the reverse direction, a quarter of Japan's (relatively small) exports in pharmaceuticals are destined for the EU. EU-Japan trade is vital for both the EU and Japanese industries. However, imports from Japan accounts for merely 2% of EU pharmaceutical imports. Negative output and employment effects from trade liberalisation therefore appear unlikely. Similarly, chemical imports from Japan account for 6% of all EU imports.

- Qualitative assessment on the impact on public health spending.

Given the high quality standards and the small share of Japanese imports in EU consumption, one can immediately conclude that there are no public health concerns from more Japanese imports entering into the EU. However, the share of global spending has remained steady for Japan in the past ten years,¹⁶¹ as Japan's population is forecasted to decline, aging and longer living population will increase demand and thereby also public health costs from public expenditure on pharmaceuticals.

¹⁶⁰ Based on IMS Health Market Prognosis, 2015; PwC, Pharma 2020 Report, 2011

¹⁶¹ The Global Use of Medicines: Outlook Through 2015 Report by the IMS Institute for Healthcare Informatics

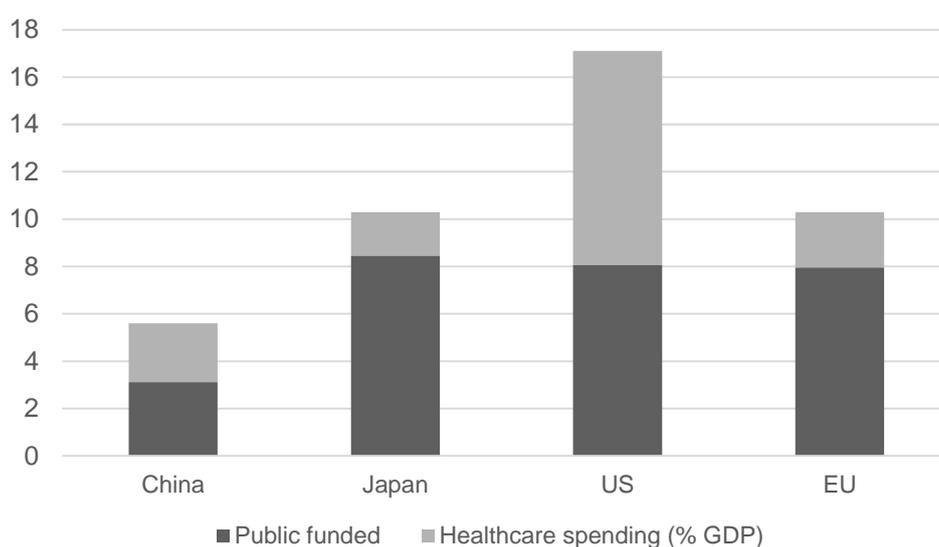
This part of the analysis shares many commonalities with that of the medical devices and in-vitro diagnostics devices (MD/IVDs). The regulatory issues are overlapping as the legislation for pharmaceuticals and MD/IVDs have been consolidated in Japanese law through the Pharmaceutical and Medical Devices Law (PMDL) of November 25, 2014, replacing the previous Pharmaceutical Affairs Law (PAL).

9.2 The current baseline

Demographics driving public health care costs

General healthcare spending and long-term care spending levels are high in Japan. There is a comprehensive, publicly funded, national healthcare scheme that accounts for 82% of the total healthcare spending,¹⁶² that makes the public spending rate the highest among the major economies.

Figure 20 Healthcare spending, total and public funded (% GDP)



Source: World Bank, World Development Index, 2015.

Demographics is an important factor and the main driver of the market. A quarter of the population is above retirement age, a group which accounts for about half of the country's healthcare costs. Between 2006 and 2010, public healthcare costs rose by 2.7% per year in Japan (relatively low by OECD standards) of which 1.2% came from demographic effects (more than twice the average contribution in OECD, at 0.5%).¹⁶³

This poses a public finance challenge for Japan that is reflected in policy responses. Notably, the Japanese Ministry of Health, Labour and Wealth (MHLW)'s has a target to increase the volume of generic medicine from Japan's off-patent market to a level comparable to that of France and Spain or about 60% by March 2018.¹⁶⁴ The promotion of both pharmaceuticals and medical devices are a part of the Economic Revitalisation

¹⁶² World Bank, World Development Index, 2013

¹⁶³ OECD, Public spending on health and long-term care: a new set of projections, June 2013

¹⁶⁴ Ibid. See also EGA (2014) The EU-Japan Free Trade Agreement: A Crucial Opportunity To Increase Cooperation With Japan And Boost The European Generic And Biosimilar Medicines Industries. Position Paper.

Strategy under Abenomics and has resulted in series of recent reforms,¹⁶⁵ facilitating the adoption of new medicines and of generic medicine.¹⁶⁶

Limited investment interaction between the EU and Japan

While Europe has been a major, indeed dominant commercial actor in this sector, Japan's engagement in international markets has been limited to date. Despite being the world's third largest market for pharmaceutical and related products, it has been relatively isolated and domestic production primarily caters for local demand, with strong emphasis on generics. The Japanese corporate sector has a strong and liquid capital base, and despite considerable M&A activity and cross-ownership in the sector internationally, few of the transactions have involved Japanese producers. This is gradually changing with Japan establishing R&D centres (notably in the UK) and acquiring firms overseas; for example, Japan's largest pharma corporation, Takeda, has acquired a major US neuroscience drug firm.

Zero-tariffs and comprehensive cooperation

Considering the current and future market size, the EU-Japan economic relationship has a potential for growth. The trade impediments are exclusively non-tariff in nature, as both the EU and Japan are signatories to the WTO plurilateral agreement on pharmaceutical products. With very few limitations, pharmaceuticals and chemical intermediates used in production are traded duty-free. However, stakeholders from the pharmaceutical and chemical industries have pointed to the still pending ratification by Japan of the fifth product list (September 2015).

The regulatory cooperation between the EU and Japan is already comprehensive. Moreover, the EU-Japan Mutual Recognition Agreements, which entered into force in 2002, allow for conformity assessments in four areas including pharmaceuticals through the agreement Good Manufacturing Practices (GMPs). The scope also covers homeopathic medicinal products and vitamins, minerals and herbal medicines, but not quasi-drugs. The Good Laboratory Practice (GLP) agreement provides limited coverage of chemical products.

The EU-Japan FTA would be the first negotiation with a trading partner with which there is already an MRA in place on pharmaceuticals (or medical devices). This at least establishes, pre FTA, the fundamental and basic concepts, such as GMP and GCP. There are further other bilateral agreements (such as the confidentiality arrangement between the regulators to allow exchange of non public data). Parties have also established collaboration on Good Clinical Practice (GCP) Ordinance and on the Minimum Requirements for Biological Products to ensure consistency with international standards concerning specifications and testing methods for vaccines.

Aside from this existing bilateral cooperation, the level of international cooperation between regulators is already relative high thanks to the International Council for Harmonisation (ICH),¹⁶⁷ Pharmaceutical Inspection Co-operation Scheme (PIC/S). There are also industrial and business level cooperation and beyond these, individual Japanese companies have established bilateral partnerships with Member States' and Europe-

¹⁶⁵ E.g. 2013 Pharmaceutical/Medical Devices Amendment of Pharmaceutical Affairs Law; Revision of Minimum Requirement for Biological Products (Sept 2013) Amendment of Good Clinical Practice Ordinance (Dec 2012); Applying membership in Pharmaceutical Inspection Cooperation Scheme.

¹⁶⁶ The Global Use of Medicines: Outlook Through 2017, IMS Institute for Healthcare Informatics, November 2013.

¹⁶⁷ Recently renamed as of October 2015, comprising the regulatory authorities and industry associations of Europe, Japan, and the U.S as well as regulatory authorities from Canada and Switzerland.

based research centres.¹⁶⁸ Overall, European pharmaceutical industries and association's interests are well represented on the Japanese market. EU industry accounts for almost a third of Japanese drug approvals in recent years.¹⁶⁹

Quasi-drugs

Besides the chemical industry, there are other sectors adjacent to the pharmaceutical industry within the scope of this chapter that merit attention. Unlike the regulatory framework in the US and EU, Japan requires pre-marketing approval for medicated cosmetics, a category which is classified as "quasi-drugs" under Japan's Pharmaceutical Affairs Law. The scope of the quasi-drug category includes energy drinks containing taurine, some vitamin preparations, hair tonics, bath preparations, skin whitening products, acne products, anti-dandruff shampoos, fluorinated toothpaste, hair dyes and many others,¹⁷⁰ most of which are over-the-counter (OTC) products or do not require premarketing authorisation in other jurisdictions.

9.3 The outcome of the FTA negotiations

Consultations and existing studies both in the EU and Japan highlight the potential for higher level of trade with more regulatory cooperation and removal of existing regulatory divergences between the EU and Japan.¹⁷¹ Despite existing regulatory cooperation, there remain some key NTMs that fall within three broad categories: the complex regulatory environment; access for new pharmaceuticals in Japan and slow approval process¹⁷²; and a restrictive pricing and reimbursement system.¹⁷³

- Common issues for all pharmaceuticals are double testing and bridging study requirements resulting from any deviation from ICH requirements, and non-acceptance of foreign tests. These result in considerable costs and delays. Reducing clinical trials is also seen by EU stakeholders as an issue of ethics, as phase 3 studies are conducted on human beings, for a purpose which stakeholders argue lack scientific justification. Linguistic requirements also add to compliance costs through the costs of translation (given the extensive documentation required). The generics industry also points to the requirement for repeat testing for generics vis-à-vis originator drugs.
- The scoping exercise of NTMs in Japan did not mention lengthy approval times. However, some stakeholders have made reference to this matter. In 2006, only a quarter of new innovations was available on the Japanese market six years after global market launch. Since then, Japan has unilaterally improved the approval times through additional resource allocation by the Government of Japan.
- The 14-day prescription rule restricts Japanese doctors to prescribe for more than 14 days of usage of new non-generics. This rule has been

¹⁶⁸ See the EU-Japan Centre for Industrial Cooperation, See Chapter 2 for examples of Japanese Investments, Acquisitions, Partnerships, R&D and Industrial Cooperation in Europe, which also includes medical devices, accessed at: http://www.eu-japan.eu/sites/eu-japan.eu/files/AnAssessmentOfKeyEUIndustrialSectors_FINAL.pdf and Industrial Cooperation in Europe

¹⁶⁹ EU-Japan Centre for Industrial Cooperation, An assessment of key EU industrial sectors open to Japanese technological cooperation and investment, 2014

¹⁷⁰ JETRO, Quasi Drugs in Japan, 2011

¹⁷¹ EU-Japan Business Round Table; also 2012 Impact Assessment

¹⁷² Termed "drug lag"

¹⁷³ Copenhagen Economics, p.174.

recommended for abolition by the Regulatory Reform Council, but opposition from Japan Medical Association has prevented its reform.

- Similar to previous FTA negotiations, stakeholders point to the need for transparency in the price and reimbursement rules, since the current system acts as a disincentive to the introduction of new and innovative medicines. Transparency on reimbursement rules was also addressed under the EU-Korea FTA. Reimbursement issues are fundamental in shaping the demand structure, and – if applied discriminatory can be designed in such a way that they represent a major impediment to foreign imports.

Examples of regulatory divergences on generics and biosimilars

In these sectors the positions of the stakeholders representatives overlap to a large extent with the rest of the pharmaceutical industry, and focus similarly on the potential opportunities for these subsectors and on the importance of regulatory convergence.¹⁷⁴ They also underline the reimbursement issue, the duplication of clinical trials and additional requirements. Further examples of issues specific to generics and biosimilars include:¹⁷⁵

- A framework to allow a single development programme for biosimilar medicine in line with the ongoing process between the EU and the US and align naming conventions.
- A framework allowing a single development programme for generic medicine and convergence in studies and technical requirements for applications in accordance with ICH.
- However, unlike the rest of the pharmaceutical industry, it is acknowledged that there is added value of having different national patent systems without harmonisation.

Examples of regulatory divergences on vaccines

- The general treatment of vaccines differs between Japan and the EU. In the periodic review of the MRBP (Minimum Requirements for Biological Products), last issued in September 2013, there are uncertainties in regards to timing, procedures for revision, listing criteria and the lack of allowance for periodic revision to enable quality requirements to keep pace with scientific developments.

Japanese pharmaceutical industry interests

- Regulatory cooperation and coordination in the pharmaceutical sector is also among the priorities of the Japanese Pharmaceutical sector and business associations.¹⁷⁶ During the 2012 Impact Assessment, issues raised by Japanese stakeholders highlighted the need for harmonisation of multiple regulations and systems within the European Union in particular those concerning the distribution of pharmaceuticals. Also highlighted were measures relating to drug labelling and as the lack of opportunity for consultations with European authorities were listed.¹⁷⁷
- With the growth of the generic drugs market in Japan (which policymakers want to see rapidly grow to 60% of the market by 2017, and 80% by 2020),

¹⁷⁴ EGA (2014) The EU-Japan Free Trade Agreement: A Crucial Opportunity To Increase Cooperation With Japan And Boost The European Generic And Biosimilar Medicines Industries. Position Paper.

¹⁷⁵ EGA Position Paper, EU-Japan

¹⁷⁶ JPMA (Japan Pharmaceutical Manufacturers Association)

¹⁷⁷ Impact Assessment.

Japanese stakeholders have, in particular, called for an "early resolution mechanism" to enhance legal certainty for pharmaceutical businesses and address the issues pertaining to the burden of approval of generic drugs during the patent period of brand-name drugs.¹⁷⁸

Quasi-drugs

- The view that quasi-drug classification and prior market authorization requirements are generating costs and societal inefficiencies is shared by EU and other exporters to Japan. The EU stakeholder opinions on the quasi-drug and cosmetics requirements are similar to those on pharmaceuticals, including that procedures are burdensome without appearing to enhance product safety or efficacy and lack transparency.
- Besides the procedural issues, import notification systems and restrictions on advertising (on what types of claims that are permitted) for cosmetics and quasi-drugs is a horizontal restriction, yet a matter of concern for importers. For example, the USTR National Trade Estimate for Japan states that until 2011, advertising claims for that products for "the appearance of reduced fine lines" for cosmetics were not allowed.

Chemicals

- The broader scope of the section includes the chemical industry that provides many of the inputs for the pharmaceuticals. The chemical industry associations of both Japan (JCIA) and the EU (Cefic) have strongly supported the EU-Japan FTA.
- Unlike the pharmaceutical sector, the chemical sector does not trade duty free. Nuisance tariffs exist on both sides, typically where profit margins could be low and tariffs could be prohibitive. The MFN rates vary between duty-free or 5.5% for inorganic chemicals and compounds (HS-28); and between 0 and 17% for organic chemicals for Japan and 0 to 6.5% for the EU. Despite Japanese peaks, the weighted applied rate is consistently lower for Japan – approximately 1.4 and 2.4% in inorganic and organic chemicals respectively for Japan, compared to 3.2 and 4.2% for the EU.
- Previous FTAs of EU and Japan show that these tariffs have been eliminated upon entry with very minor exceptions. Moreover, a comparison with past negotiations of the US and the EU with third countries shows that the EU puts a greater emphasis on liberalising the chemical sector. For example, EU-Korea FTA liberalised more tariff lines in the chemicals chapters than KORUS. So tariff elimination similar or more ambitious than in previous FTAs – and its impact – can be assumed.
- Both the EU and Japan have extensive requirements on the registration of new products. While the registration, testing, data and authorization requirements under the EU chemicals regulation (REACH) is named as a regulatory burden by third countries that affects a vast range of products, the EU stakeholders have also named the registration requirements in Japan as an issue and make the case that these should adhere to science based principles. Importance has been attached to having both sides adhere to OECD definitions, test guidelines and GLP principles.
- In addressing these issues, the scoping exercise and businesses have proposed applications of SDoCs (self-declaration of conformity).

¹⁷⁸ Keidanren recommendations for Japan-EU regulatory cooperation, 2015

- Standards set in the EU and Japan diverge. This can cover horizontal definitions, such as impurities, or be product specific standards such as in polymers. Polymers are mainly regulated by the Chemical Substances Control Law (CSCL) as amended in April 2011. Polymers and mainly new products are also regulated by the Industrial Safety and Health Law (ISHL). The law is relatively complex with three responsible notification bodies (METI, MHLW, MOE), providing exceptions under an intricate system of criteria.
- Tolerance standards for the levels for maximum level of residues (MLRs) of pesticides and fungicide chemicals often vary considerably between countries. And individual violations by one exporting firm may lead to increased testing for all agricultural products from the country of origin.

9.4 The impact of the EU-Japan FTA

Negative impact on output and employment indicators are unlikely

The 2012 Impact Assessment envisages an increase of bilateral exports of 20% for Japan and 24% for Europe (with positive effect on both countries' overall exports), but a simultaneous decrease in output in both Japan and the EU. Exports increase for both, yet both outputs are displaced by more than what the other side actually exports. Weighted by the real share of skilled and unskilled labour in the sector, the employment loss is estimated to -1.8% for the EU and -2.8% for Japan. These results seem inconsequential:

This indicates that the CGE model expects a spill-over from bilateral liberalisation and NTM reduction that would benefit third countries. More price-competitive third countries would take advantage of the spill-over liberalisation and displace outputs for both Japan and the EU as a result. The CGE methodology has numerous advantages, but assumes that traded items within the sector are interchangeable goods and therefore does not factor in product differentiation or IPRs. Most of the scaling-down of trade costs are in regulatory issues that may not be addressed on an 'erga omnes' basis. Although most of the unilateral reforms have taken place on non-preferential basis, most of the issues, such acceptance of clinical data, GLP, GMP and GCP are often concluded bilaterally. Application of SDoC could also take place on a bilateral basis.

The conclusion is that the impact on EU pharmaceutical sector should be positive, not negative. European pharmaceutical sector employs approximately 690,000 people,¹⁷⁹ of which 17% are in R&D positions. It is extremely unlikely that these jobs would be affected considering the low volumes (1% of EU pharmaceutical imports) flowing from Japan to the EU. As if further evidence is needed, the bilateral trade balance is 796% in Europe's favour.

Similarly, the impact on the EU chemical sector should be positive. Approximately a million people are employed in the EU (excluding pharmaceuticals). About half of Europe's trade with Japan in chemicals and related sectors is in pharmaceuticals. However, chemical industry overall also has one the highest labour factor productivities and highest share of skilled labour amongst all EU manufacturing sectors, and a positive bilateral trade balance with Japan at 175%.

In Japan, the pharmaceuticals and chemicals-related sectors employ 610 000 people, and the 2012 Impact Assessment assumes 35 000 job could be at stake. Although it is less than likely, it cannot be entirely ruled out that some EU products may displace production and therefore some jobs in Japan, but far less than the numbers indicated. It

¹⁷⁹ Efpia, Key Data, 2014

should be noted that industry analysts and stakeholders find the higher impact scenario less likely.

Impact on healthcare spending

Public healthcare spending has a major fiscal impact on national accounts. For Japan, if the country can cap the costs of public healthcare provision it could have an impact of up to 0.5% of GDP from the spending ratio alone (i.e. independently from the effect from an aging population) by 2030.¹⁸⁰ Reimbursements on imported pharmaceuticals and medical devices are not decisive in determining these costs.

Japan has already introduced a trial of innovation premiums for paid-for-innovative drugs and medical devices. Price cuts have been implemented with annual revision cycles that make EU investment decisions difficult in such volatile market conditions. In the EU, the reimbursement rules are fragmented amongst member states, as national authorities are free to set the prices for medicinal products and to designate the treatments they are willing to reimburse under their social security systems.

Foreign competition does not increase healthcare costs. But in the EU-Japan FTA negotiations, the checks and balances are being laid out that are without prejudice to either side's right to limit the costs of healthcare provision. These are limited to transparency and non-discrimination between domestic and foreign drugs. Innovation premium may increase costs, but only for a very limited number of drugs, and in cases where there are usually no equivalents. Medicines for more uncommon diseases in the statistical "tail" (orphan drugs) may never see a launch in Japan and remain unavailable. Potentially higher costs are offset by a large margin by the expanded use of generics. Quasi-drugs are not reimbursed and market access does not affect healthcare costs.

Trade indicators, comparison to a PE model

Regarding tariffs on pharmaceuticals, the EU and Japan already trade duty-free on pharmaceuticals under the WTO agreement. Moreover, both apply a zero-rate or near-zero regime on cosmetics, hair products, soap and toothpaste (quasi drugs). The majority of gains on both sides will come from action on NTMs. Based on a survey of managers of European companies located in Japan (and supplementary evidence), NTMs imply an additional cost for European pharmaceutical corresponding to a 22% tariff-equivalent on the imports of such products.¹⁸¹ The estimate is that 13% of this actionable with the remainder being economic rents. On the EU side 7.3% out of the current 18% in regulatory costs are deemed to be actionable. The scenario used in the 2012 Impact Assessment (symmetric reduction of NTMs by 20% in Francois et al., 2011) merely assumes that the cost of actionable NTMs are reduced by one-fifth, i.e. less than 3%.

Since the 2012 Impact Assessment, some of the NTMs have been addressed unilaterally. Aside from the aforementioned reimbursement and approval times, revisions to the Pharmaceutical Affairs Act have been introduced in 2013 to accelerate the approval of medical devices and regenerative medicine products.¹⁸² These revisions have been accompanied by the Act on the Safety of Regenerative Medicine, aim at the commercialization of regenerative medicine technologies.¹⁸³ Some of these issues have already been addressed through the cooperation between the European Commission and the Ministry of Health, Labour and Welfare and in the context of ICH.¹⁸⁴ Most recent joint

¹⁸⁰ OECD, 2013

¹⁸¹ Copenhagen Economics, 2009, p.175.

¹⁸² Japan Revitalization Strategy: Japan's challenge for the future, Revised in 2014 (provisional), p.124.

¹⁸³ Ibid.

¹⁸⁴ Most recently during the ICH Steering Committee meeting in Fukuoka, Japan in June 2015

guidelines include GCP, clinical trials, paediatric drugs, genome sampling, electronic standards for regulatory information, etc. By and large, the scope of prior EU FTAs overlaps with existing EU - Japan MRA concerning for example CABs, GMP, GLP and international practices. However, the GMP annex of the MRA could be expanded to all Member States and the whole range of pharmaceutical and medicinal products, thereby allowing a reduction of duplicative site inspections.

Whether or not trade cost reductions are attributed to the FTA or unilateral reforms (that may be indirectly FTA induced), an additional 3% reduction by addressing NTMs are feasible. This is likely to have been achieved already through unilateral measures. Confirming the partial equilibrium calculations, bilateral export increases of 20-25% above baseline is consistent with these reductions. Under the partial model, tariff cuts alone on the chemical sector (with weighted average around 2%) alone would lead to 8% increase of EU exports.¹⁸⁵

However, further reduction should be feasible by pursuing comprehensive harmonisation, mutual recognition or other means of regulatory cooperation in pharmaceuticals, chemicals, quasi-drugs and cosmetics, given the similar trading conditions with near-duty-free access and authorisation processes.

9.5 Conclusions, recommendations and flanking measures

Conclusions for a comprehensive preferential agreement

While Japan, the EU and its Member States have actively promoted cooperation on pharmaceutical products within multilateral settings, bilateral agreements have become essential to ensuring market access. A bilateral FTA is necessary to fast-track reforms and regulatory harmonisation between the EU and Japan that are only likely to take place in a bilateral preferential setting of negotiations. The importance of the FTA is also highlighted by the fact that other solutions (multilateral, unilateral or any 'erga omnes') may benefit third countries more than the EU and Japan.

Recommendations

- Reimbursement: Both the baseline and the impact have clearly identified that transparency and non-discriminatory disciplines on reimbursement does not affect healthcare costs. The EU has requested reimbursement transparency in prior FTAs, including the EU-Korea FTA and the EU-Singapore FTA. TPP also contains "Transparency and Procedural Fairness provisions" (for both pharmaceuticals and MD/IVDs). Unlike the TPP constituency, the EU systems are similar to those in Japan, and offer better reciprocity by opening up a similar publicly financed reimbursement system in return. Japan and the EU Member States could change their reimbursement coverage in the future, while the FTA merely assures it takes place in a non-discriminatory manner. Moreover, reimbursement issues cannot be negotiated in other contexts outside the FTA.
- Approval procedure: The stakeholders placed priority on enabling efficient pre-market evaluation, and notably reducing the time of clinical evaluations. Stakeholders have expressed a preference for solutions that provide a speedy PMA process, before reduction of actual costs. However, such a solution omits the interest of SMEs, in particular in the generics and medical devices industries (SME ratio in Japan is particularly high). Japan-

¹⁸⁵ Using the formula GSIM developed by Francois and Hall (2003) in SMART with import substitution elasticity at $e=3.3$

Switzerland EPA includes a discipline that grants up to five years of compensation in case of “significant market-entry delay due to lengthy authorisation procedures for innovative pharmaceutical and plant protection products”,¹⁸⁶ in order to address losses incurred on “patented invention that cannot be worked due to marketing approval process.”¹⁸⁷

- Other regulatory aspects: Beyond expanding current MRAs, the FTA could look to mechanisms beyond regulatory cooperation, through an institutionalised form of regulatory cooperation including a regulatory council. This is particularly true if the situation on quasi-drugs and cosmetics are to be improved, as they are not effectively negotiated in other forums.

Flanking measures

Given the public health imperative and the need for more efficient and innovative market products on both sides, trade liberalisation in pharmaceuticals has high importance. Trade liberalisation entails considerable regulatory reforms and harmonisation.

In terms of patient or consumer safety, post-market regulatory powers are retained in every form of trade liberalisation. There is no detrimental impact on consumer trust or protection on either side.

In the unlikely case of job losses occurring in the Japanese pharmaceuticals sector, European industry would be naturally incentivised to invest, in case there are no adequate measures for industrial restructuring and investment promotion by the Government of Japan.

In absence of need, there are no flanking measures are presented.

¹⁸⁶ Japan-Switzerland EPA.

¹⁸⁷ Article 117-5, accessed at: <http://www.mofa.go.jp/region/europe/switzerland/epa0902/agreement.pdf>, p.90 of agreement, Where “marketing approval” as defined in the Agreement means approval or any other disposition by the competent authorities that is intended to ensure the safety and, where applicable, efficacy of the pharmaceuticals or plant protection products as provided for in the relevant laws and regulations of each Party.

10 Sectoral analysis: Medical devices

10.1 Introduction

Implications of the economic analysis

The scope of the medical devices and in-vitro diagnostics devices (MD/IVD) sector is broad and still expanding. The EU Directive for Medical Devices (MDD) defines a medical device in very broad terms as: "Any instrument, apparatus, appliance, software, material or other article, whether used alone or in combination, including the software..."¹⁸⁸ for a medical purpose. MD/IVD encompasses all medical technologies comprised of medical devices, in vitro diagnostics, imaging equipment and e-health solutions used to diagnose, monitor, assess predispositions and treat patients suffering from a wide range of conditions.¹⁸⁹

A key feature of the devices industry is diversity of the products, ranging from highly technologically-complex products to simple consumables, which are covered by the same regulatory processes. The sector includes more than 500,000 technologies, in 20,000 generic groups, falling within 16 categories of products, as determined by the Global Medical Devices Nomenclature (GMDN) Agency. The sector has become increasingly important for the quality and innovativeness of healthcare in the EU as well as Japan. It has also become important in terms of jobs and exports, employing 575 000 people in the EU and reaching total sales of €100 billion, with in vitro diagnostics, cardiology and diagnostic imaging representing the largest market shares globally.¹⁹⁰

This analysis will reference many commonalities with the above analysis of pharmaceuticals. The regulatory issues overlap as the legislation for pharmaceuticals and MD/IVDs have been consolidated through the Pharmaceutical and Medical Devices Law (PMDL) in 2014. The current position is also similar to the conditions described in the previous analysis on pharmaceuticals: despite the wide range of products that exist in the EU and the US, fewer are available in Japan due to existing barriers making it costly and cumbersome to export to the Japanese market, causing a "device gap" similar to the drug gap.¹⁹¹ Japanese and European organisations have recognised the existing barriers in both markets as well as the wide potential for regulatory cooperation due to the advanced status of the sector in both countries.

Following the economic analysis, the key impacts in this analysis concern:

- Increases in exports as well as supply-chain integration (measured through increased trade turnover, of both imports and exports).
- The issues regarding public health costs in Japan that are common with the analysis undertaken of pharmaceuticals. (The qualitative assessment on the impact on public health spending will look to the unique aspects of MD/IVD sectors).

On trade Japan is the second largest export destination for EU medical technology, only behind the US, and is the third largest overall import destination after the US and

¹⁸⁸ Article 1(2) (a) of the directive

¹⁸⁹ MedTech Europe, The European Medical Technology Industry in Figures, 2014

¹⁹⁰ *ibid.*

¹⁹¹ Eucomed & EDMA (2012) Media Statement - EU Free Trade Agreement Negotiations with Japan; Copenhagen Economics (2009); Impact Assessment (2012).

China.¹⁹² Based upon manufacturer prices, the combined US (40%), EU (30%) and Japanese (10%) markets accounted for almost 80% of the world production and more in terms of consumption.¹⁹³ As both production and usage is highly concentrated in these three markets with high degree of specialisation and competition between them, the trade liberalising potential in TTIP, EU-Japan FTA and TPP agreements are considerable, especially if these agreements are coordinated.

10.2 The current baseline

Considerable trade, device "deficit" in Japan

A key feature of the devices industry is its diversity of the products, ranging from highly technologically complex products to simple consumables, which are covered by the same regulatory processes. EU firms export to Japan products across medical, surgical, dental and veterinary sciences, and orthopaedic appliances, which at the time of the Copenhagen Economics study were worth EUR 2.1 billion a year. Despite the wide range of products that exist in the EU and the US, fewer are available in Japan due to existing barriers making it costly and cumbersome to export to the Japanese market, causing a "device gap" or a deficit in relation to demand.¹⁹⁴ Japanese and European organisations have recognised the existing barriers in both markets as well as the wide potential for regulatory cooperation due to the advanced status of the sector in both countries.

Tariff protection

Moreover, unlike pharmaceutical products, MD and IVD products are still covered by tariffs. Such products are not consolidated in the tariff schedules, but dispersed over several chapters, including chemicals, pharmaceuticals, paper, textiles, machinery and scientific instruments. Some products are difficult to distinguish (e.g. in paper and textiles) from other usages. Despite the complications, a considerable amount of trade is already duty-free, and the simple average applied MFN tariff is less than 1% for both Japan and Europe.

Lesser degree of regulatory cooperation in medical devices than in pharmaceuticals

The EU-Japan MRA covers the MD/IVD sector only indirectly. The MRA recognises that *"each Party shall accept [...] the results of conformity assessment procedures required by the applicable laws, regulations and administrative provisions of that party specified in the relevant Sectoral Annex, including certificates and marks of conformity, that are conducted by the registered conformity assessment bodies of the other party."* However, in practice, products still go through duplicate testing and trials.

Moreover, the EU-Japan MRA only covers a limited number of products according to a positive list that specifically excludes IVD. In other areas of cooperation, regulatory agencies and industry representatives from Japan, Europe, the US, Canada and Australia established International Medical Device Regulators Forum (IMDRF), following the setting up and achievements of the Global Harmonization Task Force (GHTF). The aim of the

¹⁹² MedTech Europe data, does not include in vitro diagnostics.

¹⁹³ Eucomed calculations. Manufacturer prices. Medical devices and Imaging excluding in vitro diagnostics. Europe refers to EU (excluding Cyprus, Luxembourg, Malta), but including Norway, Switzerland.

¹⁹⁴ Eucomed & EDMA (2012) Media Statement - EU Free Trade Agreement Negotiations with Japan; Copenhagen Economics (2009); Impact Assessment (2012).

IMDRF is to ensure regulatory coherence by issuing broad requirements for medical devices, which can then be embedded in national regulations.¹⁹⁵

High degree of SME participation

MD/IVD has also become important in terms of jobs and exports, employing 575 000 people in the EU, with in vitro diagnostics, cardiology and diagnostic imaging representing the largest market shares globally.¹⁹⁶ The employment number is fully comparable to the pharmaceutical sector. MD/IVD sector is also populated by SMEs. While this high participation of SMEs is evident globally it is even more evident in the European market than in the US or Japan. As Japan's ageing population is projected to increase the demand for medical devices,¹⁹⁷ export orientation of SMEs in medical devices would have a considerable political impact. It is clear that regulatory structure, cultural factors and lack of sufficient cooperation have contributed to the fact that current levels of cooperation have not sufficiently addressed all trade impediments between the EU and Japan, suppressing SMEs on both sides.

Considerable levels of supply-chain integration

There are also considerable supply-chain implications in the EU-Japan trade. Several industrial experts that provided opinions to the TSIA process point to the fact that the supply-chain integration between the EU and Japan is more intense than other trading relationships. For example, Japan has a unique specialisation on diagnostics and precision measuring technologies that are integrated as components by European firms and then exported to the rest of the world. Another such area of rising importance is robotics that is also increasing with digitalisation.

10.3 The outcome of the FTA negotiations

Considering the low tariff rates and based on prior liberalisation of the EU and Japan, it is assumed that tariff elimination can be achieved in the sector.

On regulatory issues, medical equipment has been identified as a sector with one of the highest potential gains compared to the baseline. Current medical devices exports to Japan are not substantial, but the potential for reducing barriers is significant given that pre-market authorisation procedures are similar to those in pharmaceuticals. As highlighted, the regulations on MD/IVDs have been consolidated with pharmaceuticals in Japan through the enactment Pharmaceutical and Medical Devices Law (PMDL). The NTMs raised with regard to the medical devices are:

- Slow submission and approval process for medical devices (termed "device lag"), which prevents new or improved devices from entering the market, resulting in higher approval and production costs. These were explained in the pharmaceutical chapter of this analysis.
- Acceptance of trial data, based on mutual acceptance of GCP as identified in the scoping exercise. Bring quality management systems (QMS) in line with international standards (ISO) could also eliminate the need for audits.
- Reimbursement system disincentives producers of innovative devices, due to a highly regulated pricing system. This affects medical devices more than pharmaceuticals.¹⁹⁸ Similar to pharmaceuticals, price cuts have been

¹⁹⁵ Keidanren, 2015

¹⁹⁶ *ibid.*

¹⁹⁷ Copenhagen Economics, p.188.

¹⁹⁸ See also sectoral analysis on on pharmaceutical sector.

implemented while the trial for innovation premiums continue. However, in MD/IVD reference prices are applied through the Foreign Average Price (FAP) rule that caps the reimbursement based on the simple average of prices for “similar” products in the United States, Germany, France, the United Kingdom and Australia.

European stakeholders have identified inconsistencies in the Japanese rules. For example, development costs of certain sub products, such as heart valves for children and adults are vastly different with different technologies involved. However, they are reimbursed at same rates. There are also additional market features unique to the medical devices sector that create additional NTMs:

- Some products are considered device in one jurisdiction, but not the other. For example, nasal sprays are classified as drugs in Japan but medical devices in Europe making the barriers to bilateral trade unsurmountable. New issues, such as 3D printed implants are treated differently as either medical device or industrial tools.
- Europe, Japan and the United States follow a risk classification system that are by large compatible. Some limited number of inconsistencies exist between the EU and Japanese system, where the risk assessment is different. According to stakeholders, most of the trade seems to be concentrated to the mid risk classes (IIa or IIb in Europe, or II-III in Japan).
- General sales tax in Japan is also a concern for MD/IVD exports, but not for pharmaceuticals.

With regard to issues, which affect Japanese exporters, stakeholders point to following NTMs:

- The need for unification of registration systems for medical devices within the EU.
- The ability to provide input by means of consultation opportunities.¹⁹⁹
- Other concerns are in the current discussion on the revision of the EU MDD and IVD directives. Business organisations underline that the new regulations should avoid increasing the number of devices that are subject to monitoring post-sales reporting, setting unique safety standards, or disclosing post-sale monitoring data and clinical data to healthcare providers and the general public.²⁰⁰

10.4 The impact of the EU-Japan FTA

Tariffs

As noted above the weighted and average tariffs is relatively low. “Peaks” are at 6.5% for Europe and 3.9% for Japan, mostly for products related to chemical mixtures. Even in MD/IVD tariff reduction across the board upon entry ought to be achievable considering the few tariff peaks and practically no defensive interests involved.

Regulatory issues

The bilateral MRA with Japan does not effectively cover medical devices and is primarily drafted for pharmaceuticals. For a number of years, both European and Japanese

¹⁹⁹ See 2012 Impact Assessment.

²⁰⁰ Keidanren, 2015.

stakeholders have spoken in favour of regulatory convergence underlining the possibility of extending MRAs in order to avoid redundant inspections of manufacturing facilities and ensure recognition of the results of quality management audits, particularly for lower risk medical devices.²⁰¹

The regulatory issues are primarily focused on reimbursement and pre-marketing approval procedures; such as reducing duplication in regulatory evaluation to reduce compliance burdens. Here one European proposal has been the Self-Declaration of Conformity (SDoC).

Also the risk classification systems open up the possibility of a progressive approach, to liberalisation and harmonisation where possible. There are four classes in the EU (I, IIa, IIb, III) and Japan (I-IV) that are by large similar. In Japan, Class I products require no regulatory approval and marketing authorisation.

Stakeholders assume that a substantial share of trade and product registrations fall under Class II. In this class, Japan permits third party certification by a notifying body according to the European model but only when PMDA has published a national standard in Japan. Similar to the US system under the 510(k) procedure of US FDA, "improved and modified" products can be fast-tracked compared to "new".

In the 2012 Impact Assessment, the MD/IVDs (grouped under "other machinery" sector), NTMs are estimated at 30%, whereas almost none (2.6%) are designated as actionable. AVEs in the EU is not included in the dataset at all. The CGE model is therefore built on the assumption that only 0.5% trade cost reductions by addressing NTMs can be achieved, which is a cost reduction of 0.5%.

The 2012 Impact Assessment showed that bilateral exports would increase 7% for the EU. The analysis above has shown that NTMs are based on same rules that are likely to be applied more severely than in the pharmaceutical sector. The estimate that the scaling back of NTMs in the sector is only one-fifth of pharmaceuticals (0.5 vs 7%) is likely to be grossly understated.

SMEs, import side and supply-chain benefits

Japan's export of MDD/IVDs are quite limited, but specialised often in a few high-end technologies, e.g. diagnostic, measuring or imaging equipment. The 2012 Impact Assessment assumes that the imports from Japan would increase by 22%, mostly from tariff cuts. With an extended scope of the MRA, it is likely that imports may exceed those predictions.

In reality these imports are either cost gains for the European public healthcare systems or supply chain gains for EU MD/IVD manufacturers, with no losses incurred for the EU producers or consumers. The EU manufacturers based on Japanese specialisation (especially imaging equipment) are large-scale multinational exporters with little risks of SMEs being displaced. Moreover, digitalisation and acceptance of software as stand-alone devices allow for new type of European SMEs to operate on the Japanese market.

Impact on healthcare spending

As described under the pharmaceutical sector, the impact on Japan's rising public healthcare spending from trade liberalisation does not have a measurable impact as foreign competition does not increase healthcare costs. The possibility to cut reimbursement rates applies equally to medical devices, or perhaps even more so. As the negotiations have clearly confirmed each side's right to limit the costs of healthcare

²⁰¹ EU-Japan Business Round Table Recommendations.

provision, transparency and non-discrimination should assure equal treatment and thereby effective price competition in Japan.

10.5 Conclusions, recommendations and flanking measures

Impact on trade indicators and SME considerations

The general experience of stakeholders seems to be that bilateral MRAs (regardless of counterpart) have not provided the political impetus to solve even elementary regulatory issues, such as QMS. It is recommended that the FTA go beyond existing MRAs, e.g. the EU-US and EU-Australia MRAs to be of value to the industries of both sides.

The EU product portfolio is much broader and offensive, but with considerable SME participation (with 10,000 firms in the EU, compared to about a 1,000 in Japan, dominated by large technology driven firms). For EU SMEs, often with lower labour productivity levels than international competition, economies of scale are necessary to achieve productivity gains, while cost of regulatory compliance in additional markets are more difficult to internalise financially.

Given that the EU has less resourceful SMEs in the downstream-end of the value-chain, the current situation is more detrimental to Europe than to the US or Japan. The EU-Japan FTA is a necessity to improve industrial cooperation, specialisation and supply-chain integration between the EU and Japan.

The conclusion of this analysis is that both imports and exports could go beyond the 2012 Impact assessment (+7%), towards same levels as the increase in pharmaceutical (+25%). The actual trade turnover (as well as SME benefits and supply-chain impact) would be considerable if a "fast track procedure" for already approved new products in each legislation could allow products to bypass the redundant steps of the authorisation process.

Impact on public health expenditure, consumer and social indicators

As per analysis in the previous sections, there are no public health risks or expenditure from the likely transparency and non-discriminatory treatment of reimbursement. More product variety and competition will drive public healthcare costs down. The FTA will improve marginally improve price, but more importantly on quality and choice of medical devices through expanded cooperation on intermediate goods without any negative impact on consumer protection.

Recommendation towards regulatory harmonisation and cooperation

Similar to the pharmaceutical sector, the stakeholders of MD/IVD give priority to the PMA process, recognition of test data and harmonising QMS to eliminate the need for on-site inspections. However, reimbursement issues should not be ignored.

An institutionalisation of the ongoing regulatory cooperation is also in the interest of the EU. This is particularly urgent for the medical devices sector, given that some MD/IVD MRAs with Europe have been restricted or revoked, and confidence in the European MD/IVD sector needs to be restored. Digitalisation opens up the possibility of new NTMs in both Japan and the EU.

Moreover, MD/IVD (in Class II and upwards) requires involvement of common standard setting. Aside from harmonisation, reference pricing (FAP) the fiscal measures may not be resolved through an FTA and must be resolved by long consistent institutionalised regulatory cooperation between the parties.

More trade could be facilitated if the use of SDoC was granted for products already approved and in circulation in either the EU or Japan. On the side of Japan, the 510(k)

like process for already existing products could thereby be extended to EU Class II products already in circulation in the Single Market. Emphasis on Class IIa and IIb is the consequential and logical conclusion from both economic and public health perspectives.

Similar to public procurement, non-market access issues, such as centralised databases and communication with government agencies in other languages than Japanese, should not be underestimated.

Flanking measures

As with pharmaceutical sector, there are no immediate flanking measures that can be identified. However, there are some additional social dimensions given the software and digitalisation of the MD/IVD sector concerns personal data and privacy, which will be analysed in the social section of this TSIA.

In order to increase SME participation in the EU-Japan trading relationship, considerable supportive measures by the EU Member States trade promotion arms may be necessary in order to utilise trade liberalisation achieved by the negotiations. Measures could include support and translation of application procedures, distribution and other market activities may be necessary as well. Supply-side aspects (European SMEs sourcing amongst Japanese MD/IVDs) should not be underestimated.

11 Sectoral analysis: business and financial services; retail and wholesale services with an impact on merchandise.

11.1 Introduction²⁰²

Implications of the economic analysis

As pointed out in the 2012 Impact Assessment Report by the European Commission, the degree of penetration of the Japanese market is “particularly low” in the business, financial and distribution services sectors.²⁰³ The broad consensus of the OECD and third parties analyses is that the Japanese retail and wholesale sector is particularly difficult to access.²⁰⁴

Although Japan has indeed a very large service industry in terms of output, employment and turnover, foreign participation has remained generally low. Given the internationalisation of the services industry and global presence of both EU and Japanese multinationals, the commercial interaction between the EU and Japan (whether through trade, investments or cross-ownership) has remained modest in the sector compared to that in manufacturing.

The terms of reference for the project and stakeholder input selected three services sectors for analysis namely, business, financial and the combined retail & wholesale services. However, given the importance of the services sector for the European employment and trade policy, as well as the fact that many trade impediments in services are horizontal, the analysis looks broadly at developments in the services industry in Japan and the EU, the negotiation issues concerning services and the impact of trade liberalisation. Moreover, the negotiation issues in retail often overlap with the interests of the merchandise, such as the leather/footwear or the textile sectors, why their interests are considered in this analysis as well.

Following the criteria set out in economic analysis the main indicator for assessing the impact on the services sector is employment. Here, there are some counterintuitive results.

- The 2012 Impact Assessment predicts employment losses in business services (-0.05 to -0.07%) and financial services (-0.11 to -0.13%). Applied to the current employment structure this would mean a loss of -26,000 jobs. Together with other services sectors, the CGE model estimates the total reduction in employment (with losses in air and water transport) to be -62,000 jobs.

As described in the economic analysis above the impact on services exports are relatively small. “Relatively” is an important qualification. As the processed food sector is expected to increase by almost 300%, the impact on other sectors will be small in relation. Nonetheless, services sectors are to gain from sector liberalisation. In the 2012 Impact Assessment, output in the services sector was expected to rise by up to 0.78% and bilateral trade to increase by up to 10% (business services).

²⁰² The analysis includes leather, textiles, footwear and other merchandising/goods sectors.

²⁰³ European Commission, 2012. Impact Assessment Report on EU-Japan Trade Relations, p. 14.

²⁰⁴ OECD, 2008. Economic Surveys: Japan 2008. April 2008. pp. 145-148.

- In the economic analysis, it was concluded that in order to improve trade and investment (thereby also employment), the general improvement of the business environment is more important for the EU-Japan trade relationship than investment disciplines in the FTA.

To some extent, the low relatively low intensity of the services sector is due to the idiosyncratic characteristics of services trade, which makes it traditionally less tradable. Market access, especially in the sector chosen require large capital investments, in particular in Japan where business cost from staff, premises and other cost of operations are high.

11.2 The current baseline

Services market access in prior EU and Japanese FTAs

The baseline of EU FTAs has been relatively ambitious, and negotiated on negative list basis in bilateral FTAs since CETA. EU-Korea uses a GATS-based, positive list, structure but goes beyond GATS commitments and in some areas beyond KORUS (e.g. cross-border satellite services, certain auxiliary air transport services, access to construction without a sub-contracting requirement and participation in the Korean express delivery market). EU-Korea also improves both market access and national treatment for EU lawyers (mode 4) and law firms (mode 3). One notable element is the introduction of a panel of experts to rule on abuse of the prudential carve out in financial services, which is an approach taken up in other FTAs. Coverage extends to central, regional and local government entities.

The EU FTAs have the usual exclusions, notably in audio-visual, (or cultural sector for Canada) and maritime cabotage. For the EU, health and education services are excluded as are water distribution services (also for Canada in CETA). Individual EU member states also have specific exclusions, such as for the temporary entry of natural persons, often based on an Economic Needs Test (ENT). There are also small exclusions under negative listing for the new Member States as in other EU FTAs. Among Korean reservations, cross-border provision of architectural services requires commercial presence in Korea, and retailing of second-hand cars is subject to an ENT. The EU as well as the Parties to EU agreements also maintain an MFN exemption for differential treatment deriving from an economic integration agreement to which they belong.

In CETA the EU adopted negative listing for coverage of services for the first time. As for investment there are schedules. The first is the so called 'Annex I', which lists all the existing measures and restrictions that Canada and the EU and its Member States want to maintain vis-à-vis service providers and investors. No restrictions other than those explicitly listed apply. The market access provided through Annex I is guaranteed, without the risk of a rollback. Furthermore, the service providers and investors will benefit from any future liberalisation. The second is 'Annex II', which equally lists exceptions but reserves the right of the Parties to adopt new or different (and more restrictive) measures in the future. This provides some flexibility by not precluding the scope for future measures required, for example, to protect public services.

The horizontal domestic regulation provisions in EU FTAs are intended to provide for clear, objective regulation and therefore augment efforts to promote good regulatory practice through, for example, regulatory impact assessments. In EU-Singapore the chapter on domestic regulation applies only to those services covered by the schedules. For the CETA there are explicit exclusions for the sensitive sectors of culture/audio visual, health, education and water distribution. In all cases the chapters on domestic regulation provide for a review of regulatory decisions.

The EU approach to recognition of professions is similar to that in FTAs in general. This is that the professional bodies are encouraged to apply for mutual recognition to a joint

committee. In the case of EU- Singapore the Services, Investment and Public Procurement Committee. CETA goes further with a specific Joint Committee on Mutual Recognition with extensive guidelines on it should function. how this committee should deal with any applications for mutual recognition.

With regard to the supply of a service through the temporary presence of natural persons ('Temporary Entry'), the EU approach is in line with the norm for this mode 4 topic in GATS. There are provisions for intra-corporate transferees. In CETA inter-corporate transferees are guaranteed access wherever investment is liberalised and companies can post their intra-corporate transferees to for up to 3 years regardless of their sector of activity. An innovation in CETA extends this right to the spouses. Natural persons, who provide a service as so called 'contractual service suppliers' or 'independent professionals' will be able to stay in the other party for a period of 12 months instead of 6 months as was the rule so far.

In terms of sector chapters, the EU baseline includes extensive commitments in telecommunication services covering competitive safeguards, obligations of major suppliers, interconnection, scarce resources, universal service and cooperation between regulatory authorities. In financial services the approach is GATS consistent with a prudential carve out. In EU-Singapore there is provision for free data transfer. In CETA Canada guarantees to EU financial service providers that its existing framework will not become more restrictive with regard to the provision of cross-border insurance, reinsurance and intermediation, as well as portfolio management services. Article 5 of CETA provides for the mutual recognition of prudential regulations.

Japan's FTA baseline has used positive and negative listing. Agreements in Asia have adhered to a positive-list formula while those in Latin America have followed the negative listing approach of NAFTA. Japan-Vietnam EPA uses positive listing and has provisions with over-arching market access commitments, national treatment, domestic regulation and rules of origin/denial of benefit. Also like Japan's other agreements in Asia, there is no provision dealing with emergency safeguards (other than reference to pending GATS negotiations) or with subsidies. Nor, unlike Japan-Chile EPA, is there the right of non-establishment, and Japan's schedule frequently calls for commercial presence as a condition for cross-border delivery. The usual exclusion of air transport and maritime cabotage applies. However, some sensitive sectors are covered. For Japan this includes market access liberalisation of all four modes for audio-visual, higher education and environmental services and mode 3 liberalisation of primary and secondary education. Vietnam offers mode 3 liberalisation of audiovisuals, higher education and environmental services, and liberalisation of all but mode 4 for hospital and medical services. In the Japan-Switzerland agreement a negative approach to listing is used, with specific exceptions for air services. TPP, as expected uses negative listing.

On many of the regulatory provisions on services, such as domestic regulation, the Japan-Switzerland EPA and previous FTAs appear to be less detailed than the EU agreements. The provisions on mutual recognition of professions remain very general and contain fewer guidelines or indications of mutual recognition is to be achieved than in EU FTAs such as CETA. On some aspects such as temporary entry there are no GATS plus provisions in the Japan-Switzerland text, but in TPP Japan has made improved commitments on inter-corporate transferees, on economic needs tests and the ability of spouses to accompany transferees that are in line with the EU preference as revealed in the CETA.

In terms of the sectoral chapters the Japan-Switzerland EPA is also less detailed, indeed it does not include extensive provisions on telecommunications or financial services, so that the GATS sectoral agreements would appear to apply.

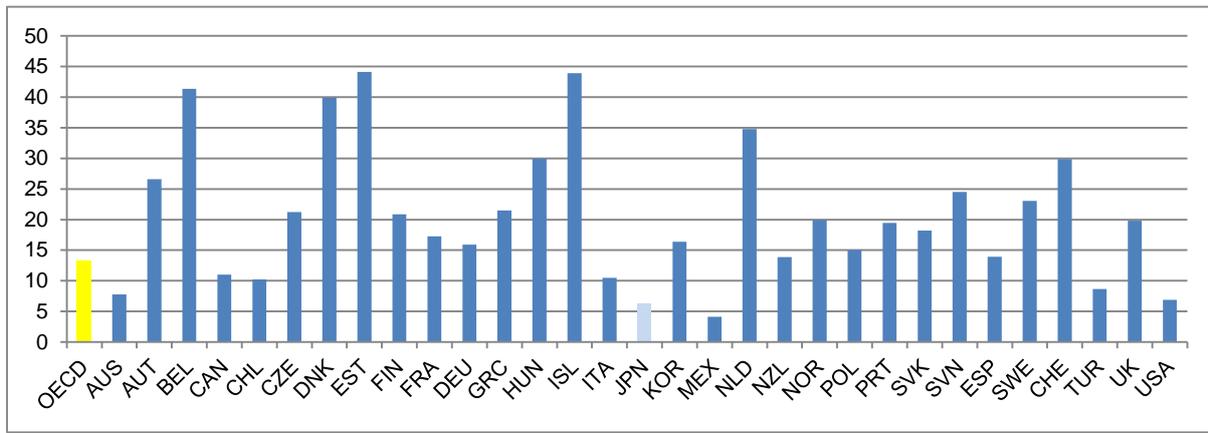
Table 45 Treatment of Cross Border Services in Selected FTAs

| | <i>EU-Singapore</i> | <i>CETA</i> | <i>Japan-Switzerland</i> | <i>TPP</i> |
|-----------------------------------|---|--|--|--|
| <i>Coverage</i> | Hybrid scheduling | Negative listing; but new services only if under UN classification | Negative listing | Negative listing; under a two annex system |
| <i>Specific exceptions</i> | Audio visual, maritime cabotage and air transport | Audio visual/cultural, air services | Air services | Air services |
| <i>MFN</i> | unqualified | unqualified | Does not apply to FTAs notified under GATS - negotiation | unqualified |
| <i>National treatment</i> | | Does not apply to treatment provided under TFEU or ATT | | Art 10.3 |
| <i>Domestic regulation</i> | Only applies to covered sectors; clear and objective regulation; review | Explicit exclusions i.e. health, education, water distribution; clear and objective regulations; review | No explicit exclusions; review | Art 10.8 |
| <i>Temporary entry</i> | Similar to GATS provisions | Similar to GATS provisions; EU member state exclusions | Specific commitments in schedules for movement of natural persons | |
| <i>Recognition of professions</i> | Application to Services, investment and Public Procurement Committee | Professional bodies encouraged to apply; specific Joint Committee on Mutual Recognition; detailed guidelines on procedures | General best endeavours wording without detail | Professional bodies encouraged to cooperate; Professional Services Working Group established |
| <i>Financial services</i> | Similar to GATS framework; Data transfer free | Recognition of prudential regulation envisaged; Financial Services Committee; Panel of experts for disputes | No reference so GATS framework applies | Separate chapter including disciplines, Committee Special dispute settlement |
| <i>Electronic commerce</i> | Facilitates; No duties | Parties must have laws protecting personal information; Best endeavours on e-signatures; no duties | No discrimination between digital means of supply; no applied duties and work for binding in WTO | Separate chapter, prohibiting duties, includes privacy provisions, Parties agree not to oblige data centres to be maintained |
| <i>Telecommunications</i> | Extensive provisions; including access to networks; Similar to GATS reference paper | Similar to GATS reference paper on telecoms; Access to networks | No reference | Separate chapter |
| <i>Maritime transport</i> | Extensive provisions | included | No reference | |
| <i>Institutional provisions</i> | Committee on Services, Investment and Government Procurement | Joint Committee on Mutual Recognition; Financial Services Committee | No additional body | |

Low trading intensity in services overall

Looking at the Japanese services trade in economic terms, services' share of total trade is relatively low compared to other developed countries. Services account for 21% of Japan's total trade – and in comparison, the equivalent rate is 38% for the EU. Given the very low trade dependency of Japan compared to Europe, China and other more export-led economies, the rate of services in relation to GDP is well below the OECD average at 6.2%. Even in terms of inputs into the manufacturing sector (e.g. so-called mode 5 of supply),²⁰⁵ Japan's share of gross exports coming from services is lower than OECD average at 18%.

Figure 21 Trade in services (% of GDP) of Japan and other selected OECD countries, 2013.²⁰⁶



Source: OECD, 2014.

However, this is a common trait amongst Asian economies, with history in manufacturing driven trade. Japanese services industries also feature prominently in both domestic value-added (at 73%; the EU is at 74%) and the prolific and rich variety of services on the domestic markets. The foreign expansion of Japanese services firms is often geared towards the Far-East and South East Asia, rather than Europe. It is these regions of course that take the bulk of Japanese overseas investment positions in FDI stock. The major Japanese banks all have operations in the major EU financial markets, but are primarily engaged in corporate banking. In retail, there are some cross or joint holdings, but most notably there are mainly two single brands (Muji, Uniqlo) and one multi-brand presence through franchise (7i Holding which owns the 7-Eleven retail chain).

Employment

Services accounts for 70% of employment in both the EU and Japan.²⁰⁷ The sectors covered in this section of the TSA account for 60% of all employment in the Japanese economy; retail (6 million employees), wholesale (3.5), finance (1.1 million), business/professional services (4.8 million).

²⁰⁵ Cernat, L., Kutlina-Dimitrova, Z., 2014. Thinking in a Box: a 'Mode 5' Approach to Services Trade. Accessed at: http://trade.ec.europa.eu/doclib/docs/2014/march/tradoc_152237.pdf

²⁰⁶ World Bank, 2015. World Development Indicators. See: <http://databank.worldbank.org/data/reports.aspx?source=world-development-indicators>. For illustration purposes, the OECD average is presented in yellow, while Japan is presented in light blue.

²⁰⁷ World Bank, World Development Index 2014

The high domestic employment and relatively low presence in trade makes it questionable whether Japanese services could displace 65,000 jobs in Europe as a result of the FTA. This is more likely a consequence of the CGE method that assumes constant levels of employment. As the rate of employment must rise due to the increase in output in the manufacturing sectors, the CGE model assumes that the employees must exit the services sector to work in manufacturing.

Entry costs, and overly regulatory environment

The difficult business environment, as reported by the stakeholders are not necessarily confirmed in independent research. For example, the OECD Services Trade Restrictiveness index put Japan on a majority of sectors, including legal and accounting services (business/professional services); sectors such as telecom and air transports (that are supposed to displace jobs in Europe according to the CGE model) score worse than the OECD average.

- **In business/professional services** (legal services, accounting, architecture and engineering etc.), Japan scores low to average. A large share of the barriers in these sub-sectors results from restrictions on movement of people. For example, in legal services this accounts for more than 62% of the value of the identified overall barriers (0.133 out of a total score of 0.213). For accounting, the equivalent figure is 56% (0.95 out of a total of 0.171), for architectural services it is 54% (0.108 out of a total of 0.201) and for engineering services it is 58% (0.11 out of 0.189).
- **In distribution services** (retail and wholesale), restrictions on foreign entry accounts for 59% of existing barriers. Here the restrictions identified are in the form of the requirement that for boards of directors must have at least one resident member, screening notification, quotas and economic needs tests for licenses for the distribution of products, and restrictions on direct selling.
- **Concerning banking and insurance services**, barriers to competition account for 39% of the existing barriers in commercial banking. Restrictions on foreign entry in commercial banking accounts for 30% of the overall barriers in the Japanese banking sector. When it comes to insurance, restrictions on foreign entry are estimated to be even more significant, accounting for 50% of the overall existing barriers, whereas barriers to the domestic competition (e.g. Japan Post issues) are only estimated to account for 26%.

By and large, this resonates with stakeholder feedback and the SME survey. Mode 4 issues were mentioned across the board by several industry representations and others also mentioned a number of very specific branch requirements and detailed regulations,²⁰⁸ or plans that impede on foreign entry.

The role of corporate profits and productivity

Recent market entry by single-brand retailers from the EU (notably in the textile and leather industry) in the past decade affirms the high spending patterns and demand for high-value added goods and services in Japan that was identified in the economic analysis.

However, stakeholder consultation indicated interest in the Japanese services markets as varying from very high to moderate. This is particularly the case of the Japanese

²⁰⁸ For example, a wholesaler stakeholder mentioned The Provisional Measures Law for Processed Raw Milk Producer Subsidies as a burden for wholesalers.

financial services sector, which is characterised by low profits.²⁰⁹ For example, the average return on assets of Japanese banks from 2001 to 2011 was only 0.03%, while the average return on equity was 1.08%.²¹⁰ The global financial crisis (or the Lehman chock as it is called in Japan) led to the lowest gross profit/loss ratio amongst the OECD. In this context it is noteworthy that Citibank, one of the two foreign banks in Japan that are incorporated locally, decided to sell its retail banking business in Japan to a Japanese competitor last year.²¹¹

A general conclusion is that the comparatively less regulated markets (e.g. retail) fare better and attract more EU investments despite high market entry costs and many existing barriers. As a result, the EU companies have turned their attention to markets with fast grow and lower entry costs in the emerging markets. This is by and large confirmed by an assessment of services sector labour productivity (value added in relation to compensation). Japan's profitability factors are high in general and certain sectors (such as wholesale and retail), while regulated markets (especially finance) do poorly.

Table 46 Productivity (return from labour compensation (total value-added relative to compensation))

| | <i>Japan</i> | <i>France</i> | <i>Germany</i> | <i>US</i> | <i>China</i> |
|----------------------------------|--------------|---------------|----------------|-----------|--------------|
| <i>Services (total)</i> | 1.97 | 1.74 | 0.97 | 0.97 | 12.36 |
| <i>Wholesale, retail</i> | 1.76 | 1.54 | 0.96 | 1.00 | 3.92 |
| <i>Transport, postal</i> | 2.00 | 1.74 | 0.96 | 0.99 | 70.53 |
| <i>Hotel, catering</i> | 1.91 | 1.53 | 0.97 | 1.01 | 7.67 |
| <i>Financial services</i> | 0.13 | 0.34 | 0.18 | n/a | 28.30 |
| <i>Real estate</i> | 18.69 | 18.69 | 0.98 | 1.02 | 6.28 |
| <i>Leasing, business</i> | 1.48 | 4.85 | 51.68 | 40.81 | 3.46 |
| <i>Research</i> | 1.29 | 1.15 | 0.98 | 0.95 | 2.59 |
| <i>Education</i> | 1.78 | 1.54 | 0.95 | 0.94 | 4.48 |
| <i>Healthcare</i> | 1.61 | 1.62 | 0.97 | 0.96 | 3.22 |
| <i>Culture</i> | 1.29 | 1.15 | 0.98 | 0.95 | 2.59 |

Source: Own calculations based on OECD, China Statistical Year Book, 2014.

²⁰⁹ Bank of Japan, 2015. Financial System Report (April 2015). Accessed at: <https://www.boj.or.jp/en/research/brp/fsr/fsr150422.htm/>

²¹⁰ IMF, 2012. Japan: Financial Sector Stability Assessment Update. August 2012. Accessed at: <https://www.imf.org/external/pubs/ft/scr/2012/cr12210.pdf>

²¹¹ The Wall Street Journal, 2014. Citibank Sells Japan Retail Unit to Sumitomo Mitsui. 25th Dec. 2014. Accessed at: <http://www.wsj.com/articles/citibank-sells-japan-retail-unit-to-sumitomo-mitsui-1419521772>.

11.3 The outcome of the FTA negotiations

In terms of scheduling, the likely outcome is a dual schedule approach based on negative listing as in the CETA agreement. Although the EU has favoured positive listing in the past, the fact that it has produced a negative list for CETA facilitates a negotiation on the basis of negative listing with Japan. In terms of coverage of establishment, the likely outcome will be to follow the annex I and annex II approach used in TPP as well as in recent EU FTAs. Domestic regulation, temporary entry for business persons in the EU-Japan negotiations are likely to be very close to the EU baseline from CETA and the TPP for Japan.

As Japan and EU GATS schedules cover are the sectors and modes mentioned, the negotiation issues are primarily in NTMs and regulation. However, there is a disturbing imbalance in the issues identified by the EU stakeholders on the Japanese market compared to the relatively few issues identified by Japanese services providers for improving the business and investment climate in the EU; several of the issues concern detailed regulations within Member State competences, or improving the internal functioning of the Single Market. Increasing investment (and thereby jobs and SME benefits) relies in part on finding measures that would facilitate establishment in the EU.

Common issues for the services industry

- As described in the economic analysis, mode 4 is a shared offensive interest of EU and Japanese stakeholders. The Japanese stakeholders have identified the difficulty entering Schengen and non-Schengen countries, issues with visa issuance, and problems with entry for spouses.
- EU stakeholders highlighted that for certain visa categories, a proof of 10 years of relevant work experience in the same area of work is necessary. In foreign labour markets, however, it is common practice that employees make changes in their career path within a shorter period of time. This strict requirement for certain visa categories thus presents a barrier to entry to Japan for foreign professionals. In addition, Japan uses a system relying on re-entry permits, which is an additional burden, as it limits the length of the time that they are allowed to stay.
- CETA, Japan-Switzerland and Japan-Australia FTAs (and other FTAs) provide for intra-corporate transferee (ICTs).
- Both Japanese and EU stakeholder in retail, business and financial services raised the ability to transfer employer and customer data in both directions.

Business services: Recognition of professional qualifications

- On legal services, the Japanese legal services market has now been further opened, where before foreign firms could not hire Japanese lawyers. However, note that the openness of the market can still be considered to be limited by administrative and regulatory requirements, such as a lengthy registration process for foreign lawyers (gaiben) and the fact that foreign lawyers must have three years of post qualification experience, two of which are to have been completed outside Japan, before they are allowed to practise their home state law in Japan. In addition, restrictions on foreign law firms opening offices in Japan and the restriction on limited liability structures can result in obstacles for foreign firms.
- For accounting services, auditing and tax work are regulated by separate individual laws.
- Qualification issues concern a broad range of legal and professional services relating to accounting, architects, medical and dentists and midwives/nurses, and engineers.

- The scoping work for the EU-Japan FTA found that negotiations should consider a framework establishing the general conditions for the negotiation of agreements of mutual recognition of professional qualifications with a view to improving the environment for the exercise of professions in each other's territory.
- This suggests a possible landing zone in the CETA model where the process of recognizing foreign qualifications is streamlined, so that regulators or professional organisations may negotiate mutual recognition agreements.

Financial services

- Through successive financial reforms, most entry barriers are being dismantled. However, the high cost of entry due to market conditions and financial market surveillance is difficult to negotiate for especially the current economic environment. The European Services Forum (ESF) concludes that many practical difficulties remain for European banks operating in Japan stemming from onerous regulatory requirements. In this light European banks have expressed interest in agreements of mutual recognition of home-country core standards between the EU and Japan.
- Jointly with the retail banking sector there is an issue with TPP relevance in the related insurance sector concerns the Japan Post Inc. (JPI). European insurers highlighted that JPI is profiting from a preferential treatment in Japan, allowing it access to the retail market with which the EU suppliers cannot compete. Prior to privatisation in 2012 to the Postal Privatisation Law limited private insurers' access to the JPI retail network. But there have been subsequent bilateral agreements signed with US insurance firms (MetLife, Aflac).
- Through a separate bilateral agreement (formally speaking outside of the TPP), JPI has unilaterally agreed from launching new medical insurance products until it determines that "level playing field" with the private sector suppliers have been established. Also, JPI is in the process of becoming privatised.²¹²
- Regulatory advantages exist for mutual aid cooperatives (Kyosai) that are exempt from the regulation of private-sector under the Insurance Business Law and are not supervised by the Financial Services Agency.

Retail and wholesale sectors

- The most general and horizontal NTM concern the rules on establishment and zoning. EU stakeholders consider the process is lengthy at both the national and regional level. The Large-scale Retail Location Law with Building permit and Environmental Impact Assessment results in local governments imposing local restrictions. Overall, different laws and separate licensing procedures apply and authorization can be denied if local SMEs operating in the area could be affected.
- Product labelling in the Japanese Household Product Quality Law, accompanying voluntary labelling guidelines (hyojikitei) are very detailed.
- But many restrictions are also specific to products. For example, in to clothing and accessories, the leather/footwear trade is subject to tariffs and a quota system. Due to these tariffs and the limited allocation of quotas, it is difficult to export leather footwear to Japan, which then affects foreign companies in the retail sector. The allocation of quotas is also not

²¹² Financial Times, 2015. See: <https://next.ft.com/content/1aea16e2-636c-11e5-9846-de406ccb37f2>

transparent. A part of the total volume is reserved for newcomers in the sector. However, there has been a practice for companies not fully involved in footwear business to be allocated quotas and then sell them to other companies. EU stakeholders mentioned that applications from companies not fully involved in the shoe business should not be taken into account.

- The importance of these issues has also been reflected in the SME consultation process for the Trade SIA. Stakeholders from the footwear industry (in particular from the Italian footwear industry) have highlighted the penalizing import duty regime and quotas as an important barrier for the retail market. They also stressed that the Japanese tariff quota system affects the final retail prices and complicates business in Japan as importers in Japan have to go through trading companies and partners. The leather industry is vulnerable group in Japan and is a sensitivity in both EU-Japan FTA and TPP.
- Similarly, difference in food safety standards is an issue for retailers of that sector. Using food additives is often restricted when foreign products do not correspond to pre-defined categories. As a result, food additives already used in the EU or USA and accepted by the JECFA (Joint FAO/WHO Expert Committee) are often not accepted in Japan. EU stakeholders pointed out that food quality standardization in Japan should be harmonized with international standards and an accredited food safety standard should be developed. The wholesale licensing regime for alcohol is considered to be also very strict
- In the opposite direction, the EU or Japanese distribution sector faces barriers when importing products into the EU from Japan. A first important point is the higher tariffs in the EU. Classification is another issue. European companies importing into the EU from Japan have been exposed to risks of changes in tariff classification, risking a different tariff rate than envisaged. There is also a lack of full harmonization of EU customs.

11.4 The Impact on the EU-Japan FTA

The supporting evidence to the 2012 Impact Assessment assumes that the trade cost portion could be reduced by the following extent:

- On the Japanese market, financial services (1.7%); insurance (0.2); business services (0.7); retail/wholesale (0.7%).
- On the EU market, financial services (1.4%); insurance (1.1); business services (0.8); retail/wholesale (0.5%).

In the financial sector, it is uncertain whether the regulatory and non-market access issues on the financial services markets can be resolved. Stakeholders have maintained the Japanese and the EU markets are now reasonably liberalised. It seems likely that in financial services (retail and corporate banking, financial intermediation), there will be primarily a binding of existing liberalisation, and potential long-term harmonisation of the "core" regulatory systems. However, the TPP context showed that US insurers were able to negotiate market terms with JPI with at least some level of success that seems to exceed 0.2%.

The horizontal measures (mode 4, qualifications) are deemed to have larger impact for the professions affected than the 0.7-0.8% suggested in the previous studies. Most likely, addressing one of the issues alone would likely to exceed those rates. On qualifications, the impact is highly dependent on the number of professions covered. However, the leather industry affects a vulnerable group in Japan, and is a sensitivity in both EU-Japan FTA and TPP.

The retail and wholesale sector lists numerous issues, of which the horizontal issues should be produce gains of more than 0.5-0.7% of trade costs as assumed. Furthermore, the branch specific issues are TBT or SPS issues affects the estimates in sectors, such as textiles, leather and footwear in which the impact of NTM reductions has not been calculated. The model therefore only reflects tariff cuts.

Moreover, the Japanese offensive interests on all four sectors beyond mode 4 and binding existing levels of liberalisation must be identified for conclusive results.

The uncertainties in the conclusions affecting financial services affects less than 1% of the total EU gains. There are therefore no reasons to adjust the output and export results.

In a FTA scenario (including a negative baseline with trade diversion from TPP), it is extremely unlikely that 65,000 jobs will be lost in Europe as a result of the EU - Japan FTA. This is purely an allocation effect from the model. These adjustments will be further elaborated in the social section that follows.

In terms of environmental impact, non-transport sectors accounts for merely 8% of the CO₂ emissions in Japan and 2% in Europe according to EIA. With output increases at levels of <0.1% for Japan and <0.5% for the EU, there are no overall CO₂ emission impacts.

11.5 Conclusions, recommendations and flanking measures

Conclusion –minor economy wide impact, no negative impact on employment

Due to the high growth in manufacturing, the FTA impact assessment arrives at an unusual low relative gain for services compared to other sectors. However, given the services role in productivity improvements, consumer welfare and employment, the sector cannot be neglected.

The impact on consumer's ability to benefit from the internal market are positively affected on prices, quality and choice through the increased establishment of services

providers; this affects also goods that are intermediated – predominantly of high and premium quality without any detrimental impact on consumer safety.

The low trade dependency of Japan and the low degree of internationalisation outside Japan (despite high productivity and successful services concepts) show that the potential is high also for Japanese services industries.

Recommendations

- Given the high welfare and employment effects from services, especially in business and retail/wholesale sectors, the negotiations should re-examine and identify areas beyond discussions on mode 4 and qualifications. Japan is a highly efficient in retail, transports (with several local express services), and also in ICT sector. However, there may be limitations on what can be achieved on issues that may concern improving the internal services integration in the EU.
- Other horizontal issues should be considered, including transfer of data, within the remit of the EU and Japanese laws.
- The negotiations ought to create a context within which JPI issues can be negotiated to provide EU insurers operating in Japan with equal access and negotiation leverage.
- The retail and wholesale sector needs to be reviewed together with the TBT/SPS issues. This is also the case for trade facilitation and customs.
- In terms of SME, laws and regulations should be made available in English to create a more favourable environment for EU SMEs.

Flanking measures

As the suggested job losses are consequence of the assumptions of the econometrical model, rather than the effects of trade liberalisation, no further flanking measures were identified.

12 Social analysis

12.1 Introduction

Implication of the economic and sectoral analysis

The basic structure of analysis will follow three steps: an analysis of the baseline context in which the FTA is being negotiated; the outcome that might be expected from the FTA; and the impact of that outcome. Within this framework, the research will include both an aggregated quantitative analysis of employment and other social indicators (primarily building on the 2012 Impact Assessment) and a qualitative analysis of decent work, core labour standards, sovereignty on social regulations and human rights. In addition, the social analysis chapter includes a specific case study on ways in which the FTA might address the gender gap in both Japan and the EU and in particular, considering Japan's womenomics strategy to mobilise the female workforce.

A general guiding principle of the chapter is that an FTA between the EU and Japan should be ambitious and effective in fostering the social dimension of sustainable development.²¹³ It is worth recalling therefore that the forces of globalisation have had a broadly positive impact, overall, on EU and Japanese labour markets. This is consistent with the impact observed in other developed OECD economies. At the same time, these forces have contributed to major job creation and job destruction, not least in the EU. The overriding trend has been towards increased emphasis on manufacturing activities transitioning into services. It is important to acknowledge, however, that most of the structural change comes from technological developments rather than from trade (OECD 2009, Bloom et al 2011).²¹⁴ These issues are addressed below.

Following the reasoning above, the main analytical element of this sectoral analysis is:

- Assessment on the impact on jobs, wages and inequality analysing sectoral employment gains in the CGE model and the empirical data on employment.

12.2 The current baseline

Sectoral aspects and the impact of trade

In the decade leading up to the recession of 2008-2009 – a period marked by accelerating globalisation which saw a sharp rise in trade relative to GDP (OECD 2009) – employment increased in all OECD countries apart from Japan,²¹⁵ and the average unemployment rate fell from 7.2% in 1995 to 5.6% in 2007 (OECD 2009).

However, because trade causes domestic prices to converge on those applying in the international market, the resulting change in relative prices within the domestic economy affects the returns to different factors of production – whether wages in different sectors, wages at different skill levels, or returns to capital. In practical terms, international trade increases the focus on, and the returns to, the most abundant factor of production,

²¹³ The need for such ambition has been stressed by the European Economic and Social Committee (EESC, 2014) and by various parties in the course of stakeholder consultation

²¹⁴ Establishing exact numbers is difficult. In a widely-cited study, Paul R. Krugman estimates that some 10% of wage inequality in the United States is attributable to trade (Paul R. Krugman, "Trade and Wages Reconsidered", Brookings Papers on Economic Activity, spring 2008).

²¹⁵ In Japan, unemployment rose from 3.1% in 1995 to 4.0% in 2007 (OECD Fact Book 2010).

which – in the labour market - tends to be low-skilled labour in developing countries and skilled labour in the advanced economies.

At prima facie therefore, the baseline of the social aspects in EU-Japan trade should primarily concern high-skilled labour, with a strong focus on the service sector. However, given the trading patterns and industrial structure of the EU and Japan, the bilateral liberalisation will also lead to measurable gains in areas of high-skill manufacturing, agriculture and the food industry.

It is clear that the EU, over the past twenty years, has witnessed a major decline in the share of manufacturing in both GDP and employment, but that the employment decline has been more than compensated for by the rising importance of the service sector (OECD 2009). In prior FTAs, major gains were identified in the service sector. Thus in the EU-Korea FTA it is estimated (Copenhagen 2007) that some 70% of EU gains will be attributable to the liberalisation of trade in services.²¹⁶ Expected gains in services from the EU-Japan FTA are also present in absolute terms. However, the gains are less in relative terms due to the disproportionately high increases in agriculture that accounts for up to 60% of the FTA impact in export value. This leaves services with less than 5% of the total trade increase.

However, notwithstanding the shifts that have been occurring in patterns of trade, the principal cause of rising income inequality that most countries have experienced in the past two decades has been due less to trade (especially of the type between the EU and Japan) than to technological progress which has increased the wages of skilled relative to unskilled workers (Cling, 2006; Billmeier and Nannicini, 2007). Some technological innovation will of course be undertaken in response to the intensified competition arising from trade. But this is nevertheless likely to represent a relatively small proportion of overall technological change. For example, it has been estimated that between 2000 and 2007, 15% of technology upgrading in Europe can be explained as a response to competition from China (Bloom et al 2011).

This experience with China is not directly replicable with an FTA with a relatively stable trading partner such as Japan. Exports to Japan generated approximately 2% of export-induced employment in the EU27 (2011),²¹⁷ which is far less than it is in the case of China (10%). As we shall see below, this does not reveal the true nature of job creation from EU-Japan trade, which is primarily investment-driven with Japanese MNCs creating job opportunities locally in Europe.

In contrast, the purely export-driven job creation in the EU is on a par with the level arising from trade with other smaller Asia-Pacific economies, e.g. Australia or Korea – and as Japan's GDP is 3-4 times larger, there is potential in export-driven employment in the EU. Conversely, trade with Europe creates employment in Japan, interestingly with strong "triangular effects" (e.g. jobs created in Japan thanks to EU exports to China),²¹⁸ most likely due to the high trade in intermediate goods.

²¹⁶ Experience under the EU-Korea FTA, which entered into force on 1 July 2011, is too short to make firm ex-post observations. Nevertheless, between 2011 and 2013, EU service exports to Korea grew by 17.8%, compared with an overall increase of EU global service exports of 12.3% (source: DG Trade). It is still too early to say whether this growth was concentrated in the areas where significant FTA gains were expected. And care is needed in extrapolating the impact of EU-Korea with the possible impact of an EU-Japan FTA.

²¹⁷ Arto I., Rueda-Cantucho, J.M., Amores, A. F., Dietzenbacher, E., Sousa, N., Montinari and Markandya, A., EU Exports to the World: Effects on Employment and Income. Luxembourg: Publications Office of the European Union, 2015

²¹⁸ *ibid.*

Trade, Core Labour Standards and the Decent Work Agenda

This section provides a brief overview of current compliance by the EU and Japan with ILO standards, as background to the examination of social provisions in EU and Japanese FTAs and as a pointer to areas where there may be scope – and need – for action in the EU-Japan FTA. Additional background information on this analysis can be found in annexes 8 and 9.

All EU Member States have ratified all eight ILO Fundamental Conventions which, together, correspond to core labour standards; they cover: Forced Labour (Convention 29); Freedom of Association (Convention 87); Right to Organise and Collective Bargaining (Convention 98); Equal Remuneration (Convention 100); Abolition of Forced Labour (Convention 105); Non-discrimination (Convention 111); Minimum Age (Convention 138); and Worst Forms of Child Labour (Convention 182).

In terms of compliance, the latest report of the ILO Committee of Experts, hereafter the ILO Report, calls upon the governments of a number of EU Member States to take action against *discrimination* (Conventions 100 and 111). There is no overriding theme, with recommended action ranging over the treatment of ethnic minorities, gender discrimination and religious freedom. The ILO Report also calls for action to promote *freedom of association and the right to organise* (Conventions 87 and 98). Here, the diversity of countries mentioned is noteworthy, embracing Bulgaria, Germany, Greece, Lithuania, Malta and the Netherlands.

On the side of Japan, of the eight ILO Fundamental Conventions that make up core labour standards, Japan has ratified all but two. Japan has not ratified the conventions dealing with non-discrimination (Convention 111) and the abolition of forced labour (Convention 105).

The ILO Report of the Committee of Experts (ILO 2015) calls for action by Japan in relation to *discrimination* (Convention 100):

In what is fairly strong language for the ILO Report, the Expert Committee “once again urges the Government to take immediate and concrete measures to ensure that there is a legislative framework clearly establishing the right to equal remuneration for men and women for work of equal value and appropriate enforcement procedures and remedies” (page 263).

Elaborating on the gender issue, the Committee also asks the Government: to provide information on any revision of the current labour legislation which could have an impact on equal remuneration for men and women; to step up its efforts to encourage enterprises to take positive measures aimed at narrowing the gender pay gap; to continue taking measures to ensure that part-time workers and full-time workers are treated equally with respect to the principle of Convention 100;²¹⁹ and to ensure that the new provisions of the Labour Contract Law concerning the conversion of fixed-term contracts into contracts of indefinite period of time do not have adverse effects on the situation of fixed-term workers, including women workers, with respect to remuneration.

The status of women in the Japanese workforce emerges as an issue warranting close consideration. For a fuller discussion see the case study: “Closing the Gender Gap”.

²¹⁹ According to 2011 data from the Japanese Ministry of Health, Labour and Welfare, 45.9% of Japanese women are in part-time work, compared with only 13.8% of Japanese men. (see case study).

The Treatment of Core Labour Standards and the Decent Work Agenda in the FTAs of the EU and Japan

As a result of doubts about the appropriateness of using trade measures to seek to enforce labour standards, an uneasy consensus seems to have been reached that, apart from sanctions against trade in products of prison labour, the WTO should not be engaged in enforcing core labour standards but rather that there should be on-going consultation and cooperation between the WTO and the ILO in the exercise of the ILO's mandate in this area.

This, however, has not prevented labour standards from being dealt with in the FTAs negotiated by WTO Members, nor from being seen as adding value to those agreements (Siroën, 2008). As of June 2013, 58 of the FTAs notified to the WTO contained labour provisions, up from 21 in 2005. According to the ILO, some 40% of these agreements – mainly those of the US and Canada – had a “conditional” dimension, involving sanctions or benefits (ILO 2013). Indeed, as a result of an agreement reached in May 2007 between the US administration and the Congress, US agreements are required to contain provisions dealing with labour standards (and the environment), which if breached in a way that demonstrably affects trade or investment will trigger dispute settlement and possibly sanctions. The FTAs of the EU and Japan also contain reference to labour standards but with provisions – described by the ILO as “promotional” – that differ significantly from those found in US agreements.²²⁰

The first EU FTA to have labour rights provisions was EU-CARIFORUM. The Parties simply reaffirm their commitments to internationally recognised core labour standards and their obligations as members of the ILO. EU FTAs' coverage of labour standards has evolved since EU-CARIFORUM, as reflected in the relatively recent agreement reached with Korea. Though Korea's ILO commitments are less than those of Japan,²²¹ there are features of the EU-Korea agreement that might be regarded as serving as a loose template for the EU-Japan FTA.

Under the EU-Korea FTA, the Parties: reaffirm their commitment to full and productive employment and decent work for all (Preamble); commit to “respecting, promoting and realising” the objectives of the ILO Declaration on Fundamental Principles and Rights at Work (Article 13.4); agree that a Party shall not fail to effectively enforce its labour laws and shall not weaken labour protections to encourage trade or investment (Article 13.7); and agree to cooperate on labour issues via the Committee on Trade and Sustainable Development (CTSD) and a Panel of Experts (Article 13.7). Complementing these provisions on core labour standards, EU-Korea, in the Services chapter, stipulates that in the case of temporary entry of service providers, all requirements regarding work and social security measures shall continue to apply, including regulations concerning minimum wages and collective wage agreements (Annex 7-A-3 Reservations). This provision might be seen as having both a “protective” dimension, in ensuring that social conditions are not undermined, and an “expansive” dimension, in ensuring the application of these conditions to temporary-entry service suppliers.

The EU-Korea FTA provides for a peer review based system to address issues of non-compliance, stopping short of a “social clause” that would include the use of trade sanctions for non-compliance.

²²⁰ The US-Cambodia Textile Agreement has been found to have generated better labour conditions in Cambodia (Polaski 2004), but care is needed in drawing lessons from this North-South agreement containing incentives via a special quota for access to the US market for apparel.

²²¹ Korea is not a signatory to some of the core ILO conventions related to freedom of association and forced labour, but it is a signatory to some of the newer ILO conventions for worker safety and has made commitments to the decent work agenda.

Three more-extensive features of EU-Korea, however, warrant special mention:

- First, the agreement goes beyond the practice in most FTAs of simply invoking of the 1998 Declaration and makes reference to the ILO conventions. The Parties commit to ratifying the fundamental conventions and the other 'up-to-date' conventions and to implement effectively those already ratified (Article 13.4). Moreover, the Parties commit explicitly to respect, promote and realise in their laws and practices (emphasis added) the principles concerning fundamental rights, including, the elimination of discrimination in respect of employment and occupation (Article 13.4). As pointed out in a recent ILO study, going beyond the 1998 Declaration is important because by referring to the conventions Parties can rely on the guidance of the ILO supervisory bodies; the Declaration, as such, is not subject to supervision. According to the ILO, reference to the Declaration alone runs the risk that a dispute panel would consider the Declaration in isolation, leading to a fragmented interpretation of ILO commitments (ILO 2013).²²²
- Second, unlike many FTAs, EU-Korea provides for the involvement of the ILO in the dispute resolution procedure (Articles 13.4 and 13.5). The usefulness of engaging ILO supervisory bodies is highlighted in a recent study of a number of US sanctions-based FTAs (Gravel and Delpech, 2013). For their part, MNEs welcome the engagement of the ILO, whose strength they see as being its pragmatic reliance on principles of voluntary cooperation and tripartite dialogue rather than, in the words of the IOE, "an inflexible legalistic approach" (IOE 2006).
- And third, to a greater extent than many FTAs, EU-Korea provides for enhanced engagement of Civil Society representatives, including employer and trade union bodies, in the monitoring and implementation of labour provisions via the Domestic Advisory Group (DAG) and the Civil Society Forum (CSF) (Article 13.13). Four meetings of the Committee on Trade and Sustainable Development have taken place (in 2012, 2013, 2014 and 2015), providing an opportunity to exchange views on the respective labour policies of the EU and Korea and on progress in the ratification of ILO conventions.²²³ According to ILO 2013, so far no state-to-state consultations on specific disputes under the labour provisions have been made public.

However, other provisions in the EU-Korea FTA serve to qualify the commitments on labour standards. The FTA asserts that it is not the intention to harmonise standards, that each Party has the right to establish its own levels of labour protection and that the comparative advantage of the Parties should in no way be called into question (Articles 13.1, 13.2 and 13.3). The agreement also states that labour standards should not be used for protectionist purposes (Article 13.2).

Another relatively recent EU FTA, with Colombia and Peru, corresponds closely with the EU-Korea FTA and with other EU FTAs. It commits the Parties to the promotion and effective implementation of internationally recognised core labour standards contained in the ILO Declaration (1998), specifically: freedom of association; the right to collective bargaining; elimination of all forms of forced and compulsory labour; effective abolition of child labour; and the elimination of discrimination in respect of employment.

The text of the EU-Canada FTA follows the broad pattern of earlier EU agreements. There is, essentially hortatory, support for the 1998 ILO Declaration on Fundamental Principles

²²² This risk is dealt with in more detail in Agustí-Panareda et al 2014.

²²³ See: <http://ec.europa.eu/trade/policy/policy-making/sustainable-development/>

and Rights at Work and the 2008 ILO Declaration on Social Justice and Fair Globalisation, and provision for the establishment of a body on Trade and Sustainable Development and of a Panel of Experts to resolve labour issues arising from the FTA. However, the EU-Canada FTA broadly shares the three particular features of EU-Korea highlighted above, referring specifically to the ILO conventions, providing for ILO involvement in dispute resolution and facilitating heightened civil society engagement via a Civil Society Forum. EU-Canada also contains the provision found in EU-Korea that in the case of temporary entry of service providers, all requirements regarding work and social security measures shall continue to apply, including regulations concerning minimum wages and collective wage agreements (Article 1 of chapter on Temporary Entry). Moreover, in a number of respects it might be said that ambition in the EU-Canada FTA goes somewhat beyond that in the EU-Korea FTA:

- The Parties shall “aim to enhance coordination and integration (emphasis added) of their respective labour (and environmental) policies and measures” (Article 1 of chapter on Trade and Sustainable Development).
- It is acknowledged that absence of “full scientific certainty” about potential workplace health risks shall not be used as a reason for postponing protective measures (Article 3 of chapter on Trade and Labour).
- No allusion is made in the agreement to the risk of protectionist capture.

All of this said, as in the EU-Korea FTA there is no question of sanctions being applied in respect of perceived non-compliance with labour provisions of the agreement. And, again like EU-Korea, the agreement recognises the right of each Party to set its labour priorities, to establish levels of labour protection and to adapt and modify relevant laws and policies (Article 2 of chapter on Trade and Labour).

There are, however, differences of emphasis between EU-Korea and EU-Canada. How they play out will depend essentially on how the two agreements are implemented and followed through.

Compared with US FTAs, it might be said that EU agreements have a strong *promotional* dimension, in the sense used by the ILO, in that they make commitments to core labour standards per se, without requiring that any breach of commitments be linked to demonstrable effects on trade or investment. Unlike US agreements, EU FTAs do not provide for the use of sanctions in the event of a perceived breach of commitments – a *conditional* feature of US agreements which, as noted below, raises difficult questions of both principle and practice.

A distinguishing feature of EU agreements, in pursuit of more effective compliance with ILO conventions, is their provision for extensive dialogue and consultation – as with the CTSD, CSF and DAG under the EU-Korea FTA – the test is to convert this into concrete policy action.²²⁴

A feature of Japan’s FTAs is that they lack a clear overall blueprint (Heydon and Woolcock, 2009, p. 195). This applies to the treatment of social issues, where no clear pattern emerges other than a tendency to brevity and a high degree of generality. This applies over a spectrum of FTA partners ranging from an emerging dynamic economy in Asia (Vietnam), a recently acceding member of the OECD from South America (Chile) and an advanced, high-income economy from Europe (Switzerland).

The Japan-Vietnam EPA makes a broad preambular reference to the goal of improving human resources and, in Article 1, reaffirms rights and obligations under agreements to

²²⁴ For example, at the third meeting of the CTSD under EU-Korea, it was reported that Korea would continue to have dialogue with the ILO and make other additional efforts to ratify more conventions (Joint Statement of 3rd Meeting of the Committee on Trade and Sustainable Development, Brussels, 8 December 2014).

which both countries are party. The Japan-Chile EPA, in its preamble, simply refers briefly to the pursuit of sustainable development. And the Japan-Switzerland EPA has a preambular reference under which the parties reaffirm their commitment to the rule of law, human rights and fundamental freedoms in accordance with their obligations under international law. The preamble refers to a common interest to develop human resources. And, in a provision not found in Japan-Vietnam or Japan-Chile, the FTA with Switzerland affirms the parties' recognition that it is inappropriate to encourage investment activities by lowering labour standards.

While the agreement with Switzerland has slightly more extensive provisions on labour standards than those found in the agreements with Vietnam and Chile, a more recent agreement with an advanced, high-income country, Australia, reverts to a very brief and general reference to labour standards. The Australia-Japan FTA, signed on 8 July 2014 simply contains a reference in the preamble to the parties' determination to build on their rights and obligations under the WTO Agreement and other agreements to which both countries are party.

Regulatory Sovereignty on Public Services, Social and Consumer regulations

Issues arising in the provision of public services, particularly in the field of public health, are considered here to be an integral part of the "social" dimension of an EU-Japan FTA. These issues have featured in the stakeholder consultations on the proposed agreement and have emerged as a major area of concern about the impact of other pending FTAs.

Concern that FTA liberalisation commitments will lead to a lowering of *standards in the provision of public services* has been particularly apparent in the debate associated with the Transatlantic Trade and Investment Partnership (TTIP) negotiations between the United States and the EU, but less so in the context of the EU-Japan FTA. Nevertheless, the concerns expressed and the assurances given in the TTIP context provide a useful pointer to this issue in the framework of the EU-Japan FTA.

There are many ways in which such concerns can be addressed but prudence is indeed required. FTAs generally follow the principle embodied in the GATS that services covered by commitments exclude those "supplied in the exercise of governmental authority". This exception is further defined in GATS Article I.3 (c), which says that: "a service supplied in the exercise of governmental authority" means "any service, which is supplied neither on a commercial basis, nor in competition with one or more service suppliers". There is, however, considerable uncertainty about the exact scope and meaning of these terms. Should measures extended to public institutions be deemed to fall under the agreement in question, this could trigger equal treatment of like foreign services and service suppliers (under the market access and national treatment obligations). The government would then be required, in the absence of appropriate limitations, to extend financial and other benefits to the services and/or suppliers concerned.

The key here, however, is the application of the "appropriate limitations" and there are indeed many ways in which FTA signatories can and do effectively limit their liberalisation commitments and associated obligations.

In addition, specific limitations can be placed on market access. For mode 1 (cross-border trade) this might involve provision for compliance with domestic regulations. Mode 3 (commercial presence) commitments often include provisions requiring joint venture or twinning arrangements with foreign equity limits, economic needs tests, compliance with domestic regulations, limits on geographic location, on the number of foreigners in senior posts, or the number of licenses in a particular field. Mode 4 (temporary movement of service suppliers) is mostly "unbound" with provisions limiting movement to intra-corporate transferees.

Finally, specific limitations can be placed on national treatment. Under the GATS, it is common to reserve the right, for all four modes, to limit granting of state funding or

subsidies to state-owned institutions and to bestow tax preferences to such institutions. Moreover, even FTAs using a negative listing of services commitments – assuming EU-Japan will do so – have reservations providing the right to adopt or maintain any measure with respect to the provision of public health services.

A particular aspect of the right to regulate has arisen in the case of public health services and the *protection of investment*. Concerns have been raised, including by the ETUC at the EU-Japan FTA Stakeholder Roundtable on 23 April 2015, about the potential for investor protection and investor-state dispute settlement mechanisms to be used by corporations to attack public services. Such mechanisms are contentious as they give foreign corporations the right to sue the countries in which they are investing if they believe a government decision has unfairly impacted on their investment. The importance of these issues was also be discussed in further detail under the economic section.'

Any real detrimental consumer aspects of the EU-Japan trade in the current baseline is difficult to identify given the quality of the products involved – especially taking into account the environmental and food safety safeguards in place.

12.3 Outcome of the FTA negotiations

Possible Provisions on CLS in the EU-Japan Free Trade Agreement

Given the lack of a blue print in the FTAs of Japan, and a tendency for Japan in many areas to accommodate the structural approach of its negotiating partner, it might be assumed that provisions on CLS in the EU-Japan FTA will follow closely those found in the EU's recent agreement with Korea. On this assumption, Parties would:

- reaffirm their commitment to full and productive employment and decent work for all (Preamble);
- commit to "respecting, promoting and realising" the objectives of the ILO Declaration on Fundamental Principles and Rights at Work (Article);
- agree that a Party shall not fail to effectively enforce its labour laws and shall not weaken labour protections to encourage trade or investment (Article);
- and agree to cooperate on labour issues via a Committee on Sustainable Development and a Panel of Experts (Article). A peer review based system would address issues of non-compliance, stopping short of a "social clause" that would include the use of trade sanctions for non-compliance.

Beyond this, however, it might also be expected that the EU-Japan FTA will adopt the three particular, and more extensive, features identified in EU-Korea and EU-Canada of referring specifically to the ILO conventions, providing for ILO involvement in dispute resolution and facilitating heightened civil society engagement via a Domestic Advisory Group (DAG) and a Civil Society Forum. It is worth noting, however, that at the EU-Japan Stakeholder Roundtable in Brussels on 23 April 2015, reservations were expressed by the ETUC and ESF members of the EU-Korea DAG about the group's representativeness (with a high academic presence), constrained capacity for research and limited scope for action, other than to refer matters to the panel of experts. At the same roundtable, however, a representative of the EESC noted that progress was being made in the DAG, with good links to ILO technical assistance.

Other provisions in the agreement might, nevertheless, serve to qualify the commitments on labour standards, asserting – as in the EU-Korea FTA - that:

- it is not the intention to harmonise standards, that each Party has the right to establish its own levels of labour protection and that the comparative advantage of the Parties should in no way be called into question. The

agreement would also state that labour standards should not be used for protectionist purposes.

A question arising here is whether the EU-Japan FTA would go somewhat beyond EU-Korea in its degree of ambition by adopting features of the EU-Canada agreement, as described above.

A pointer to possible provisions in EU-Japan on core labour standards and the Decent Work Agenda may be found in the scoping work done on the prospective agreement which recommends that the FTA chapter on Trade and Sustainable Development should:

- Build on the two sides' resolve to effectively implement internationally recognised labour standards and where relevant pursue their ratification in accordance with domestic rules.
- Reaffirm, in particular, the promotion of decent work.
- Address the effective enforcement of domestic labour laws and standards, which should neither be used for the purpose of de facto restriction of trade and investment nor be relaxed to encourage trade and investment.
- Reaffirm the need to enhance cooperation at the bilateral or multilateral level in the field of employment, decent work and social affairs.

It can be expected that the EU-Japan FTA will not adopt the practice of sanctions-based disciplines as found in US agreements – a practice which stakeholders (notably the services industry) at the roundtable on 23 April, said it would not favour but which the European Trade Union Confederation would support. Applying a sanctions-based regime in the framework of the WTO would be difficult. Moreover, the justification for sanctions is weakened by the absence of evidence that low-standard countries gain an unfair competitive advantage in trade and investment or that there is a race to the bottom in labour standards.

Regulatory Sovereignty on Public Services, Social and Consumer regulations

Analysis undertaken and evidence of the impact of prior FTAs suggest that no particular aspect of public services should be detrimentally affected, including public health and education services. Moreover, public broadcasting falls outside of the negotiation scope of EU FTAs. However, there are a few observations that are closely related to sectoral issues (and which will be discussed under the sectoral analysis).

The first observation concerns pharmaceuticals and medical devices. The List of Non-Tariff Measures in Japan and associated EU business requests, compiled in the framework of the FTA negotiations, includes examples under the broad umbrella of health and safety - where European and Japanese consumers would stand to gain from improved trade between the EU and Japan, for example on medical devices and pharmaceuticals including generics. The impact of this FTA regarding e.g. authorisation and public reimbursement of medicinal products will be dealt in the sectoral analysis.

The second observation concerns public transportation and utilities. To some degree, these are privatised and already deregulated in different manners in the EU Member States and Japan. In this FTA, the key focus is on the provision of equipment, but the consumer impact will be discussed in the economic analysis (under public procurement) and the analysis of the railway supply industry (RSI).

Finally, e-government and e-signatures are increasingly used in government interaction. Access and interoperability to such services facilitate trade and local presence, and do not undermine sovereignty on social regulations.

Underpinning these observations is the recognition in the course of scoping work for the EU-Japan FTA of the importance of continuing cooperation on regulatory protection and the shared view that the negotiation should cover possibilities for stronger administrative cooperation. Whereas the impact from such cooperation will be covered in the sectoral

analysis, recent discussions on FTAs in various contexts have raised two sensitive issues associated with the regulatory sovereignty of government: concerns about the liberalisation of health services and the possible public health implications of provisions on investor-state dispute settlement.

All of the FTA safeguards and limitations mentioned earlier in the context of public services would seem to be available in the EU-Japan FTA. This is underlined by a number of general assurances that have been prompted by the public debate on TTIP:

- By the European Commission that nothing will limit the ability of EU members to provide state support to public services, to designate public monopolies or to place limitations on market access and national treatment in respect of publicly-funded health care and water services (EC website).²²⁵
- By EU trade negotiator Ignacio Garcia-Bercero in a letter of 8 July 2014 to UK parliamentarian John Healey, that “all EU free trade agreements contain specific safeguards (GATS Article I:3) which exempt all services supplied in the exercise of governmental authority”. More importantly – given the difficulties of pinning down this concept – Garcia-Bercero also stressed that the EU was able to exclude public health services under the positive listing of EU-Korea and that such protection remains “irrespective of whether commitments are scheduled in positive or negative listing” (emphasis added).
- By EU Trade Commissioner Cecilia Malmström, in writing to UK Minister for Trade and Investment, Lord Ian Livingston, on 26 January 2015, that Member States do not have to open public health services to competition from private providers and that Member States are free to bring back outsourced services into the public sector whenever they choose.

Responding to public expressions of concern, the European Commission has encouraged Civil Society to work with it on the issue of ISDS, with an assurance that legitimate government public policy decisions would not be overridden. On this latter point, Ignacio Garcia Bercero has also acknowledged, in his letter of 8 July 2014 to UK parliamentarian the Rt. Hon. John Healey MP that while under ISDS investors can seek compensation for perceived breaches of commitments under the relevant treaty they cannot overturn national regulation. Nevertheless, recognizing the extent of Civil Society’s concerns with this issue, the European Commission has announced that it would consult the public on the proposed investment protection and ISDS mechanisms.

On 16 September 2015, the European Commission approved its proposal for a new and transparent system for the adjudication of investment disputes – the Investment Court System, which would replace the existing investor-to-state dispute settlement in all of the EU’s on-going and future investment negotiations, including, presumably, the investment provisions in the EU-Japan FTA. The proposed system would seek to enshrine governments’ right to regulate and would include an appeal mechanism modelled on the WTO Appellate Body. The Commission is now set to have discussions with the Council and the European Parliament. Once the text of the proposal has been discussed, it will be presented as an EU text proposal in the EU-US TTIP trade talks and will be used in other ongoing and future negotiations. Among the comments made on the announcement of the new system was that from BusinessEurope, expressing concern that any use of a “loser pays principle”, to discourage frivolous claims, would risk disadvantaging SMEs.

²²⁵ This would bear, for example, on EU state aid rules for the assessment of public compensation for services of general economic interest (SGEI), as agreed in April 2012, in support of the delivery of high-quality public services (EC website).

In the evolving international debate on ISDS, another question arising is whether a broader precedent may have been set by the carve-out for tobacco within ISDS agreed in the final stages of the Trans-Pacific Partnership negotiations.

Although the specific and technical details of ISDS in EU-Japan relations will be also dealt with under the economic pillar, there is little evidence that Japanese business make use of the ISDS mechanism in any notable extent, and especially not in sectors that are particularly affected by social regulation, health or any public service sectors.

12.4 The impact of the EU-Japan FTA

General impact

The CGE modelling within the Impact Assessment was based on two FTA-scenarios, a conservative approach involving a 20% reduction in NTM costs and an ambitious approach with a 50% cut in NTM costs. Both scenarios assumed complete tariff elimination. A further distinction within each of the two scenarios was between a symmetric outcome, where the EU and Japan would reduce NTM costs to the same extent (experiment G) and an asymmetric outcome (experiment F), where only one third of Japan's NTM cost reductions in goods would occur on the EU side (reflecting an assumption that the EU would have to balance its NTM cuts against the very substantial tariff cuts it would need to make in order to meet Japan's declared priorities).

On the basis of analysis undertaken, it is clear that the key social variables are unlikely to be negatively affected on an aggregate level.

According to the modelling, the results on wages are:

- EU real wages for less skilled and skilled labour increase by 0.68% and 0.70%, while in Japan they increase by 0.45% and 0.50% (symmetrical experiment G).
- Under no scenario does the income gap between the skill groups in the EU exceed 0.02% points, whereas in Japan the span is 0.05 to 0.06% points.

The expected impact of the EU-Japan FTA on wages, though positive, is quite modest. By way of comparison, hourly labour costs in EU 28 rose by 1.4% in the fourth quarter of 2014 compared with the same quarter in the previous year. There are nevertheless a number of implications that can be drawn from the data.

- The first observation that can be drawn is that, for the EU, under both the symmetric and asymmetric scenarios, the EU-Japan FTA will have an almost identical impact on wages for the more and for the less skilled. It might thus be concluded that the bias (within developed countries) in favour of more-skilled activities that might be expected in an FTA with a developing country are absent in an FTA with another advanced industrialised economy and in the presence of considerable intra-industry trade.
- The second observation that can be drawn is that EU gains in wages (for both the more and the less skilled) are more than doubled under the symmetric scenario, where the EU undertakes a higher level of own-liberalisation, which it might be assumed will generate increased competition and innovation.
- And the third observation that can be drawn is that the gains in wages (for both the more and the less skilled) are significantly higher in the longer run; time will be needed for the benefits of the FTA to be fully realised. In this respect, it is worth noting that the source of the positive impact on wages comes predominantly from cuts in NTMs under the FTA rather than from reductions in tariffs (Francois et al 2011).

The first observation also suggests that there would be no negative impact on income differences, or the Gini coefficient. Even if the less skilled and skilled groups were fully translated into high and low income earners (which may not always be the case), the impact on the income gap would be negligible. As the wage increases are consistently symmetrical between the groups, none of the three scenarios (experiment F, G and H) would have any impact on the Gini coefficient for EU28 (30.5 in 2013). All three scenarios fall within the range of -0.001 to +0.002; similarly, in Japan (Gini coefficient = 37.5) the range is +0.005 to +0.006. Therefore, this FTA has a negligible impact on the income gap for both the EU and Japan,

On the impact on employment, the modelling suggests:

- A substantial increase in employment in electrical machinery, for both lower and higher skilled workers (+6.72 and +6.70%).
- A small increase in jobs in agriculture, forestry and fisheries, processed food and the insurance and construction service sectors, (between +0.1 to +0.2%).
- A small reduction in jobs in chemicals, motor vehicles, other transport equipment, metals and metal products, other manufactured products and air transport services.
- Given that the GTAP-based CGE model assumes constant employment, it is not designed to estimate an overall impact on employment. However, if the sectoral output increases in the 2012 Impact Assessment are assumed to be correct, and applied to the current sectoral employment numbers from Eurostat, rather than the 2007 employment data used in the modelling, a differential of approximately +48 000 jobs is observed.²²⁶

The situation is more complex, however, in terms of the relative impact of the symmetric and asymmetric scenarios on employment. For both the more and less skilled, employment gains are greater with symmetry in electrical machinery but less with symmetry in processed foods. For both the more and the less skilled, employment losses are greater with symmetry in chemicals and metals and metal products but less with symmetry in motor vehicles. This observation suggests that an assessment of the employment impact of the FTA needs to address the specificities of each sector.

The results of sectoral analysis in the TSIA, as well as the observations of stakeholders, warrant special consideration for the motor vehicle sector and a number of other selected sectors.

The Impact Assessment does reflect that the potential negative effects in the motor vehicle sector are likely to be mitigated by high Japanese FDI in the EU and corresponding job creation in Europe. Other studies that take into account the fact that the majority of passenger cars sold in the EU by Japanese brands are manufactured in the EU show considerably less export and output increases for Japan (see the sectoral pillar and the section for motor vehicles). As a comparison, exports by Japan into Europe would increase by merely 5% compared to a no-FTA scenario (compared to +56% in the 2012 Impact Assessment).

At the Stakeholder Roundtable in Brussels on 23 April 2015, some representatives of the European automobile industry echoed concerns about expected job losses in the motor vehicle sector – this view was questioned by other stakeholders and representatives of manufacturers based in Europe, suggesting that there would be employment gains through industrial cooperation.

²²⁶ Eurostat, 2015.

In addition, the public consultation also identified a number of sectors where European stakeholders expected that a reduction in NTMs would yield export gains and consequential increases in employment. The sectors included chemicals, pharmaceuticals, information technology, consumer electronics, telecommunications and textiles. By contrast, the EU automotive sector did not expect to gain as tariff and NTM cuts would, it was believed, put it at a competitive disadvantage relative to the Japanese sector. Japanese business interests expected the automotive sector, information technology and the electronics sector to reap particular employment gains.

In other sectors, European business stated that the principal impediments to access to the Japanese market included problems with mutual recognition, the dominant position of Japanese incumbents in the service sector, especially financial services and telecommunications, and the frequent tendency of local governments in Japan to impose their own interpretation of regulations. Japanese business for its part highlighted insufficient regulatory cooperation between the EU and Japan on recognition of professional qualifications.

In conclusion, job losses were not foreseen by the representatives of the services and manufacturing industries (outside the automotive sector), otherwise supporting the conclusions of the sectoral analysis.

- If, in consequence, the CGE results from the services sector (financial services, business services and air transport) are adjusted by zeroing the questionable losses estimated in the modelling it leads to a differential of +67 000 jobs from the 2012 Impact Assessment.
- The results in manufacturing according to the 2012 Impact Assessment are largely in balance. However, if the effects on chemicals and pharmaceutical sectors are also adjusted by zeroing the questionable losses estimated in the modelling it leads to a differential of +77 000 jobs from the 2012 Impact Assessment.
- In sum, compared with the sectoral impacts from the 2012 Impact Assessment on the current levels of EU employment, with all three adjustments described above, the aggregate differential is approximately +192 000 jobs.

The assessment above comes with some methodological reservations, and is only to be seen as indicative, and assuming that the output increases given by the CGE model are correct. However, the overall effect on the EU economy being positive is clearly indicated.

As mentioned above, another key methodological reservation is that the GTAP based CGE model does not estimate changes in investments in the same manner as trade flows, whereas investments heavily affect employment numbers. A key factor here is also the changing relationship between trade and FDI, and the analysis of that relationship. Increasingly, trade and investment are seen as complements rather than as substitutes as vertical integration within the global supply chain promotes both trade and FDI. Apart from the direct impact from FDI (new employment opportunities) enabled by FTAs, there are also more long-term indirect effects: In terms of causation there is strong evidence that it is FDI that generates increased trade flows (see Miroudot, 2012). These findings contrast with earlier quantitative analysis suggesting that trade liberalisation would reduce the protection rents earned by the major suppliers of outwards FDI and so limit the welfare gains from market opening (see for example Dee and Hanslow, 2000).

- In 2013, Japanese firms employed approximately 458 282 employees in the EU (through 1 947 companies) whereof 36% were employed in the automobile industry the same year.²²⁷
- Latest observed employment in the automobile industry (2014) is 175 613 employees, which has increased 29% in the last five years. The number of employees has constantly increased during this period, regardless of change in sales or exports from Japan.

Other indications, in addition to the estimates above, can be derived from empirical studies on the relations between GDP and unemployment rates, the so-called, Okun's law,²²⁸ which stipulates a relationship between growth (expressed in changes in GDP) and jobs (or rather, unemployment). Empirical studies show that historically, the rate at which unemployment is reduced given a 1% increase in GDP (the Okun coefficient) has varied in the EU depending on the labour market conditions in the EU Member States, between -0.136 in Austria (low growth dependency) to -0.852 in Spain (high growth dependency). In comparison, Japan with its stable labour market and tradition of life-long employment has a coefficient of -0.152.

- Using the relationship that was observed during the crisis of 2007-2010 amongst OECD countries (of predominantly EU countries in the sample), shows that unemployment rates would have been reduced by 0.22%, or 440 000 jobs, had the EU-Japan FTA been in place.²²⁹

In conclusion, the sectoral employment gains in the CGE model, the empirical data on employment in Japanese-invested firms and the relationship between growth and employment support a conclusion that employment could increase in the magnitude of hundreds of thousands, compared to a no-FTA scenario.

The Impact on SMEs

As pointed out in the Commission's Impact Assessment, SMEs should benefit from an EU-Japan FTA on a number of counts. Japan is ranked fourth among target markets for European internationalised MNEs, including because of its role as a launch pad and testing ground for the Asian market.²³⁰ Particular opportunities have been identified in the area of chemical products, advanced engineering, and luxury products (European Commission 2011).

Because the fixed costs of complying with regulations are higher for SMEs than for larger firms, the reduction of NTMs in the framework of the FTA, as well as further convergence towards international norms, would bring particular benefits to SMEs.

However, drawing on surveys of SMEs, an important observation is that whatever formal liberalisation commitments are made in the framework of the EU-Japan FTA, the ability of SMEs to benefit from those commitments will depend critically on the way in which the undertakings are implemented and on the nature of complementary assistance given to SMEs to enable them to address prevailing handicaps to market entry. This matter is taken up in the recommendations section below.

The Impact on Consumers

The sectoral analysis identified gains on consumer prices, quality and variety in motor vehicles and food and feed sectors, railway, medical devices and services sectors.

²²⁷ Statistics of Ministry of Economy, Trade and Industry of Japan, 2015.

²²⁸ See Ball, Leigh, Loungani, Okun's law: Fit at fifty?, National Bureau of Economic Research, 2013.

²²⁹ Cazes, Verick, Al Hussami, Diverging trends in unemployment in the United States and Europe: Evidence from Okun's law and the global financial crisis, ILO Employment Working Paper 106, 2011.

²³⁰ European Commission 2011, Opportunities for the Internationalisation of SMEs, August 2011.

However, in the case of motor vehicle sector, the producer rents (profits) were likely to cushion the positive impact on prices, whereas the positive impact from the services sector and railways could be substantial on both EU and Japan. Moreover, EU consumer safety were affected positively in railway sector, while there was no detrimental impact on consumer safety on life sciences sectors (medical devices or pharmaceuticals).

12.5 Case study: The gender gap

Current baseline

The status of women in the workforce emerges as an issue warranting close consideration in the framework of the EU-Japan FTA. This is notably the case for Japan, not least given that Japan has not ratified ILO Convention 111, dealing with non-discrimination. While the labour force participation rate (LFPR) of women in Japan is improving (from 59.6% in 2000 to 65.0% in 2013) and now at almost the same level as the EU, the gender gap is much greater, with respective labour force participation rates for men and women at 84.6: 65.0 % in Japan as against 78.4: 66.3 % in the EU. Moreover, the gender wage gap is larger in Japan, at 28%, than in major EU labour markets such as Germany (17%), the UK (18%) and France (14%).²³¹

Other data testify to the weak position of women in the Japanese workforce. Japan is ranked 105 out of 136 countries in the Global Gender Gap, a decline of four places since 2012 (Hausmann et al, 2013). Within the Japanese workforce, the improvement in women's LFPR is driven by a growing number of young, non-regular workers (Jones and Urasawa, 2011). Thus some 46% of women are in part-time employment, compared with only 14% of men, noting that according to an official survey, only 1.3% of part-time workers enjoy equal treatment with their full-time counterparts (ILO 2015). The LFPR for university-educated Japanese women is only 68%, compared with an OECD average of 82% (Jones and Urasawa). And while women hold 46% of all professional and technical positions, they account for only 9% of senior official and managerial positions and 2% of positions on corporate boards (McKinsey & Co. 2012).

Japanese authorities have put the highest political priority on designing a policy response. Womenomics is a central part of the government's overall reform and anti-deflationary strategy, often referred to "Abenomics". Concluding FTAs (such as TPP or the EU-Japan FTA) is also a part of the Abenomics agenda. Apart from the overall societal benefits, increasing female LFPR could considerably boost a range of economic indicators, including labour factor productivity.

However, the reform agenda predates womenomics. In 2008, Japan launched a programme to raise awareness of the concept of Decent Work and related issues such as work-life balance. The programme will involve cooperation between five Japanese bodies: The Ministry of Health, Labour and Welfare, RENGO (the Japanese Trade Union Confederation), Keidanren (Japanese Business Federation), the ILO Association of Japan and the ILO Office in Japan. In 2010, a revision to the Childcare and Family Care Leave Law expanded childcare from 12 to 14 months if both parents take leave and shortened the working hours for parents with a child less than three years old. But clearly there is scope to do more and there are commensurate benefits from doing so for both Japan and the EU.

²³¹ All data taken from the OECD Statistics, latest available data are for 2013.

Outcome of the FTA negotiations

The combination of cyclical change in the global economy, globalisation and technological change has had a disproportionate influence on the place of men in both the European and the Japanese work force. OECD analysis (OECD 2012) suggests that three factors are at work.

First, men are disproportionately likely to work in areas such as building and construction and basic manufacturing where the impact of the recession of 2008-2009 was particularly pronounced.

Secondly, the higher proportion of men, compared with women, in low-skilled and semi-skilled manufacturing has disproportionately increased their vulnerability to skill-biased technological change and to the shift offshore to developing countries of labour-intensive, low-skilled manufacturing activity. Women for their part tend to be more strongly represented in sectors such as education and health care where more job growth has occurred and where vulnerability to cyclical downturns is less pronounced than in manufacturing (see also Borchert and Mattoo, 2009).

Thirdly, women have done more than men to improve their academic credentials.

It is these forces that help explain the decline in the gender gap in work force participation rates: from 17.0 to 12.1 in the EU between 2000 and 2013 and from 25.6 to 19.6 in Japan over the same period. The reduction in the gender gap was particularly pronounced during the economic downturn of 2007-2008 due largely to the cyclical resilience of the service sector. However, in line with evidence from previous recessions, this pattern has changed since 2009 as male employment has recovered more strongly than female employment as the effect of services cyclical resilience is reduced in the upturn (OECD 2012).

Moreover, notwithstanding structural tendencies favouring female employment, the fact remains that the gender gap in both wages and labour force participation continues to be significant in both the EU and Japan

In terms of broad social policy implications in the context of the EU-Japan FTA, we have seen two trends, working in opposite directions: the legacy of social and cultural values which sees continued, albeit declining, discrimination against women in the workforce; and the impact of globalisation of trade and investment which has impacted more severely on men than on women.²³² Consideration needs to be given to opportunities arising from the EU-Japan FTA to address each of these tendencies, in particular by seeking to increase female engagement in the workforce and by encouraging structural adjustment and labour market flexibility to help ensure that factors of production, not least labour, can move from declining to expanding areas of activity.

The impact of the EU-Japan FTA

The benefits of increased female participation in the work force is in addressing the shrinking labour force: It needs to be acknowledged that the EU-Japan FTA is unlikely, through its economic impact, to significantly affect the gender balance in the workforce in either country. If the FTA is to have an effect on the gender issue, it will rather be via its potential impact on policy settings. Were the EU-Japan FTA, through enhanced application of the ILO Conventions on non-discrimination, able to improve the position of women in the European and Japanese work force, the effects would be considerable. A joint report by the ILO, OECD, IMF and World Bank (ILO 2014) observes that the prospect of a shrinking labour force underpins the economic case for greater gender

²³² The decline is due in part to the need to respond to the imperatives of a shrinking labour market.

equality in the labour market. The OECD concludes that if male and female labour participation rates remain at current levels, the labour force will decrease by some 10% in Germany and Japan by 2025 (OECD 2012). Research by the World Bank reaches a broadly consistent conclusion, that Europe can expect a shortfall of 24 million workers by 2040 if women's work force participation remains at what it is now; if the rate rises to that of men, however, the shortfall will be only 3 million (World Bank 2012).

Moreover, the corollary of a strengthened workforce is higher economic growth. The ILO estimates that if full convergence of labour force participation rates were to be achieved over the next 20 years, the per capita GDP growth rate would increase by some 0.5 of a percentage point in Japan and 1.0 percentage point in Italy (ILO 2014). The IMF reaches a similar conclusion, finding that the annual potential growth rate of Japan could rise by 0.25 of a percentage point if the female labour force participation rate were to reach the average for G7 countries, resulting in a permanent rise in per capita GDP of 4% compared with the baseline scenario (IMF 2012).

At the level of the firm, global surveys show that companies in the top quartile of female participation in top management outperform their peers with no female participation by 56% in terms of earnings before tax (McKinsey 2012).

Apart from the direct effect of an augmented workforce, factors explaining these potential gains include: more efficient allocation of women's skills, scale economies in the care of children, and improved corporate governance via the wider perspectives brought by the increased number of women on boards. (Jaumotte, 2005; OECD 2012). Behavioural factors play an important role. There is strong evidence that women have a propensity to engage in less risky behaviour and that gender-equal teams may be more successful through increased innovation and more informal decision making. OECD country experience also shows that birth rates increase as women's LFPR improves and countries provide women with more ways to combine work and family (Hausmann et al).

- The estimates in the 2012 Impact Assessment provide that the job creation amongst women vis-à-vis men is 2.2 new jobs for women for every job for men in the EU.
- The impact on Japan however, shows that potential job losses caused by the FTA would affect women more than men, most notably in services and processed food sectors. However, it is in the margins of the LFPR statistics (-0.3%). And, because GTAP-based models generally do not reflect investment flows, this does not take into account the effects from increased establishment of EU services providers in Japan, including the biggest provider of employment growth for women in the FTA: retail and wholesale services. This is a significant omission, given the importance of the potential for investment-led employment growth from the FTA.

12.6 Human rights

This sections reviews the human rights issues that are possibly affected by the EU-Japan FTA. Rather than imposing direct references to human rights, most FTA model texts make contextual and implicit references. The previous FTAs of the EU and Japan generally follow this pattern.

The EU-Korea FTA, in its preamble, reaffirms the commitment of the Parties to the Charter of the United Nations of 26 June 1945 and the Universal Declaration of Human Rights of 10 December 1948.

Similarly, the preamble to the EU-Canada FTA recognizes the importance of security, democracy, human rights and the rule of law for the development of international trade and economic cooperation – and interestingly, not the other way round. The FTA also

reaffirms the strong commitment of the Parties to fundamental rights as laid down in the Universal Declaration of Human Rights.

Among recent Japanese agreements, the Japan-Switzerland EPA simply reaffirms, in the preamble, the Parties' commitment to human rights and fundamental freedoms in accordance with their obligations under international law, including those set out in the UN Charter, and with the principles of the Universal Declaration of Human Rights.

Beyond these broad exhortations, however, there are new, service and internet related, issues dealt with in the FTAs that fall within the broad ambit of human rights though without explicitly invoking that term, namely personal data that links to the right to privacy, a part of the EU Charter on Fundamental Rights (art. 8), and also protected by the Treaty of Lisbon (art. 16). The current legislation (1995 Data Privacy Directive) is being revised in the EU with the objective to consolidate and update the European legal framework on data privacy: The European Commission proposed the General Data Protection Regulation (GDPR) in January 2012 (agreed by the Council and the Parliament in December 2015) in order to harmonize existing Member State rules and introduce new rights and obligations for any processing of personal data.

Processing of personal information is essential for the services industry (logistics, transporters, financial sector, business and personal services) that are also considerable inputs to other sectors. Both in current and coming legislation, all transfer of personal data to third countries outside the European Economic Area (EEA) is regulated, with the exception of certain countries where the EU has ruled that the privacy legislation is 'adequate' – Japan is not yet one of them.

Japan has outlined institutional amendments for utilising personal data in its revision of its Protection of Personal Information Act. The revision generally follows the same principles as in the EU legislative model, which require consent for transfer of personal information to a third party. Moreover, Japan's revisions stipulate that data transfer across borders is legal given that the third country has legislation or an established system equivalent to the protection in Japan, which is enforced with punitive sanctions. Thus, assuming that these two legislations are founded on similar principles and therefore deemed reciprocally adequate, there should be no detrimental impact on the right to privacy from increased cross-border data flows or services trade.

Finally, the stakeholder consultations did not reveal any human rights impact or concerns due to the EU-Japan FTA.

12.7 Conclusions, recommendations and flanking measures

Recommendations

In light of the comments above about compliance, it is suggested that EU negotiators should seek to use the opportunity of the FTA to obtain greater compliance, implementation and monitoring of the ILO conventions.

- A clear priority is to seek Japan's ratification of the two core conventions to which it is not a party: Convention 111 on non-discrimination and Convention 105 on forced labour.
- Action by Japan is also needed in respect of recommendations on job creation in SMEs in the framework of Convention 189 on decent work for domestic workers.
- And, as reflected in the recommendations of the ILO and the ITUC, there is scope for action by Japan in respect of freedom of association and the right to organise.

In order to help in the implementation of this recommendation, and to foster greater compliance with ILO obligations more generally, it is also recommended that the EU-

Japan FTA adopt the three distinctive features of EU-Korea FTA and EU-Canada FTA referred to above. Parties should thus:

- go beyond the practice in most FTAs of simply invoking the 1998 Declaration and make reference to the ILO conventions. The Parties should commit to ratifying the fundamental conventions and the other 'up-to-date' conventions and to implement effectively those already ratified. The Parties should also commit explicitly to respect, promote and realise in their laws and practices the principles concerning fundamental rights, including the elimination of discrimination in respect of employment and occupation.
- provide for the involvement of the ILO in the dispute resolution procedure.
- provide for enhanced engagement of Civil Society representatives, including employer and trade union bodies, in the monitoring and implementation of labour provisions via a Domestic Advisory Group and a Civil Society Forum. Consideration needs to be given, however, to stakeholder concern, referred to above, about the capacities of the EU-Korea DAG.

The FTA could have a direct positive effect on the gender gap in employment and wages in the EU, whereas the effect could be negative in Japan. So as not to undermine the current strategy of Japan to close the gender gap and promote greater labour market efficiency in Japan, attention might need to focus on seeking further investment related commitments in sectors where the biggest risks for unemployment for women are foreseen in Japan, notably processed food sectors (food and feed) and retail, wholesale and other type of services. Moreover, given the relatively greater degree of gender discrimination in Japan, one or more of the various ILO instruments bearing on the question of gender imbalance in the work force warrant careful attention in the framework of the FTA:

- Discrimination (Employment and Occupation) Convention (No. 111) and Recommendation (No. 111), 1958.
- Equal Remuneration Convention (No. 100) and Recommendation (No. 90), 1951.
- Maternity Protection Convention (No. 183) and Recommendation (No. 191), 2000.
- Workers with Family Responsibilities Convention (No. 156) and Recommendation (No. 165), 1981.
- Part Time Work Convention (No. 175) and Recommendation (No. 182), 1994.
- Domestic Workers Convention (No. 189) and Recommendation (No. 201), 2011.
- Social Protection Floors Recommendation (No. 202), 2012.

To the extent that these measures address discrimination in the workplace, they would also of course help other groups who may be discriminated against in the Japanese labour market.

The ILO points out that the effects on labour market practice of "promotional" FTAs, of the sort pursued by the EU, are difficult to assess and that for such FTAs to yield positive results they need to be accompanied by comprehensive economic and social policies in the countries concerned; the social impact of FTAs is a function of policy settings (ILO 2103). Moreover, while anti-discrimination provisions have been adopted legally within all OECD countries, some measures have proved difficult to enforce. For example, in most OECD countries less than 50% of the population is aware of the anti-discrimination laws for the hiring process (OECD 2008 and European Commission 2007).

Similarly, within the EU, while countries have agreed, within the context of the Lisbon Strategy to increase female participation in the work force (European Parliament 2010), much remains to be done, including necessary reform (in areas such as fiscal, social and education policy) to address gender gaps in wages and workforce participation,

consistent with the broader goal of both partners to improve labour market efficiency. As we have seen, the need for flanking measures that might accompany the EU-Japan FTA is bigger on the side of Japan than the EU. In order to reduce gender gaps in wages and work force participation, there is a need to focus on the tax and social security systems (such as taxation provisions for second-earners), flexibility on work time and family support facilities, (e.g. childcare subsidies, child benefits and paid parental leave (see for example, OECD 2013) in addition to “soft interventions”, including training to build leadership skills, a mentoring programme for women and a charter on diversity to be signed by suppliers, distributors and partners along the global value chain.²³³

However, as many of the issues are a question of mind-set, the increased regulatory reform, trade and investment between the EU and Japan through the FTA itself could act as a catalyst, by:

- harnessing the full potential of ILO disciplines;
- increasing the presence of EU firms in Japan, given evidence that the hiring practices of foreign firms established in Japan have influenced those of local firms (Korinek, 2005).

This adds to the importance of the actions and corporate behaviour of firms in improving social and labour conditions. The issue of encouraging voluntary activities that support corporate social responsibility (CSR) in accordance with internationally recognised standards (notably the OECD Guidelines for Multinational Enterprises, Due Diligence Guidance) appears in more recent EU FTAs. In this regard, EESC has also adopted an information report on CSR calling for action through EU external agreements, including FTAs.²³⁴

Flanking measures

Promotion of active labour market policies

- Particular attention needs to be paid to provisions in the FTA that deal with compliance in areas that are employment sensitive but also potentially job creating, especially on services (in particular in liberalising and facilitating mode 3) and manufacturing (chemicals/pharmaceuticals, motor vehicles).
- Consideration needs to be given to the promotion of active labour market policies to deal with trade-related structural adjustment and to the utilisation of the European Globalisation Adjustment Fund (see EESC Opinion, page 6). At the Stakeholder Roundtable on 23 April 2015, the ETUC representative spoke of the need to expand the resources of the Fund.

Support for SMEs:

- One comprehensive survey of SMEs found that the most common impediments faced by SMEs, ranked in order of importance, are language barrier, high costs and difficulty in grasping business practices and local laws.²³⁵
- The most common requests for assistance involved: help in meeting with potential partners, support for participation in fairs and salons, translation

²³³ Drawn from surveys conducted by McKinsey & Co. in conjunction with Keizai Doyukai and J-Win.

²³⁴ EESC, Corporate social and societal responsibility as a lever for action in the EU’s partnership agreements (information report), REX443, 2015.

²³⁵ EU-Japan Centre for Industrial Cooperation, 2010. In Search for Growth: Towards a New Role for SMEs in EU-Japan Relations. Accessed at: <http://www.eu-japan.eu/sites/eu-japan.eu/files/In%20Search%20for%20Growth%20-%20Towards%20a%20New%20Role%20for%20SMEs%20in%20EU-Japan%20Relations.pdf>

and interpretation services, provision of financial support, PR and marketing services, head hunting services and real estate services

- The underlying problem, however, may be less the lack of help but the unawareness on the part of SMEs that such help exists, whether from the EU, Member States or the private sector.²³⁶ It is therefore recommended that more be done to spread awareness among SMEs of the help available to them and of which they are not presently taking full advantage.

No flanking measures concerning consumer quality, protection or safety ought to be necessary beyond the current legislation already in place.

²³⁶ For more information see European Commission 2011, COM (2011) 702 Final. Small Business, Big World: A New Partnership to Help SMEs Seize Global Opportunities; and METI 2011. METI's Action Plan for Supporting SMEs in Overseas Business. Ministry of Economy, Trade and Industry.

13 Environmental analysis

13.1 Introduction

Implications of the economic and sectoral analysis

The analysis lays a focus on the following environmental topics: climate change (GHG emissions); energy use; resource use and efficiency; ecosystems and biodiversity. This includes an assessment of land use, waste and waste management, water and soil quality, and trade in endangered species of wild fauna and flora. The analysis includes both qualitative and quantitative elements and builds on forecasts in the 2012 Impact Assessment as a source to assess the environmental impact of the EU-Japan FTA. The key relevant environmental regulations are analysed in both the EU and Japan and potential risk factors resulting from the FTA are identified. The results of the stakeholder consultation and the data obtained from this consultation are incorporated as an important source for the overall analysis in this section. Finally, the environmental analysis includes two specific case studies on the impacts on trade in fisheries and trade in timber, where the latter was chosen upon a proposal from the European Commission.

The analysis does not lay a focus on the issue of air pollution and this choice has to be briefly justified. Air pollution is not considered to be the best choice of an indicator for the overall analysis since Japan's air pollution levels are affected by China. Due to this external factor, it is difficult to draw results from estimates of Japan's air pollution levels on the exact impact resulting strictly from the EU-Japan FTA alone. Air pollution will therefore not be used as an indicator for this environmental analysis.

Following the reasoning above, the main analytical element of this sectoral analysis is:

- Assessment of the impact on emissions across sectors looking at sector energy intensities, fuel mix and carbon factors effects (using the Log Mean Divisia Index).

13.2 The current baseline

The section provides an outline of the current state of play of Japan's environmental regulation and performance, including an overview of the energy sector.

Overall environmental performance of Japan

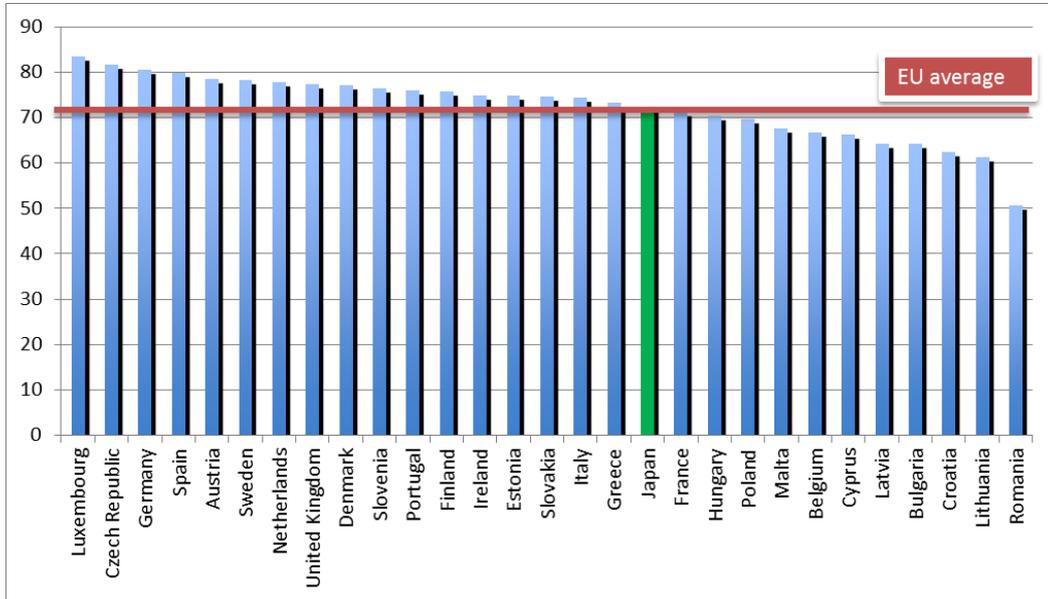
In this section, we benchmark Japan's environmental performance against relevant countries, such as OECD and EU countries, using the Environmental Performance Index (EPI).²³⁷ Moreover, we also provide an overview of Japan's environmental performance over time.

The EPI index allows us to assess Japan's overall performance in 6 main aspects: water resources, fisheries, biodiversity, forest, climate and energy. In 2014, Japan ranked 26th worldwide. Japan's score is very close to the European average (Figure 22), but lies below its median score as 60% of European countries perform better than Japan

²³⁷ The index is provided by Yale Centre for Environmental Law & Policy (YCELP) and the Centre for International Earth Science Information Network (CIESIN) at Columbia University.

including some of the relatively newer members such as Czech Republic, Estonia, Slovenia and Slovakia.

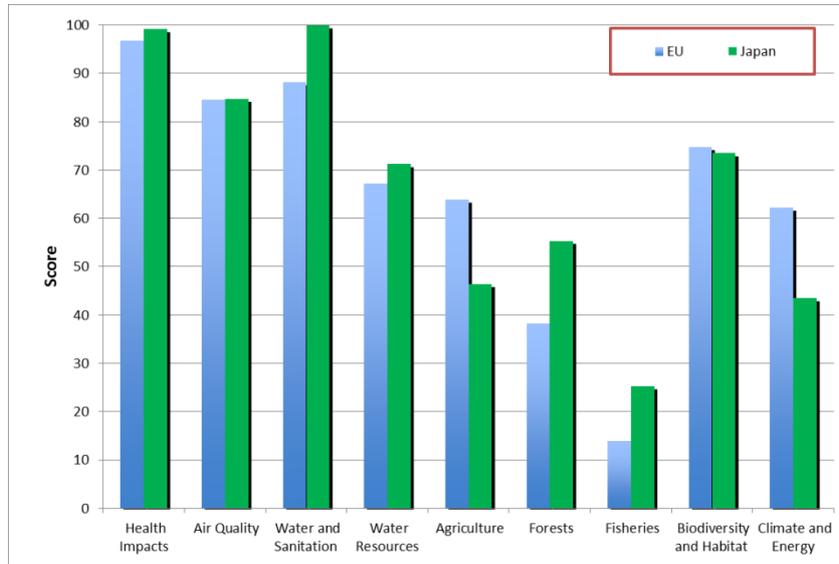
Figure 22 EPI for Japan’s and European countries (2014)



Source: EPI 2014.

Figure 23 reports Japan’s and EU scores in the nine main EPI sub-categories. We do not consider the fisheries sub-index in this comparison as some European countries such as France, The Netherlands and the United Kingdom were given the minimum score (0) for reporting bad data. Japan performs notably better than EU averages in terms of water and sanitation and forests. It falls behind, instead, in terms of agriculture, and climate and energy.

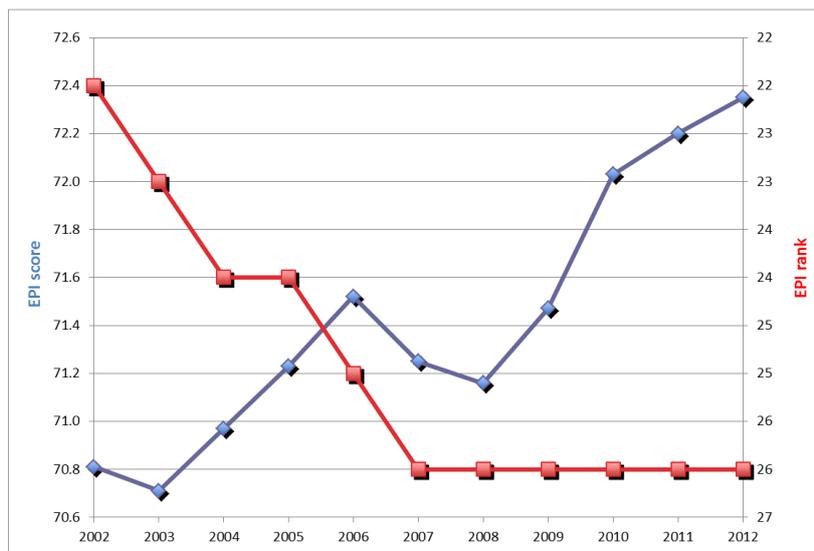
Figure 23 Scores in EPI sub-categories. EU28 and Japan in 2014



Source: EPI 2014.

When considering Japan’s environmental performance over time (Figure 22), its performance has been improving over time with a short drop in the years preceding the financial crisis of 2008. The latest trend, however, has been in line with the other top performing countries, which explains its stable performance in terms of ranking since 2007.

Figure 22 – Japan’s environmental performance from 2002 to 2012



Source: Historical EPI 2002 – 2012.

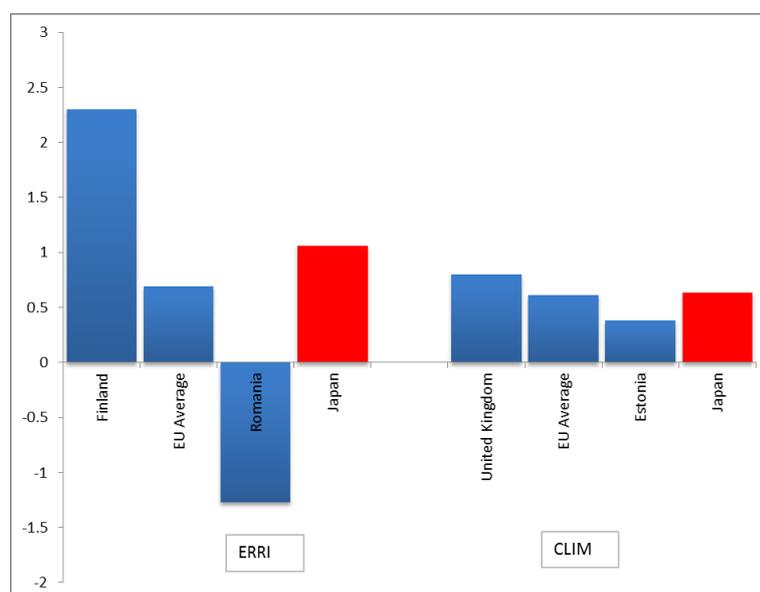
Environmental regulation in Japan

This section provides an overview of the state of environmental regulation in Japan and a comparison with the EU. A review of the most widespread measures of environmental regulatory stringency will be the basis for this overview. We will also look into the relevant foreseen changes in regulation through an analysis of Japan's pledges concerning the COP 21.

Following a series of environmental disasters in the 1950s and 1960s, Japan is often considered to be at the forefront of the introduction and implementation of environmental policy (CITE). Figure 22 compares Japan's regulatory performance to the EU average and the best and worst performing European country. We consider the three most widely used measures of regulatory stringency currently available.

The first measure is the Environmental Regulatory Regime Index (ERRI) developed by Esty and Porter (2005). This index measures the following aspects of a country's environmental regulatory system: standards, sophistication of regulatory structure and the extent of subsidization of natural resources, enforcement and quality of environmental institutions, and aims at assessing the perception of de facto environmental stringency. In 2005, the latest available year, Japan's scores pretty well in terms of environmental stringency (17th out of 71 countries). Its performance is well above the European average, although 9 European countries (Finland at the top) show higher scores.

Figure 23 Indices of environmental stringency (ERRI and CLIM)



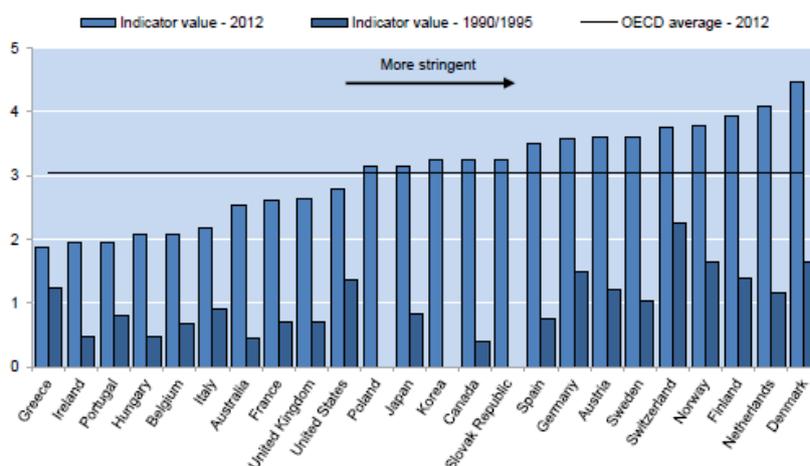
Source: Esty and Porter (2005) and EBRD.

A second measure is the Climate Laws, Institutions and Measures Index (CLIMI) provided by the EBRD in 2011. The index follows the framework earlier provided in Dasgupta et al. (1995). The index builds on the UN country reports, as well as on the National Communications to the United Nations Framework Convention on Climate Change (UNFCCC), which includes information of climate adaptation and mitigation measures adopted by national governments. It comprises four main areas: International cooperation; domestic climate framework; sectoral, fiscal or regulatory measures or targets; cross-sectoral fiscal or regulatory measures. The index refers to 2010 and is

shown in Figure 23. Similarly to the previous index, Japan ranks 15th out of 95 countries. Its performance is similar to the European average, with 14 European countries, led by the UK, showing a higher score.

The third measure is the most recent OECD Stringency of environmental policies Index published in 2014. Figure 24 is taken from Botta, and Koźluk (2014) and shows an average performance by Japan, compared to other OECD countries. Japan's performance overtakes that of mature EU members such as Italy, Belgium, France and the United Kingdom but lags notably behind Denmark, the Netherlands and Finland.

Figure 24 OECD Stringency of environmental policies Index



Source: Botta, and Kozluk (2014).

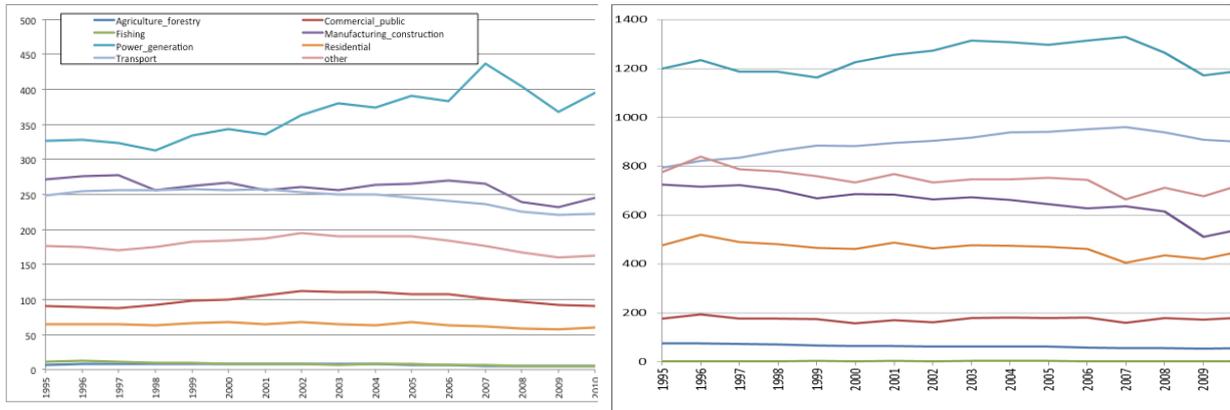
Considering more recent developments, on 17 July 2015, Japan submitted its Intended Nationally Determined Contribution (INDC) that includes a reduction target of 26% below 2013 emission levels by 2030. This has been considered “inadequate” as above to what is necessary to reach the 2 degrees target. According to the Climate Action Tracker, this is not sufficient to transform Japan's energy sector into a low carbon economy since the country can almost reach its proposed target without taking any further action. Furthermore, the choice of the base year has been criticized by environmental NGOs since it is a peak year of Japanese emissions (no nuclear plants in operation).

Moreover, Japan has also come forward with its planned energy mix for 2030 (renewable 22-24%, nuclear 20-22% of total power generation). The decision has been questioned both in terms of the underlying energy demand growth assumption (annual growth of 1.7% per year which seems overly optimistic considering Japan's growth performance over the last two decades) as well as the share of nuclear. Even though the government does not mention that it plans to build new nuclear plants, the share of 20-22% in 2030 is hardly possible without new constructions given that some plants will need be out of operation by that time since their operation time will exceed the limit set by the government.

Emissions

In this section we describe the trends in emission levels of CO₂ and of the most important types of GHG by EU and Japan's major sectors of the economy. Japan accounts for almost 4% of global CO₂ emissions while the EU contributes to the 13% (EIA, International Energy Statistics).

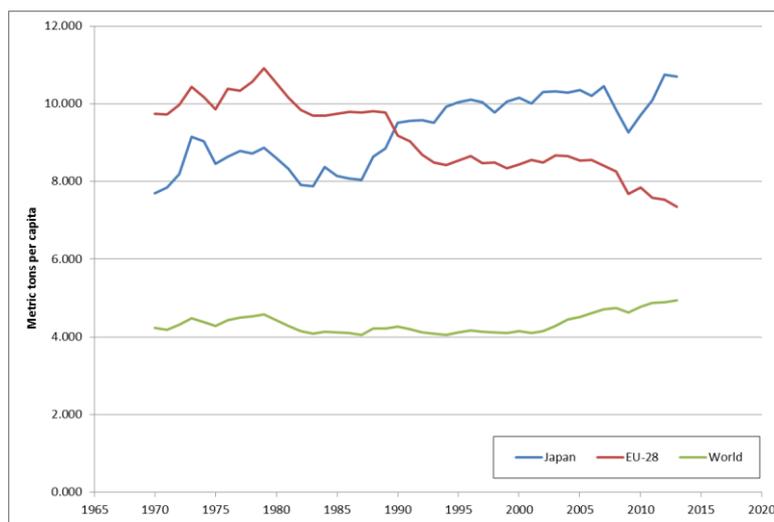
Figure 25 Emissions by sector in Japan (left) and EU28 (right)



Source: Author’s calculations from the EIA – Emissions in millions of metric tons (Mt).

Emissions levels by sectors are reported in Figure 25. The economic downturn has caused greater fluctuations in emissions. We observe a significant drop in emissions across sectors and countries at the time of the recession. Unfortunately, the available data do not allow us to observe whether emissions have fully caught up after the economic recovery. Nevertheless, the graph provides us with an overview of the historical trends in CO₂ emissions in EU and Japan.²³⁸ The EU has experienced a decrease in emissions across most sectors of the economy. Largest drops are observed in the manufacturing and agricultural sectors while the power generation and commercial sectors have shown a stable pattern over time. Japan’s emissions have been decreasing at a much slower pace. Emissions from the power generation sector in particular have been increasing over time and dropped only during the recession.

Figure 26 Emissions per capita in Japan and EU28



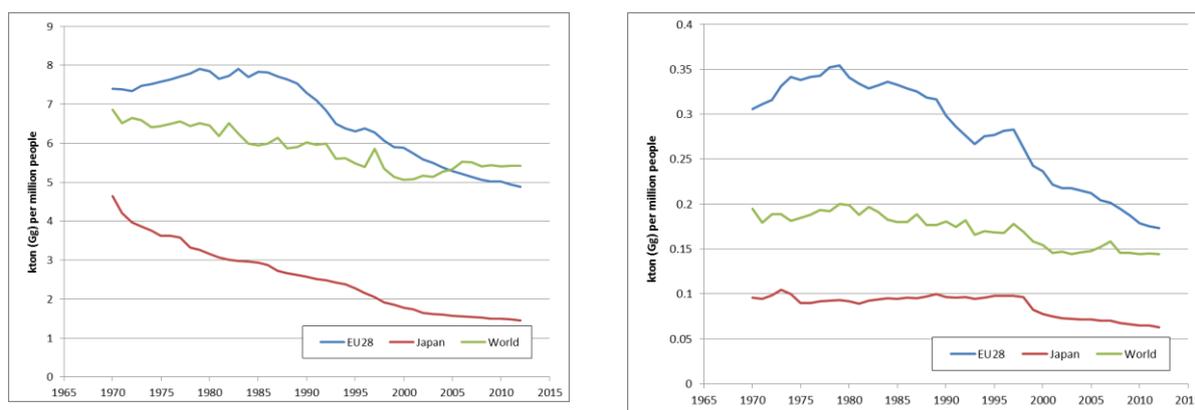
Source: Author’s calculations from EDGAR (emissions) and WDI (population) – Emissions per capita in tons.

²³⁸ Over other sources, we prefer IEA data as they provide comparable information between the EU and Japan.

The graph reports CO₂ tons per person.

Figure 26 plots emissions per capita in Japan, the EU and world averages. Both EU and Japan's emissions per capita are well above the global average. However, while EU emissions per capita were above Japanese levels until the beginning of the 90's, they have been decreasing steadily since then. On the other hand, Japanese emissions have been on a stable pattern for the last 3 decades. Only the financial crisis in 2008 has interrupted this pattern. Nevertheless, Japanese emissions have regained pre-crisis levels, also partly due to the shift to oil and natural gas after the shutdown of nuclear power stations in 2011.

Figure 27 CH₄ (left) and N₂O (right) per capita in Japan, EU28 and World



Source: Author's calculations from EDGAR (emissions) and WDI (population).

In terms of other Greenhouse gases (GHG), Japan performs better than the EU in terms of both CH₄ and N₂O gases (Figure 27). While Japan's per capita levels are well below the global average, EU levels have only reached below-average levels after 2005. European emissions per capita, however, are in rapid decline. Japanese GHG emissions per capita are also declining but at a slower pace.

Power generation sector

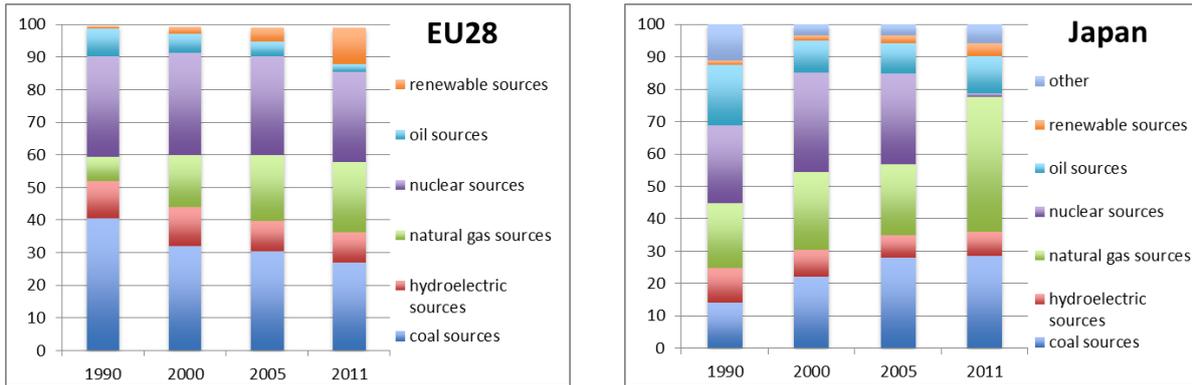
Figure 28 reports the composition of domestic production of electricity for Japan and the EU. We observe an opposite trend in the use of coal for electricity production even in the pre-Fukushima period. While Europe has been decreasing its dependency on coal-powered electricity generation, Japan has experienced an increase in the use of coal for power generation.

Coal remains an important fuel for Japan and contributed to nearly 27% of Japan's electric capacity in 2011. Domestic coal production ended in 2002 and Japan began importing all its coal, primarily from Australia. Japan had been the largest global coal importer for three decades until 2011, when it was surpassed by China.

According to the EIA, by 2013 all Japan's nuclear power generation facilities have been closed. Japan has restarted its first nuclear plant on 11 August 2015 (Sendai No 1 reactor on the Southern island of Kyushu). It is the first reactor to resume operation under new safety regulations. Oil and natural gas have replaced all of the lost nuclear generation in 2011 and 2012, and coal supplanted some in 2013 (not shown in Figure 28 because of lack of more recent data). Europe has been more successful in introducing renewable sources (including hydro) that accounted for about 20% of total power sources in 2011. In the same year, renewable resources, which are largely represented by hydro, accounted for 11% of Japan's power sources. More recently, however, Japan

implemented a national Feed-In Tariff (FiT) mechanism (in July 2012). This marked a new era in the renewable energy landscape in Japan as the scheme aims at achieving between 20% and 35% of the energy from the renewables by 2030. In particular, the reform includes specific payment tariffs for solar photovoltaic installations. A study by Muhammad-Sukki et al. (2014) evaluates the financial impact of such policy and finds that the reform is likely to produce an increasing trend of solar PV uptake over the coming years. We, therefore, expect significant improvements in the contribution of renewable resources to energy production in Japan.

Figure 28 Source of electricity for Japan and the EU

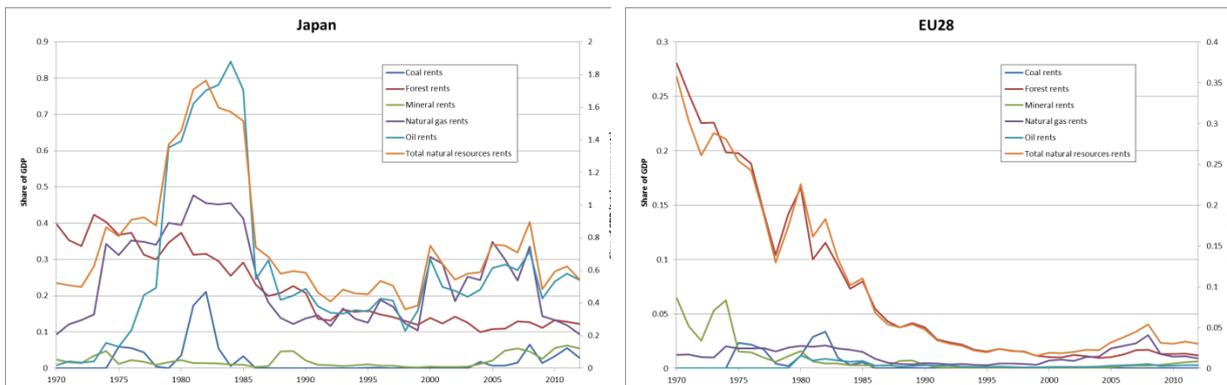


Source: WDI.

Natural resources

In this section we outline the current resource use in Japan and the EU, as well as Japan’s current imports from developing countries using relevant statistics on resource use and their origin.

Figure 29 Natural resources rents, % of GDP, in Japan (left) and the EU (right)



Source: Author’s calculations from WDI.

Both EU and Japan are relatively poor in natural resources (OECD, 2010). The contributions to GDP of natural resources can be considered as a reasonable proxy for the use of domestic resource. The resource rent from a natural resource is the total revenue that can be generated from the extraction of the natural resource, less the cost of extracting the resource. Total resource rents in the EU are very small and have been

decreasing steeply since the 70's (Figure 29). This is mainly due to a decrease in forest rents that contributed to about 90 per cent of total natural resources rents. Japan's resource use has been stable over time with only a temporary peak during the 80's due to an increase in domestic oil and coal use.

According to the OECD (2010), Japan has enough resources in magnesium, gold and silver to meet its needs, but it has to import a wide variety of minerals. Japan is also a very large importer of wood and wood products, as well as of living marine resources, which constitute a large share of the Japanese diet. Japan imports about 84% of its energy needs compared to an average 50% for the EU countries. Japan is the second largest importer of fossil fuel in the world. After the Fukushima nuclear disaster in 2011, almost 90% of Japan's energy supply (fossil fuels and uranium) is imported. Japan's crude oil imports are mostly from the Middle East (83%) while coal is primarily imported from Australia. Japan imports almost all the natural gas consumed from many different exporting countries. A third of Japan's natural gas imports originate from countries in Southeast Asia.

Table 47 Top 10 exporters of wood and fish to Japan in 2010 and 2014

| <i>Wood</i> | | | | <i>Fish</i> | | | |
|---------------|------|---------------|------|---------------|------|---------------|------|
| Exporter | 2010 | Exporter | 2014 | Exporter | 2010 | Exporter | 2014 |
| China | 14.3 | China | 14.9 | United States | 10.3 | Chile | 11.2 |
| Malaysia | 11.2 | Malaysia | 10.5 | Russia | 10.0 | United States | 10.6 |
| Canada | 11.2 | Canada | 10.5 | China | 9.5 | Russia | 9.8 |
| Australia | 9.5 | Indonesia | 9.2 | Chile | 9.5 | China | 9.7 |
| Indonesia | 7.5 | United States | 8.2 | Norway | 6.5 | Norway | 7.6 |
| United States | 7.3 | Philippines | 6.5 | Korea, Rep. | 6.0 | Vietnam | 5.3 |
| Chile | 5.6 | Vietnam | 5.1 | Thailand | 5.9 | Indonesia | 5.1 |
| Philippines | 4.6 | Chile | 4.7 | Other Asia | 5.5 | Korea, Rep. | 4.9 |
| Russia | 4.3 | Australia | 4.1 | Indonesia | 5.5 | Other Asia | 4.1 |
| New Zealand | 3.5 | Russia | 4.0 | Vietnam | 5.0 | India | 3.9 |

Source: Author's calculations from UN ComTrade.

Japan is the world largest importer of wood chips and plywood in the world, the second-largest importer of logs and the third-largest importer of lumber. About 14% of total wood imports are from China followed by Malaysia and Canada. Among major exporters are also developing countries and emerging economies where issues of illegal logging might be of greater concern as Japan has no formal regulation on controlling imports of illegal wood and wood-based products. Among the top exporters we find Indonesia, Chile and the Philippines in 2010 and Vietnam in 2014 (Table 47). Among the top exporters of fish are the United States and Russia. All others are emerging countries such as Chile, China, Vietnam, Indonesia and India. There are currently two legislative initiatives by both the ruling party LDP and the opposition party DPJ to introduce timber legislation in Japan that compares to the EUTR or the US Lacey Act. The discussions are currently ongoing at committee level but one single or two separate proposals might be submitted to the Diet in 2016.

Environmental goods

This section collects the relevant statistics on international trade of environmental goods and services in Japan. Environmental goods and services (EGS) is an industry sector devoted to solving, limiting or preventing environmental problems. EGS companies may

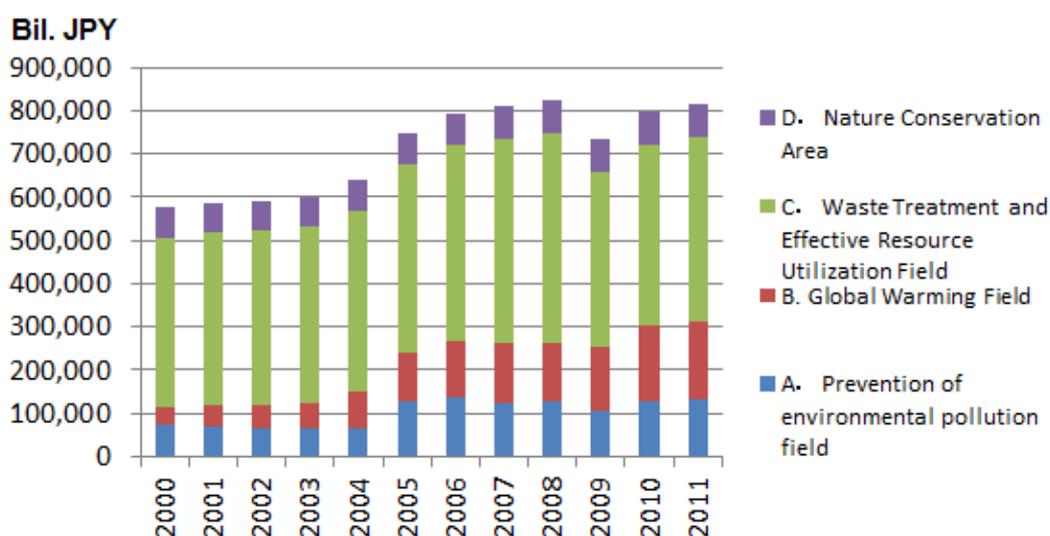
be involved in manufacturing and/or services related to water or air pollution, waste management, recycling, renewable energy, monitoring, analysis and assessment, or a number of other goods and services.

In 2010 the Ministry of the Environment of Japan (MOEJ) started conducting annual surveys to estimate the market size of environmental industries with the aim of making policies for the development of the environmental industries and promoting investment in the environmental industries (Abdullah and Zhou, 2014).

Japan's contribution to the global effort to develop and commercialize environmental goods and services is considerable; it is the third largest market for EGS after the United States and Germany (Environmental Business International, 2012). According to the International Trade Centre, Japan is the fourth largest exporter of EGS and the sixth largest importer (ICT, 2014).

The Institute for Global Environmental Strategy classifies Japan's EGS into four major categories: Pollution prevention, measures against global warming, waste disposal and effective utilization of resources and conservation of natural environment. They are summarized in Figure 30. Overall the market has increased by almost 40% from 2000 to 2011 mainly due to the expansion of the global warming and pollution prevention sectors.

Figure 30 Market size of environmental goods and services in Japan



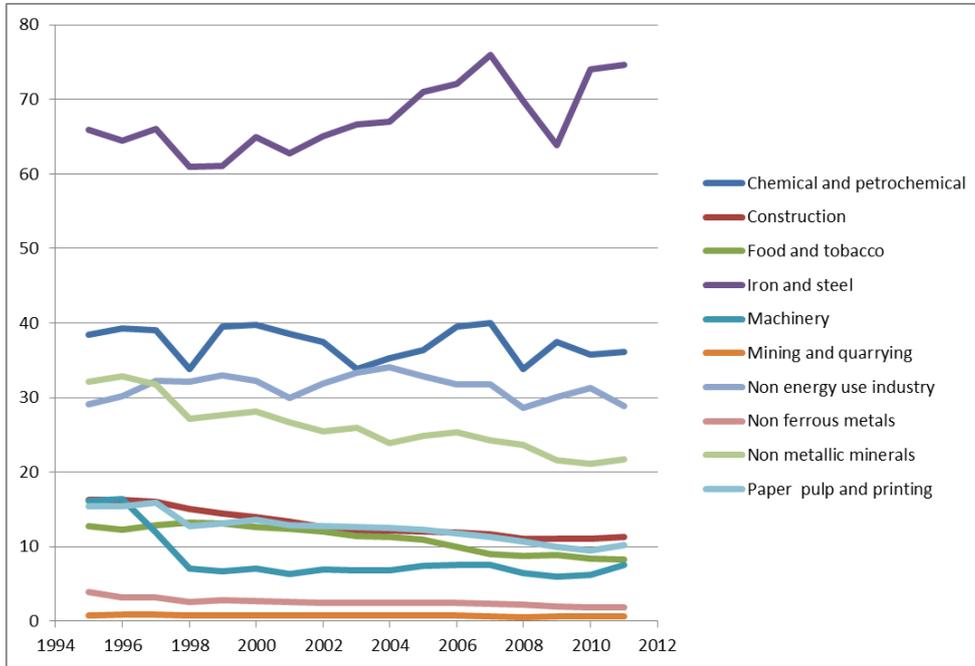
Source: Zhou X. and Abdullah A. (2014) Environmental Goods and Service Sector in Japan: Classification and mapping with national input-output table for green economy assessment.

Decomposition of impact on CO₂ emissions

In this section we discuss the implications that the EU-Japan FTA will have on CO₂ emissions. According to the 2012 Impact assessment, the global impact on CO₂ emissions for the EU, Japan, and third countries, is negligible (approximately 0.1 to 0.07% of global baseline emissions). The FTA is expected to reduce emissions in Japan between 0.3% and 0.9%. Unfortunately, it was not possible to access the model data to decompose this effect into scale, structural and technique effects. Nevertheless, it is still possible to gain some insights into the composition of the CO₂ effects by using the GTAP version 7 data base, with baseline 2004, and disaggregated data on CO₂ emissions from the IEA. Using these two sources allows us to complement the more detailed but less up-

to-date GTAP database with more updated statistics, even with respect to those employed in the 2012 Impact assessment, from the IEA.

Figure 31 CO₂ emissions by sector and year in Japan



Source: EIA. No data available for the wood, textile and leather and transport equipment sectors.

According to EIA data (Table 48), most of Japan's emissions are produced by the iron & steel and chemical & petrochemical sectors. In particular, the iron & steel sector has experienced an upward trend interrupted only by the 2009 financial crisis. Emissions in other sectors have been stable or decreased over time.

Table 48 CO₂ emissions intensity by sector and year in Japan

| <i>Year</i> | <i>Chemical and petrochemical</i> | <i>Food and tobacco</i> | <i>Machinery</i> | <i>Metals</i> | <i>Non-metallic minerals</i> | <i>Paper, pulp, printing</i> |
|----------------|---------------------------------------|-----------------------------|------------------|---------------|----------------------------------|----------------------------------|
| 1995 | 0.19 | 0.10 | 0.12 | 0.22 | 0.61 | 0.14 |
| 1996 | 0.23 | 0.11 | 0.13 | 0.24 | 0.72 | 0.16 |
| 1997 | 0.25 | 0.13 | 0.10 | 0.27 | 0.78 | 0.18 |
| 1998 | 0.25 | 0.14 | 0.07 | 0.30 | 0.80 | 0.16 |
| 1999 | 0.25 | 0.12 | 0.07 | 0.29 | 0.76 | 0.15 |
| 2000 | 0.24 | 0.11 | 0.06 | 0.28 | 0.71 | 0.15 |
| 2001 | 0.27 | 0.12 | 0.07 | 0.26 | 0.79 | 0.24 |
| 2002 | 0.27 | 0.12 | 0.08 | 0.37 | 0.85 | 0.26 |
| 2003 | 0.23 | 0.11 | 0.07 | 0.34 | 0.81 | 0.23 |
| 2004 | 0.21 | 0.10 | 0.06 | 0.29 | 0.70 | 0.22 |
| 2005 | 0.23 | 0.11 | 0.06 | 0.29 | 0.76 | 0.23 |
| 2006 | 0.26 | 0.10 | 0.06 | 0.30 | 0.77 | 0.23 |
| 2007 | 0.27 | 0.09 | 0.06 | 0.33 | 0.74 | 0.23 |
| 2008 | 0.21 | 0.08 | 0.05 | 0.28 | 0.69 | 0.20 |
| 2009 | 0.24 | 0.07 | 0.07 | 0.35 | 0.76 | 0.18 |
| 2010 | 0.19 | 0.06 | 0.06 | 0.32 | 0.60 | 0.17 |
| <i>Average</i> | 0.24 | 0.10 | 0.07 | 0.30 | 0.74 | 0.20 |

Source: EIA (CO₂ emissions) and UNIDO (value added). Million CO₂ tons per million dollars of value added.

Table 48 reports emissions intensity by sector and year. The metallic minerals sector is the most emission intensive sector followed by the metals sector. The 2012 Impact Assessment estimates the largest increase in output to be in the motor vehicle (about 5 %) and other machinery sectors (about 4%). Unfortunately, the EIA does not report data on emissions in the transport equipment sector. The transport equipment sector, however, is in general known to be a low energy intensive sector. According to the GTAP v7 database it accounts for only 0.18% of the emissions of the manufacturing sector. On the other hand, the machinery sector appears to be the least emission intensive sector in Japan (considering sectors for which data are available). A decrease in output is expected for the food and chemical sector, the latter being the second largest emitting sector. The small increase in emissions expected from the machinery sector and the relatively larger decrease in emissions expected from the impact on the chemical sector, therefore, partly explains the negative impact of the FTA on Japan's overall emissions.

This can be more clearly observed by decomposing the overall effect on emissions into scale, composition and technique (sector energy intensities, fuel mix and carbon factors) effects using the Log Mean Divisia Index (LMDI) based on the GTAP v7 input-output emission-specific tables. Because we do not have access to the model used for the 2012 Impact Assessment, we will assume fixed relationships between fuel consumption and output and emissions per unit of fuel consumed. This will not allow us to estimate the technique effect has sector energy intensives, fuel mix and carbon factors are considered fixed. Our simulation based on the predicted changes in output by sector, suggests an increase in emissions from the EU of almost 0.28% and a decrease in emissions from Japan's manufacturing and services sector of about 0.14% (Table 49).

Table 49 Decomposition into scale and composition effect

| | <i>EU 27</i> | <i>Japan</i> |
|---------------------------|--------------|--------------|
| <i>Scale effect</i> | 0.497% | 0.295% |
| <i>Composition effect</i> | -0.210% | -0.437% |
| <i>Total effect</i> | 0.283% | -0.142% |

Source: Author's elaboration using GTAP v7 database.

Table 49 reports the result of the LMDI decomposition. It shows that, in both the EU and Japan, the FTA has induced a relocation towards lower emission intensive sectors that is represented by the negative sign of the composition effect. Such effect has been much larger in Japan producing an overall decrease in emissions.

The predictions of the 2012 Impact Assessment were based on existing and operational climate change policy measures – including the emission ceilings under the Kyoto Protocol, the EU emissions trading system (EU ETS) and other policy measures in the EU and in Japan. In particular, the model also imposed a constraint on CO₂ emissions based on the EU emissions trading scheme and took account of recent commitments by national governments as reflected in the IEA (2010) baseline estimates, without assuming any further climate policy changes up to 2020. In November 2013, Japan revised downwards its 2020 pledge. Because this is likely to affect all sectors in a similar way, we do not expect major differences in the overall impact on emissions.

In addition, according to Climate Action Tracker if all nuclear power plants were to be replaced by coal-powered generation, Japan's emissions would increase by 15 per cent with respect to current levels.²³⁹ As we do not expect any differential effect across sectors, this will not influence the outcome in terms of emissions.

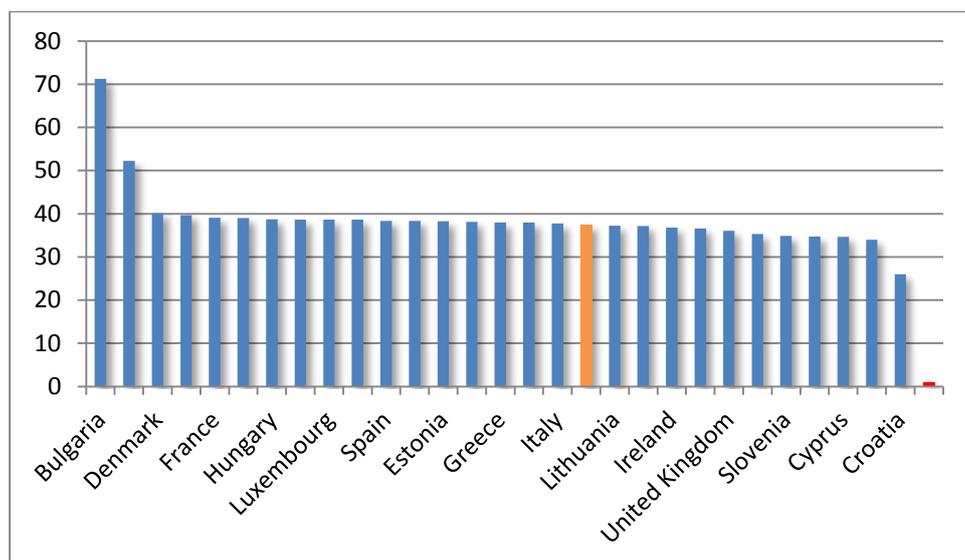
Potential risk factors

In this section we identify potential risk factors for Japan, i.e. environmental aspects that are currently under pressure, and discuss how increased trade with the EU can impact on them.

Within the environmental items included in the Environmental Performance Index mentioned above, we have selected those aspects that can constitute potential concern either because Japan's score is particular low or because it has been decreasing over time. In particular, we have identified two potential risk factors: Agricultural subsidies and fisheries.

²³⁹ <http://climateactiontracker.org/countries/japan.html>

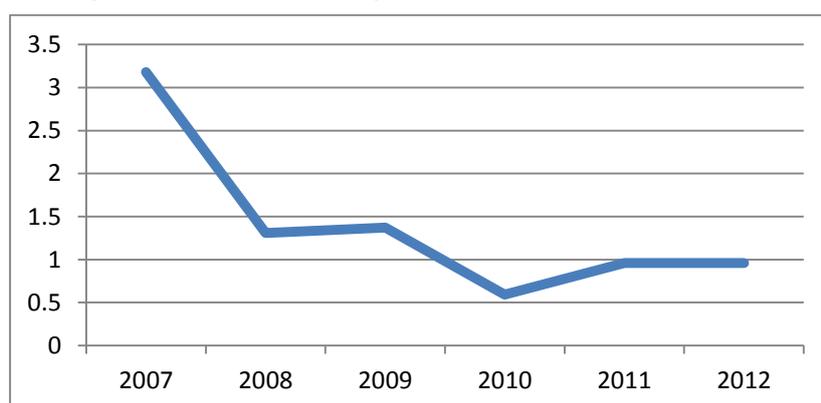
Figure 32 Comparison of scores in the agricultural subsidies sub-index in EPI 2014



Source: EPI 2014.

Figure 32 compares the score in the agriculture subsidies EPI sub-index for Japan (in red) and European Union countries. Japan scores well below the European average (in yellow) and its score has been deteriorating over time (Figure 33). According to the OECD (2010), although Japan’s support to the highly protected agriculture sector has decreased in recent years it remains among the highest in OECD. The vast majority of agricultural subsidies are linked to production levels, with greater negative consequences for the environment. Agriculture is also a major source of pressure on biodiversity. Japan’s use of fertilisers and pesticides per square kilometre of agricultural land remains well above the OECD averages.

Figure 33 Japan’s scores in the agricultural subsidies sub-index over time

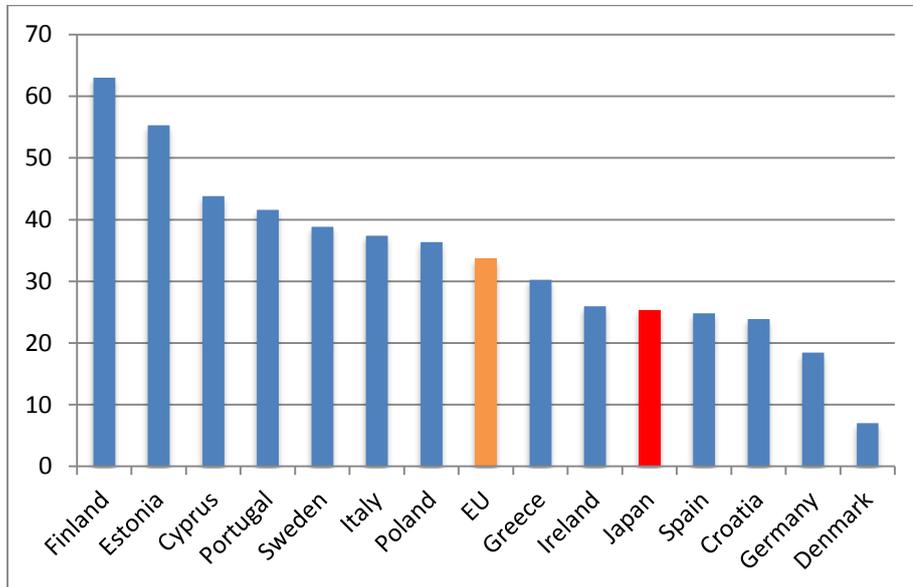


Source: Historical EPI 2005-2012.

The 2012 Impact Assessment predicted a decline of the Japanese food sector due to the elimination of bilateral tariff barriers. This effect together with a reduction of tariffs in the agricultural sector will ultimately lead to a decrease in agricultural output. The reduction, however, is small, around 1%, and it is not sufficient to release the pressure that the

agricultural sector imposed on biodiversity and the environment. This area, therefore, still remains a concern in the future.

Figure 34 Fisheries sub-index



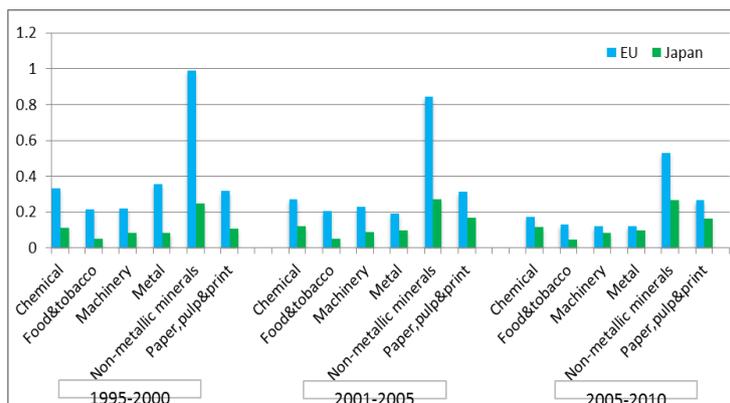
Source: EPI 2012.

The second potential source of concern refers to the fisheries sector (Figure 34). According to the OECD environmental review (2010), Japan's pressure on biodiversity is rising. In Japan, only a few marine areas are protected and consumption of fish per capita is one of the highest among OECD countries. Nevertheless, according to the OECD report, the expected economic growth in the coming years is likely to have a negligible impact on fish consumption. The same, therefore, can be said of the small impact on economic growth caused by the FTA. The FTA is therefore expected to have no impact on fish stocks.

Energy intensive sectors and power generation

An analysis of the most energy-intensive sectors, including transport, and primary energy producing sectors is provided in this section. This analysis relies on the construction of statistics using data from the IEA that describe the performance of the most energy intensive sectors affected by the EU-Japan FTA in Japan. The analysis will also include a comparison with European counterparts.

Figure 35 Energy intensity by sector



Source: Author's calculation using data from EIA (energy consumption) and UNIDO (value added).

Figure 35 shows energy consumption per unit of value added by sector for three different periods since 1995 for Japan (green) and the European Union (blue). Japan's energy intensity is lower than the average European in all sectors. This is apparent throughout the last two decades. However, while European energy intensity has been decreasing in all sectors, Japan's consumption of energy per unit of value added has been almost constant over time and in some instances it has also been slightly increasing as is the case of the paper, pulp and printing sector.

According to 2012 Impact Assessment, the largest increases in output are expected in the machinery (4.5%) and transport equipment (5%) sectors. The machinery sector is among the least energy intensive sectors in Japan (and also in Europe). Therefore, the EU-Japan FTA is not expected to cause excessive pressure on Japan's energy demand. Unfortunately, the EIA does not provide data on energy consumption for the transport, wood and textile sectors. Textile and transport, however, are in general low energy intensive sectors. The wood sector is, instead, considered to be more energy intensive, but the impact of the FTA on this sector is negligible for Europe and negative for Japan. The most energy intensive sectors, non-metallic minerals and paper, pulp and printing are only slightly affected by the EU-Japan FTA – the paper sector in Japan is actually expected to experience a negative impact in terms of output. Therefore, the overall increase in output predicted by the 2011 simulation (about 4% overall) is not likely to induce significant pressure on Japan's energy demand.

Relevant findings from the academic literature

In this section, we examine the relevant empirical evidence on Japan and more generally on the relationship between trade and the environment that can help shed light on the possible impacts of increased trade openness between EU and Japan on the environment.

The most relevant study is probably that of Cole et al. (2006) that uses data about environmental management of Japanese firms in 2000. The authors assess several aspects of environmental management of Japanese firms such as waste and CO2 management. They find that one of the consequences of growth in international trade is that Japanese firms are increasingly aware of their environmental obligations and that both regulatory and non-regulatory factors play a role in a firm's decision to quantify and manage the impact their activities have on the environment. Moreover, firms that compete in the global marketplace come under closer international monitoring from the products markets, the capital markets and non-governmental organizations. The overall effect, therefore, is to encourage good environmental management. Given that the

environmental regulation in some European countries is stricter than Japanese regulation, the EU-Japan FTA is likely to encourage the adoption of environmental management practices among Japanese firms engaged in the EU export market.

In particular, when considering the extent to which factors external to the firm may influence its environmental management, the authors find that those firms that export are more likely to be influenced by international competition and the pervasive forces of globalization and hence will be more receptive to innovative production technologies or goods.

A firm that competes in global markets is likely to have to meet minimum environmental standards in order to enter certain export markets or may choose to develop environmental management systems in order to enhance its reputation. This is particularly true when considering the European market where environmental regulation is pretty stringent compared to the world average (see section on environmental regulation). Following these findings, therefore, we expect Japanese firms preparing to reach the European market to further improve their environmental management to respond to a more stringent regulatory environment.

Another relevant study is that of Ghani (2012). The author estimates a model to test whether there is a change in the growth of energy consumption after trade liberalization. The results show no significant negative effects for capital abundant developed economies, such as Japan and the EU. Linking these findings to the EU-Japan FTA, we do not expect any significant increase in energy consumption as a result of increased trade between the two regions.

Finally, most recently Frank and Rose (2013) estimate the effect of trade on a country's environment for given levels of GDP. They consider various measures of environment quality: Air quality (SO₂, NO₂, and particulates), CO₂, deforestation, energy depletion, and rural clean water access. They find some evidence that trade liberalization improves air quality and no evidence of negative effects on other environmental variables for any given level of GDP. Following these findings and the analysis proposed above, we do not expect significant negative effects on these major environmental outcomes.

13.3 The impact of the EU-Japan FTA

Impact on environmental goods and services

Lower trade barriers to environmental goods and services can contribute to increased access to such goods with notably important consequences for the environment. In particular, increased access can yield positive environmental benefits in terms of improved resource-use efficiency and pollution prevention. Increased trade in these goods and services can increase competition and induce greater innovation. Nevertheless, the extent of these affects is very difficult to predict as environmental goods and services appear among different sectors and the relevant tariff and non-tariff barriers are difficult to identify.

Impact on resource use and efficiency

Given that the Japanese sectors that are expected to benefit most from the EU-Japan FTA are relatively low energy intensive, we do not expect that the FTA is going to induce significant pressure on the demand and import of natural resources for the energy generation sector. The paper sector, which is one of the largest users of wood resources, mostly imported, is expected to be negatively impacted by the FTA. Therefore, we do not expect the FTA to induce pressure on domestic and imported natural resources.

Impact on waste production

According to the OECD (2010), the generation of waste per capita in Japan is one of the lowest among OECD countries. Recycling of selected waste streams has improved, and final disposal has been reduced by more than half. However, waste generation by manufacturing firms has grown faster than GDP. Therefore, one potential concern is the impact of increased trade and production on waste. In this section we have constructed two measures that can indicate how each sector contributes to the overall production of waste in Japan (Table 50). The first indicator is a measure of "waste intensity" based on the tons of waste per units of value added. The second measure captures the contribution of each sector (in percentage terms) to the total waste produced by the manufacturing and primary sector. The figures are based on a 2000 Waste Input Output table for Japan constructed by Nakamura and Kondo (2009). Unfortunately, no more recent data are available at such disaggregated level, however when considering the distribution of waste in 2010 across aggregated sectors of the economy provided by the OECD, we do not see substantial changes in the overall distribution among macro-sectors over time. Therefore, because we are interested in the relative contribution of each sector, we do not expect drastic changes to have occurred in the last decade.

The 2012 Impact Assessment estimates the largest increase in output to be in the motor vehicle (about 5%) and other machinery sectors (about 4%). Considering our two indicators, these two sectors appear to be relatively less waste intensive than other Japanese sectors, producing 0.56 and 0.37 tons of waste per million yen of value added, respectively, compared to the average of 2.68. Together, they contribute to less than 4% of total waste production. The impact of the FTA on the most waste-intensive sectors (metal, wood and paper, agro-forestry and other primary sectors) is negative with the exception of other primary sectors that experience a small positive impact. Therefore, we do not expect the FTA to produce a large impact in waste production.

Table 50 Waste intensity and contribution by sectors

| <i>Sector</i> | <i>Waste per value added</i> | <i>% of total waste from manufacturing</i> |
|--|------------------------------|--|
| | Tons per one million yen | |
| <i>Agro-forestry fisheries</i> | 11.38 | 44.85 |
| <i>Other primary sectors</i> | 5.77 | 1.84 |
| <i>Processed foods</i> | 0.48 | 3.63 |
| <i>Wood and paper products</i> | 1.13 | 6.60 |
| <i>Chemicals</i> | 0.52 | 3.60 |
| <i>Metals and metal products</i> | 4.18 | 29.98 |
| <i>electrical machinery</i> | 0.22 | 2.03 |
| <i>other machinery</i> | 0.37 | 1.18 |
| <i>Motor vehicles</i> | 0.56 | 2.47 |
| <i>other transport</i> | 0.46 | 0.27 |
| <i>Other manufacture</i> | 0.38 | 3.54 |
| <i>Average</i> | 2.68 | |
| <i>OECD data on waste by sector (2010)</i> | | |
| <i>Agriculture</i> | | 40.05 |
| <i>Manufacturing</i> | | 51.86 |
| <i>Mining</i> | | 5.45 |
| <i>Energy production</i> | | 5.09 |

Source: Author's calculation using data from Waste Input-Output (WIO) Table in Nakamura and Kondo (2009).

Regulatory provisions and interaction with Multilateral Environmental Agreements (MEAs)

The assessment aims to analyse to what extent the EU-Japan FTA has an impact on the ability of the EU and Japan to maintain existing regulatory provisions or to amend them. Overall, the impact of the EU-Japan FTA on this ability is considered to be very marginal. The analysis also covers the overall interaction of the EU-Japan FTA agreement with the most important MEAs. The fisheries case study quickly outlines aspects of fisheries trade related to MEAs, but the overall interaction of the EU-Japan FTA with MEAs can be considered to be negligible.

13.4 Case study: Timber

The current baseline

Forests and other wooded land cover over 40 per cent of the EU's land area and the forest products industry is an important economic sector in many EU member states, particularly in Northern and Eastern Europe. Accordingly, the EU is a major global producer, exporter and importer of wood and paper products. As can be seen from the analysis in the Commission's impact assessment report,²⁴⁰ in 2007 wood and paper

²⁴⁰ Commission Staff Working Document: Impact Assessment Report on EU-Japan Trade Relations Accompanying the document 'Recommendation for a Council Decision authorising the opening of negotiations on a Free Trade Agreement between the European Union and Japan', Annex 5.

products accounted for about 4.4 per cent of the EU's global exports and about 3.8 per cent of global imports. Japan is not a major destination for EU exports, however, accounting for only about 0.9 per cent of total EU wood and paper exports, which represents about 3 per cent of total EU exports to Japan. However, this overall figure disguises some important national and sectoral trade flows. In 2014, for example, Austria, Finland, Romania and Sweden together accounted for almost 90 per cent of total EU exports of sawn coniferous wood to Japan, and total EU exports supplied about 40 per cent of total Japanese imports of sawnwood.²⁴¹ However, for all these countries, exports to Japan accounted for 10 per cent or less of total exports of sawn coniferous wood.

Similarly, Austria, Estonia, Finland and Sweden together accounted for 97 per cent of EU exports of laminated lumber to Japan in 2014, and the EU as a whole supplied about 85 per cent of Japanese imports of laminated lumber. Japan is a more important destination for EU member states' exports of these products: about 15 per cent of Austria's exports of laminated lumber in 2014 were destined for Japan, 86 per cent of Finland's, and 69 per cent of Sweden's. The total size of EU exports of laminated products was only about a sixth of that of sawnwood (in terms of volume), however, though greater in terms of value.

Forests cover about two-thirds of Japan's land area, but in contrast to the EU, the forest products industry is not a significant sector and Japan is a major net importer of wood and paper products. Most Japanese forest is situated on steep mountain slopes, where the costs of management and harvesting are prohibitively high. As the Commission's analysis shows, in 2007 wood and paper products accounted for about 1.1 per cent of Japan's global exports and about 2.4 per cent of imports (see Table 51). The EU accounted for about 5 per cent of Japanese exports of wood and paper, but this is a very small proportion of total Japanese exports to the EU, about 0.4 per cent.

The promotion of legal and sustainable timber

Spurred partly by the failure of international initiatives to negotiate a multilateral environmental agreement on forests, and partly by the growing awareness of the costs – environmental, social and economic – of illegal logging, since about the turn of the century a growing number of countries have adopted policies and measures to combat illegal logging, promote sustainable forest management and exclude illegal and unsustainable timber products from their market.

The EU, a major importer of potentially illegal timber, published its Action Plan for Forest Law Enforcement, Governance and Trade (FLEGT) in 2003; this remains the most ambitious set of measures aimed at illegal logging and forest governance adopted by any consumer country or bloc to date.²⁴² The Action Plan includes a number of components, such as:

- The negotiation of FLEGT voluntary partnership agreements (VPAs) with timber-producing countries. These include a licensing system designed to identify legal products and license them for import to the EU (unlicensed products will be denied entry), combined with capacity-building assistance to partner countries to set up the licensing scheme, improve enforcement and, where necessary, reform their laws. So far six VPAs have been concluded, including with Indonesia, and a further nine are in negotiation,

²⁴¹ All figures in this section derived from Eurostat data and Trade Statistics of Japan. 2014 is reasonably typical for recent trade flows.

²⁴² European Commission, 2003. Communication from the Commission to the Council and the European Parliament: Forest Law Enforcement, Governance And Trade (FLEGT) – Proposal for an EU Action Plan (May 2003).

including with Malaysia (both Indonesia and Malaysia are major sources of timber exports to Japan).

- Consideration of additional legislative options to prohibit the import of illegal timber to the EU more broadly led eventually to the EU Timber Regulation agreed in 2010 and applied in full from March 2013. This prohibits the placing on the EU market of products made from timber illegally harvested anywhere in the world, and requires companies handling timber products, whether imported or domestically produced, to have in place systems of 'due diligence' designed to minimise the risk of their dealing in illegal products.
- Encouragement for the use of member states' public procurement policies to limit purchases to legal and possibly sustainable sources. Currently nineteen out of the EU's twenty-eight member states possess such policies with varying levels of coverage and effectiveness.
- Encouragement for voluntary industry initiatives to limit purchases to legal sources and encouragement for financial institutions to scrutinise flows of finance to the forestry industry to ensure they are not funding illegal activities.

Most observers would agree that the FLEGT Action Plan has clearly had an impact (a comprehensive review and evaluation is currently under way), though some of its elements have been slow to develop, and concerns have been raised about uneven enforcement of the EU Timber Regulation.²⁴³ The EU appears to have experienced a steady decline in the volume of imports of illegal timber in recent years (see Figure 36).

Activities in Japan have been much more limited.²⁴⁴ In contrast to the EU, the Japanese government has preferred to pursue voluntary rather than regulatory measures. Its promotion of the country's own legality verification system – the goho-wood system – has helped to raise awareness of the issue of illegal logging, but the system is only voluntary and suffers from serious design weaknesses, including a very loose definition of 'legal' and a general absence of any independent monitoring or verification of legality. In fact, the system may be inhibiting the take-up of wood products certified under the main global sustainability certification schemes. Since 2006, public procurement policy has required the purchase of goho-wood products; sustainability is preferred but is not a requirement. The policy only applies to central government, however, not regional or local authorities, and there are no penalties for non-compliance. A survey in 2012 revealed that around 25 per cent of the entities legally bound by the law failed to check the legality of their wood-based product supply.²⁴⁵

Japan's imports of timber-sector products at high risk of illegality are estimated nevertheless to have declined since the start of the century, in line with the general reduction in levels of illegal logging globally, but remain significantly above those of other major consumer countries (see figure 37).

²⁴³ See European Court of Auditors, *Special Report No 13/2015: EU support to timber-producing countries under the FLEGT action plan* (October 2015).

²⁴⁴ Momii, M., 2014. *Trade in Illegal Timber: The Response in Japan* (Chatham House, November 2014).

²⁴⁵ Cited in *ibid*, p. 11.

Figure 36 Estimated imports of illegal timber to the EU 2000–2013²⁴⁶

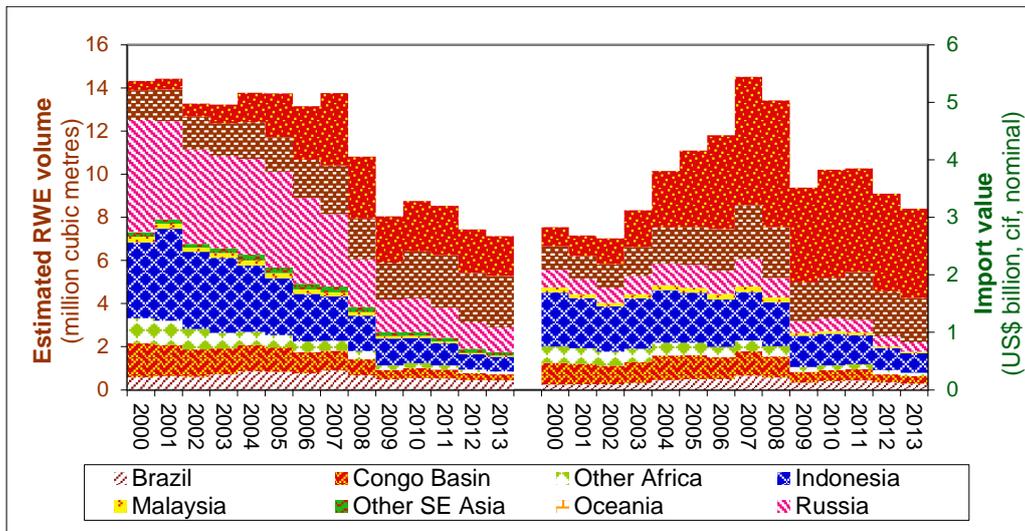
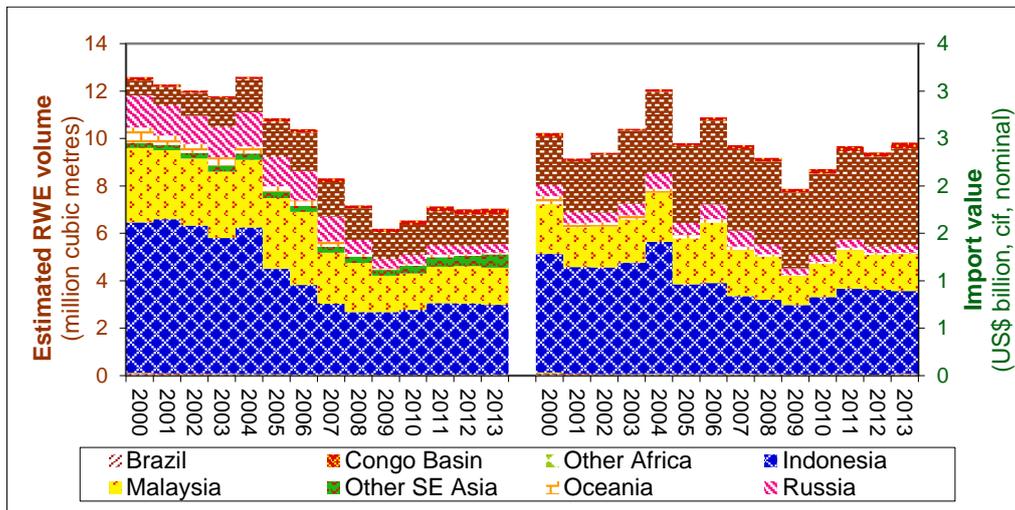


Figure 37 Estimated imports of illegal timber to Japan 2000–2013²⁴⁷



Outcome of the FTA negotiations on promoting legal and sustainable timber

The Commission’s own impact assessment highlighted the potential for a rise in imports of illegal timber and observed that: ‘The EU has invited Japan, as a major timber consuming country, to join it and other major timber consuming countries in intensifying policy measures against the import of illegally harvested timber. A deeper trade agreement with Japan could provide further opportunities to develop a closer and more ambitious cooperation on illegal timber trade between the two partners.’²⁴⁸ Attempts

²⁴⁶ See analysis by James Hewitt for Chatham House ‘indicators of illegality’ project. The figures have been adjusted to account for the growth in certified or legally verified products and for estimated illegalities in land clearance.

²⁴⁷ *ibid.*

²⁴⁸ Impact Assessment Report on EU-Japan Trade Relations, p. 47.

have previously been made, particularly in the run-up to Japan's chairmanship of the G8 in 2008, to develop cooperation, but with little effect.

In the light of the potential impacts of the FTA on trade in illegal timber, this should be a high priority for further collaborative action. For instance, if Japan were to introduce legislation similar to the EU Timber Regulation or the Australian Illegal Logging Prohibition Act, it could explicitly recognise FLEGT-licensed timber exported from VPA countries as legal (as has Australia) – building on a system developed by the EU and its partners, including several major sources of imports to Japan, such as Indonesia, Malaysia and Vietnam. In fact, two initiatives have recently been put forward (by the ruling party, the LDP, and the main opposition party, the DPJ) to introduce legislation along the lines of the EU Timber Regulation or the US Lacey Act, and proposals may be put to the Diet for debate in 2016.

Japan's failure so far to effectively control its imports of illegal timber has arguably had an inhibiting effect on the negotiations between the EU and Malaysia on a VPA; although state governments in Peninsular Malaysia have indicated support for it, the government of Sarawak, whose enterprises export significant volumes of timber to Japan, has been opposed; they see no reason to place potential restrictions on their own trade when their major export market requires no such controls. Any expansion of Japan's timber imports consequent upon the FTA could serve to exacerbate this situation.

Import duties and non-tariff barriers

Part of the reason for the projected increase in EU exports to Japan under the FTA lies in the anticipated reduction in import duty rates for EU timber products. Whereas Japan levies import duties on several categories of imports of EU timber, including lumber, glue-laminated timber and edge-glued boards and panels, lower (frequently zero) duties are levied on imports from countries with which it has signed EPAs or FTAs; this currently includes a number of important exporters of timber and wood products, including Australia, Chile, Indonesia, Malaysia, Philippines, Switzerland and Vietnam.²⁴⁹

In addition to import duties, a number of non-tariff barriers also exist, which appear to affect in particular the construction sector. The Wood Use Points System, introduced in 2011, was designed to favour the use of locally sourced wood in house-building; buyers of new homes were eligible for rewards in proportion to the volume of local wood used. In December 2013, the programme was extended to include the use of Douglas fir, regardless of its origin. Douglas fir is a species native to the Western United States and Canada; although it is also grown in many other countries, including Japan, the decision had the greatest impact on US exports; it is estimated that more than 90 per cent of the softwood products exported from the US to Japan are Douglas fir.²⁵⁰

The Wood Use Points System has now reportedly been ended, but other non-tariff barriers may remain which could be removed under the EU-Japan FTA:

- The revision of the construction code, due to be complete by 2016, to encourage the widespread use of cross-laminated timber (CLT) in buildings, displacing steel and concrete. The new standard for CLT published in December 2013 initially did not permit one type of resin adhesive widely used in the EU. A revision of the standard in February 2014 allowed the adhesive, but only on a case-by-case basis after the submission of technical data and evaluation by committee. More broadly, it is not yet clear whether the code will give priority to domestic species such as cedar over wood

²⁴⁹ See Japan Customs tariff schedules at <http://www.customs.go.jp/english/tariff/index.htm>

²⁵⁰ 'CINTRAFOR Scores Major Victory for Pacific Northwest Timber and Forest Products Industry', *Offshoots* 15 January 2014; <https://depts.washington.edu/sefsblog/tag/wood-use-points-program/>

species used more commonly in the EU. If it does this, it will essentially shut out exports of European CLT to Japan.

- The requirement for a license for companies selling goods or equipment into the construction business; the license can only be granted if the company has a local presence in Japan, including a full-time qualified engineer and an experienced full-time board director with residential status. These conditions are still required even if the foreign company is selling products only to Japanese construction companies. This clearly adds costs, particularly for small and medium-sized companies.

The impact of the EU-Japan FTA on bilateral trade

Given the limited extent of the trade in wood and paper products between the EU and Japan, the potential impact of the FTA on bilateral trade in wood and paper products between the EU and Japan is accordingly not very high, though more important for EU exports to Japan than Japan's exports to the EU. Table 51 presents the estimated percentage increase in trade for each of the four EU-Japan FTA scenarios included in the Commission's impact assessment, and the right-hand column translates this into a range of monetary impacts. As can be seen, EU exports of wood and paper products to Japan rise by between 7.80 per cent and 12.89 per cent, for a value of €160 million - €265 million Euro. Japan's exports of wood and paper products to the EU rise by between 5.94 per cent and 13.84 per cent, for a value of €25 million - €58 million Euro. Note that the overall quantitative analysis finds that the FTA has a negative impact for the paper sector and other related sectors. Accordingly, the overall results of the environmental analysis are inconclusive in these sectors.

Global exports of wood and paper products rise by more than these figures, for both the EU and Japan, implying an overall rise in activity in the sector, rather than a diversion of exports from other destinations. The environmental impacts of this increased activity are discussed in the next section.

Trade Sustainability Impact Assessment (Final Report)
Free Trade Agreement between the European Union and Japan

Table 51 Impact of FTA on trade in wood and paper products (2007 figures)²⁵¹

| | % change as result of | | | | Baseline value (€ m) | Total value, all sectors | % of total | Range of impacts (€ m) |
|------------------|-----------------------|-----------|---------------|-----------|-------------------------|-----------------------------|------------|---------------------------|
| | Conservative FTA | | Ambitious FTA | | | | | |
| | Asymmetric | Symmetric | Asymmetric | Symmetric | | | | |
| EU | | | | | | | | |
| Global exports | 0.87 | 2.39 | 2.10 | 5.96 | 235,562 | 5,334,549 | 4.4 | 2,049–14,039 |
| Global imports | 1.00 | 2.85 | 2.42 | N/A | 214,509 | 5,611,411 | 3.8 | 2,145–6,113 |
| Exports to Japan | 7.80 | 8.52 | 11.12 | 12.89 | 2,056 | 68,553 | 3.0 | 160–265 |
| Japan | | | | | | | | |
| Global exports | 0.85 | 0.98 | 2.45 | 2.82 | 8,321 | 720,175 | 1.1 | 70–235 |
| Global imports | 2.32 | 2.39 | 4.29 | N/A | 16,803 | 684,535 | 2.4 | 390–721 |
| Exports to EU | 5.94 | 7.69 | 9.20 | 13.84 | 417 | 109,200 | 0.4 | 25–58 |

²⁵¹ Source: Commission Staff Working Document: Impact Assessment Report on EU–Japan Trade Relations Accompanying the document 'Recommendation for a Council Decision authorising the opening of negotiations on a Free Trade Agreement between the European Union and Japan', Annex 5'.

Impacts on global trade and forests

The main impacts of the FTA on the forest products sector and on forests will arise primarily from the general expansion in economic activity consequent on the FTA, rather than from any direct impacts on bilateral trade (notwithstanding the likely specific impacts on the construction sector discussed above). As the Commission estimates, the FTA is projected to result in increases in GDP in the EU of 0.34 - 1.88 per cent, and in Japan of 0.27 - 0.67 per cent.²⁵² As summarised in Table 51, total EU exports of wood and paper products rise by between €2 billion and €14 billion Euro, and imports by between €2 billion and €6 billion Euro. Japanese imports rise by between €390 million and €721 million Euro, and exports by a much smaller amount.

The environmental impact of this expansion of activity will depend on the forests from which the products are sourced, in terms of carbon stocks, biodiversity and the health of the remaining forest; there may also be social impacts on forest communities.

Additional sourcing from within the EU is not likely to result in significant negative impacts. Compared to most other forest areas, European forests are in general well managed: about 70 per cent of the EU forest area was under some kind of management plan in 2010, and by 2014 60 per cent of EU forest area was certified as sustainably managed under one of the main forest certification schemes – a considerably higher proportion than in any other region.²⁵³ Furthermore, the total area of forest in the EU is expanding overall, by a total of 4 million ha between 2000 and 2015 (2.3 per cent growth).²⁵⁴ There may still be negative local impacts in some areas and some countries from the expansion in forestry and related activity envisaged under the EU-Japan FTA, but the EU policy framework to promote legal and sustainable forestry is relatively robust, in comparison to that of other countries.

If utilisation of wood for biomass energy expands significantly, however, this may begin to put EU forests under more pressure. Biomass energy currently provides about two-thirds of EU renewable energy supply and is expanding under the impetus of the member state targets for renewables set in the 2009 Renewable Energy Directive. The EU is accordingly the world's main producer of wood pellets (the main traded wood energy product), but some member states import significant quantities from overseas, mainly the US, Canada and Russia. Various projections of the effect on EU forests suggest that in the absence of additional measures, at some point between 2015 and 2025 demand of wood for energy will exceed supply and therefore begin to eat into supplies to other forest-based industries. However, the falling costs of other renewables, in particular wind and solar, coupled with rising concern over the climatic and local environmental impacts of biomass energy may act to constrain its growth.

The main environmental impacts, for both the EU and Japan, will accordingly lie in the countries from which they import. Table 52 shows the top twenty import flows by source country and product group for the EU in 2013; Table 53 shows the same for Japan. As can be seen, several of these countries (shaded in the tables) would generally be regarded as high risk for illegal and unsustainable timber products, suffering from poor levels of forest governance and law enforcement.

²⁵² Impact Assessment Report on EU–Japan Trade Relations, Table 1, p. 75.

²⁵³ United Nations Economic Commission for Europe / Food and Agriculture Organisation, 2015. Forests in the ECE Region (April 2015), pp. 47–49. The figure for certification is actually for the 'ECE Central' region, which covers the entire European continent to the border of the former Soviet Union; EU forests are about 90 per cent of the total in the region.

²⁵⁴ Ibid., p. 36.

Table 52 Main sources of imports of wood and paper products, EU²⁵⁵

| Source | Product category | Value (US\$ million) |
|------------------------------|-------------------------------|----------------------|
| World (total) | | |
| | HS44 (wood and wood products) | 12,354 |
| | HS47 (pulp, wastes, etc.) | 6,198 |
| | HS48 (paper, board, etc.) | 8,958 |
| Country-product combinations | | |
| China | 44 | 2,613 |
| Brazil | 47 | 2,248 |
| China | 48 | 2,070 |
| Russian Federation | 44 | 1,961 |
| USA | 48 | 1,739 |
| USA | 47 | 1,490 |
| Switzerland | 48 | 1,270 |
| USA | 44 | 1,201 |
| Chile | 47 | 863 |
| Ukraine | 44 | 727 |
| Canada | 44 | 634 |
| Norway | 48 | 607 |
| Norway | 44 | 568 |
| Brazil | 44 | 551 |
| Switzerland | 44 | 493 |
| Indonesia | 44 | 484 |
| Malaysia | 44 | 423 |
| Turkey | 48 | 423 |
| Russian Federation | 48 | 408 |
| Uruguay | 47 | 374 |

²⁵⁵ UN ComTrade, 2014

Table 53 Main sources of imports of wood and paper products, Japan²⁵⁶

| Source | Product category | Value (US\$ million) |
|------------------------------|-------------------------------|----------------------|
| World (total) | | |
| | HS44 (wood and wood products) | 12,467 |
| | HS47 (pulp, wastes, etc.) | 1,395 |
| | HS48 (paper, board, etc.) | 3,591 |
| Country-product combinations | | |
| China | 44 | 1,828 |
| Canada | 44 | 1,402 |
| China | 48 | 1,391 |
| Malaysia | 44 | 1,265 |
| Indonesia | 44 | 1,059 |
| USA | 44 | 997 |
| Philippines | 44 | 777 |
| USA | 48 | 707 |
| Chile | 44 | 588 |
| Russian Federation | 44 | 532 |
| Vietnam | 44 | 517 |
| Australia | 44 | 510 |
| Indonesia | 48 | 495 |
| Finland | 44 | 492 |
| USA | 47 | 475 |
| New Zealand | 44 | 406 |
| Sweden | 44 | 377 |
| Austria | 44 | 354 |
| Canada | 47 | 345 |
| Romania | 44 | 229 |

China and Vietnam are not primarily producers of timber themselves, but import raw timber from other countries and process it for exports to markets in the EU, Japan, US and elsewhere. Both countries are known to import significant volumes of high-risk timber from countries in Africa and South East Asia, among other places.²⁵⁷

The rise in imports to the EU and Japan from countries with problems with forest governance and law enforcement therefore clearly poses a risk in terms of increasing incentives for illegal or unsustainable practices in the countries of origin. The EU has, however, put in place a number of policies and measures designed to exclude illegal and, to a lesser extent, unsustainable timber from its market; in contrast, Japan has done very little, though it has the opportunity to do much more.

²⁵⁶ UN ComTrade, 2014

²⁵⁷ Wellesley, L., Trade in Illegal Timber: The Response in China, Chatham House, December 2014; Saunders, J., Trade in Illegal Timber: The Response in Vietnam,

13.5 Case study: Fisheries

Background

The EU and Japan play a key role in the commercial exploitation of fishery products globally, both as flag states and market states. Therefore both sides bear a vast responsibility for the protection of the oceans' vital food and marine biological resources.²⁵⁸

Both of the EU and Japan have managed the similar fisheries administration system where roles of the central government and municipality governments set numerical limits of fisheries production, and the EU and Japan have also kept their fisheries policies in the almost same direction with regard to Illegal, Unreported and Unregulated (IUU) regulation, fisheries subsidy and related MEA issues.

- The fisheries management policy provided by the Common Fisheries Policy (CFP) in the EU and the management of fish stocks (fishing effort controls as the input controls, and quotas as the output controls) are implemented by the EU Member States. The total allowable catches (TAC) and other fisheries rules are planned and executed under a single regulatory framework of EU by the Member States.
- In Japan, fisheries are largely controlled through grants of licenses and permissions on the basis of biological, economic and social factors through common fishery rights at ministry or prefecture level. Rights-based fisheries are based on the traditional use of fishing rights, practiced in coastal areas from olden times with right to fish based on season, species and methods. The fisheries administration in Japan has introduced TAC for 7 fish species since 1997 and total allowable efforts (TAE) for 9 fish species in 2003. Current TAC concerns same species and the number of target fish species for TAE was decreased to 8 fish species. The TAE is updated as well.

EU member states require catch or processing certificates prior to export in accordance with EU IUU regulation which applies to Japanese exports. The fish should be legally produced and it is required to be traced back to a fishing boat and/or processing plant that are registered or approved under EU guidelines. Catch certificates need to be issued for tunas, mackerel, squid, cod, pollack, crab, sardine, lizard fish, etc. The fish products for which a processing certificate needs to be issued by Japan are mainly fish cake.

In terms of the marine fisheries resource management, tuna is a prioritised species, especially concerning fishing. The tunas have traditionally higher commercial values, and thus have been targeted by the IUU fleets. The Fishery Product Trade Office provides the following measures for the international trade of tunas against the IUU. Japan has implemented the embargo of tunas on all the tunas from the flag state of the IUU fishing boats. Japan implements conservation measures in trade through a catch certification program and IUU fishing embargoes on Patagonian toothfish as well.

EU-Japan fishery trade

Both Japan and the EU are import dependent, and the economic rationale for exports is less prevalent. In 2011, the import dependencies of the EU and Japan were 125% and 59% respectively, on live weight basis (the excess of 100% is due to inclusion of intra-EU trade).²⁵⁹ Extra regional import of fisheries products of the EU accounted for 18.4

²⁵⁸ Joint statement of EU and Japan for IUU fishing, 2012.

²⁵⁹ FAO, 2011. Food Balance Sheet of Fish and Fishery Products, 2011.

billion USD in 2007, while extra and intraregional trade combined exceeded 40 billion USD.

Although Japan applies quotas for selected fish species, the quotas have not reached the ceiling and there are no de facto effective quantitative restrictions, except from illegal fish and banned trade. The number of species in quotas has been decreased and presently fish imports which are not liberalized, yet, are herring, cod, yellowtail, mackerel, sardine, horse mackerel, saury, scallop, edible seaweeds and others – although the size of quotas is consistent in recent years. EU exports are mainly pelagic fish (e.g. mackerel) where the quotas are not yet exhausted.

Table 54 Import quotas of the small pelagic fish and volume of actual import in Japan (fresh, frozen, etc., unit: tons)

| <i>Fish species</i> | <i>Import quotas</i> | <i>Actual import</i> |
|--------------------------------|----------------------|----------------------|
| <i>Mackerel</i> | 227,000 | 106,222 |
| <i>Herring</i> | 65,000 | 212 |
| <i>Sardine</i> | 50,800 | 18,438 |
| <i>Japanese Horse Mackerel</i> | 125,000 | 1,035 |

Import quotas: provided for the year of ²⁰¹⁵; Actual import: average of annual import in 2012 and 2014.

Japan's exports to the EU (outside of ornamental fish) include scallop, yellowtail, cod, and fish cake. Those exported from EU to Japan include freshwater fish (filet), tunas, halibut, cods and octopus. The EU enjoys a consistent and substantial trade surplus against Japan, at 1383% in 2014.²⁶⁰ However, this accounts only for 3% of Japan's imports – under any liberalisation scenario, trading patterns are not likely to change given the high import dependency and scarcity in both economies.

Although trade in scallops from Japan to the EU has been suspended due to food hygiene requirements, there are no cases of trade suspension that were measured for preventing illegal fishing of scallop, yellowtail and cod, as fishing of these species are practiced mainly in the coastal waters and not in the open waters. Although processing of imported fish from third countries are common, processing costs are higher in Japan than in other countries and the possibility of re-exporting third country fish is limited.

Outcome of the FTA negotiations and its impact

The 2012 Impact Assessment estimates an increase at 16% for the EU and 30% for Japan for the category 'agriculture, forestry and fisheries'. But given the import dependency and the relatively low tariff and NTMs within fisheries, the sector is unlikely to be affected by trade liberalisation to the same extent as trade in agriculture. Also, Japanese domestic demand for main exported species from the EU has been at a much lower level than expected. Therefore, tariff liberalisation is not likely to result in tangible increases of fishery trade between the EU and Japan against the baseline.

There are conservation measures on both sides – and no substantial impact is foreseeable on fisheries resources or vulnerable fishing societies from the FTA on both sides. With regard to prevention of IUU fishing and protection of threatened species, Japan seems to have fully executed its responsibilities.²⁶¹ There would be few risks that illegal fish products be re-exported.

²⁶⁰ UN Comtrade, 2015

²⁶¹ In regards to all products traded. HIS notes Japan's fishing of marine mammals which are not traded.

In fact, the present challenges in the international fish trade in both the EU and Japan is not exportation but securing of import. In the short supply market, there is no substantial impact from the FTA, similar to the impact on any scarce resource. There are often limits to what just one bilateral FTA can achieve against third countries. Deepened bilateral cooperation, intelligence sharing between EU and Japanese authorities and law enforcement, or joint outreach efforts against third countries on bans seem like a natural starting point. FTAs provide impetus, but such endeavours do not need an FTA to be operationalised.

However, there are specific trade aspects that could help in restricting illegal trade. For example, the customs schedules in Japan (on 8 digit levels) provide very little additional information that could assist in traceability of fish. While levels down to 6 digit levels are agreed and harmonised at the WCO, each jurisdiction determines the classifications on 8/10-digit levels for its own purposes. For instance, the Chinese classification contains the species of eel on 10-digit code level (e.g. live European eel goes under 0301921020, whereas as *japonica* and other varieties fall under 0301921090). Such distinctions are not found in the Japanese nor the EU CN nomenclature. Making use of the customs code structure for sustainability purposes is a suggestion that has also been made by relevant NGOs (Traffic, 2015).²⁶²

13.6 Conclusions, recommendations and flanking measures

The impact from the FTA on the environment is negligible and non-measurable. In fact, the FTA favours relative less energy and emission intensive sectors leading to a relocation of production towards cleaner sectors in both Japan and the EU. Similarly, overall the predicted impact of the FTA is not likely to induce significant pressure on Japan's and Europe's energy demand given the low energy intensity of the involved sectors. We also expect no increased pressure on imported natural resources and waste production. Sectors benefitting from the trade agreement are low waste intensive while the impact on the waste intensive sectors is negative or negligible. The only area of limited concern regards the pressure on biodiversity and the environment exercised by the agricultural sector in Japan as the negative impact of the FTA on the food and agricultural sectors is not sufficient to release it.

In addition, a variety of environmental organisations representing civil society interests in the EU were consulted for the overall environmental analysis and only very limited feedback was received, indicating that the EU-Japan FTA negotiations are not a major concern for environmental stakeholders.

This analysis also makes reference to expectations outlined in the 2012 EC impact assessment. The 2012 Impact Assessment report states that a potential increase in waste and need in resources (including raw and critical materials) resulting from the EU-Japan FTA could be mitigated to a certain extent by an increase of trade in environmental goods and services and an increase of cooperation on these issues. Waste treatment and effective resource utilization is the largest sector among Japan's environmental goods and services (almost 50% of total EGS market). This analysis thus finds that trade liberalization within this sector is likely to promote its development and favour the exchange of green technology between the EU and Japan and help mitigating the potential increase in waste and use of resources.

²⁶² TRAFFIC Report: Shirashi, Crook, Eel market dynamics: An analysis of *Anguilla* production, trade and consumption in East Asia, Traffic 2015.

Conclusion towards cooperation in sustainable development

The EU–Korea FTA, which entered into force in July 2011, contains a chapter on sustainable development, through which the parties ‘reaffirm their commitments to promoting the development of international trade in such a way as to contribute to the objective of sustainable development’.²⁶³

Among a wide range of measures, the chapter includes provisions for cooperation in promoting the development and implementation of multilateral labour standards, multilateral environmental agreements and trade favouring sustainable development: environmental goods and services, environmental technologies, renewable energy, energy-efficient products, eco-labelled goods, and goods that are the subject of schemes such as fair and ethical trade and those involving corporate social responsibility and accountability. The annex on ‘Cooperation in Trade and Sustainable Development’ further lists a number of specific activities, including exchange of views, cooperation in international forums and cooperation over particular policies such as trade-related measures to promote sustainable fishing and tackle deforestation and illegal logging.²⁶⁴

The agreement establishes a Committee on Trade and Sustainable Development to oversee the implementation of these provisions. Each party also establishes a Domestic Advisory Group, including NGOs, labour and business organisations, to provide advice on environmental and labour issues; the two groups meet annually in a Civil Society Forum.

It is still too soon to assess the impact of these provisions in the EU–Korea FTA; an evaluation of the entire FTA is scheduled to start in the fourth quarter of 2015, to be completed by early 2017. Nevertheless, the FTA provides a potentially positive framework for the development of trade policies that support rather than undermine sustainable development.

Given the problems that both parties face over environmental impacts on CO₂-GHG, the most relevant indicator in the case of Japan, and particularly given the trade in illegal timber and illegal fish, similar chapter on sustainable development with similar framework would appear to be a valuable outcome of the EU–Japan FTA.

In addition, EESC pointed out that the establishment of such a broad based multi-stakeholder platform provides for a regular, structured dialogue and cooperation between social partners and civil society organisations, as well as for exchanging views with authorities from the EU and Japan. This would be an innovative cooperation method for the Japanese third sector and may have a positive impact to the development of NGOs/NPOs in Japan in general.

Recommendations and flanking measures

- Exchange of information on best practice in public procurement policies for legal and sustainable timber, including efforts to reach mutually compatible and verifiable definitions of ‘legal’ and ‘sustainable’.
- Exchange of information on the implementation of the EU Timber Regulation, with a view to providing assistance should Japan adopt similar legislation, including specific recognition of VPA-licensed timber as meeting requirements for ‘legal’.
- Encouragement for Japan to join existing VPAs, or negotiate similar such agreements, with countries exporting timber products to Japan, including in particular Malaysia, Indonesia and Vietnam.

²⁶³ Article 13.1 (1) of the EU-Korea FTA

²⁶⁴ Ibid., Annex 13.

- Supply-chain incentives to encourage trade and industrial cooperation across manufacturing, in particular motor vehicles. The coverage of EGA can be expanded beyond what is assumed to be agreed plurilaterally.

14 Conclusions of the impact assessment

14.1 The overall imperative of the agreement

As the EU-Japan FTA negotiations approach a conclusion, a considerable amount of progress has been achieved given that the majority of the issues have concerned complex regulatory issues or NTMs. As expected, the gains from the agreement are concentrated in a few sectors. These are processed foods and motor vehicles for the EU and Japan respectively and they account for about half of all the export gains when one includes links with other sectors. It is a highly complementary (and therefore economically effective) agreement of reciprocal gains that spur further specialisation and competitiveness in both parties. On the side of the EU, the geographic distribution of the gains is relatively unique, with some of the biggest gains for Member States/regions and for SMEs that are not usually so engaged in trade liberalisation.

With the correct negotiation priorities, the EU-Japan FTA will satisfy the aim of creating a 'smart, sustainable and inclusive growth', jobs and welfare, with no negative impact on environmental indicators, and positive effects for the EU social indicators.

14.2 Conclusions of the economic impact: Competition from TPP

The economic analysis in this section confirms the EU's objectives and rationale for the EU-Japan FTA. Japan remains a sizeable market for exports, a source of investment and R&D. As a new regional economic architecture emerges in the Asia-Pacific centred on TPP and other competitive liberalisation, the declining EU-Japan relationship will diminish even further in a no-FTA scenario. TPP changes the baseline of the 2012 Impact Assessment. There are serious negative effects from trade diversion, which may only be overcome through completion of EU-Japan FTA to return to the status quo. The existing plurilateral agreements cannot fully address the preference margins that TPP sets against the EU.

Moreover, Europe's need for investment and high value-added export markets and Japan's investment-led trade strategy, combined with Abenomics reform to open up the economy, are complementary complement especially with regard to job creation. There were no negative impacts on any vulnerable groups on the side of the EU, nor any loss in fiscal revenues, or impact on the informal economy for the EU.

Impact on sectors

In the 2012 Impact Assessment, the long-term economic impact on GDP is estimated to +0.76% (or even up to 1.9%) compared to the baseline. This Trade Sustainability Impact Assessment does not change this assessment. However, the baseline should now be revised by the negative impact from TPP (for both FTA and no-FTA scenarios).

Furthermore, the economic impact on the sectors were assessed primarily based on:

- Exports (feed, motor vehicles, medical devices, pharmaceuticals/chemicals) for output;
- Imports (medical devices, motor vehicles and railway sector) as an indicator for supply-chain integration and consumer benefits and detriments (price and variety);

- A qualitative assessment of the changes to the general business climate that encompassed jobs, competitiveness and supply-chain benefits and investments;
- A qualitative assessment of consumer welfare gains and detriments (safety, protection, standards) to supplement the benefits identified through imports;
- An environmental assessment primarily based on greenhouse gases and waste; and
- Social assessment on employment, especially of asymmetries.

These indicators by and large support the conclusion that the FTA as necessary to support the long-term economic objectives.

- The analysis on food and feed confirmed quantitatively that the TPP Agreement without a Japan-EU FTA will be the source of strong trade diversion against EU exports to Japan. A partial liberalisation under the FTA would only maintain status quo;
- The localisation of production capacity and increased profits offset the expected impact on output and employment in the European motor vehicle sector, so that the FTA will not negatively affect production of passenger cars (compared to a non-FTA scenario) to the extent foreseen in the CGE modelling;
- in the railway sector consumer gains on prices, quality and safety outweigh producer interest by a large margin, while Japan has also an increasingly higher import penetration than the EU in the sector;
- in life sciences (pharmaceuticals, medical devices, in-vitro diagnostics), exports are essential to the aging demographics in both the EU and Japan at the same time the FTA brings no risks to public health or spending. There are clear EU SME interests in medical devices, and no detrimental impact on consumer protection and safety.

14.3 Conclusions of the social impact: Positive for jobs and equality

The social analysis concludes that economic gains are not created at the cost of social variables and interests. Real wages are increasing symmetrically. In all scenarios, the income gap between skill groups is larger than 0.02% in Europe. A case study shows that the FTA is likely to be highly favourable to women in job creation. There is no impact on the Gini coefficient in either country. SME tests on social indicators are inconclusive as they depend on the implementation of the agreement. However, in those sectors where a SME population was identified, the impact was positive (food, medical devices). In other sectors, there was no impact on SMEs.

The sectoral analysis also suggests that income will be distributed geographically to the benefit for those who traditionally do not gain from trade liberalisation. The sector analysis also shows that the unemployment foreseen (in the CGE modelling) in chemical industry and the services sector is largely due to the modelling methodology. Japanese firms employ approximately 460,000 employees in the EU, increasing by 29% in the past five years regardless of Japanese exports or growth. The macroeconomic relation between output and employment suggests more than 400,000 jobs being saved between 2007-2010.

Contrary to the predictions in the 2012 Impact Assessment, the tariff elimination on motor vehicles is not likely to significantly change production or employment levels in the EU compared to a non-FTA scenario. Less than 0.1% of output in the PC segment is affected. Employment impact is also within the same, negligible range. Some of the other impact assessments reports that have predicted more negative outcomes have certain methodological omissions.

As concluded above, sectoral analysis identified economic welfare gains (consumer prices, quality or variety) in the sectors where the impact was examined. In the case of motor vehicle sector, the EU/Japanese producer profits were likely to cushion the positive impact on end-buyer prices. Moreover, EU consumer safety was affected positively in railway sector, while there were no detrimental impacts on consumer safety on life sciences sectors. The overall assessment is that the FTA increases the consumer ability to benefit from the internal market with no detrimental impacts on EU consumer protection, safety or vulnerable consumers.

In conclusion, the aggregate social variables will be improved compared to a no-FTA scenario.

14.4 Environmental impact – negligible or positive impact

Given the EU and Japan are highly developed regulatory environments, the environmental impact looks primarily at greenhouse gas emissions and waste. Here the impact is within the margin of error even in the extreme scenario and thereby non-existent.

Negative effects (if any) would be offset by the increased exchange of environmentally friendly technologies (for example in the motor vehicles). The analysis supports the view that trade liberalisation is likely to promote the development of green technology between the EU and Japan and thus help to mitigate the potential increase in waste and use of resources.

The FTA favours relatively less energy and emission intensive sectors and thus results in a relocation of production towards cleaner sectors in both Japan and the EU. Similarly, the predicted overall impact of the FTA is not likely to induce significant pressure on Japan's and Europe's energy demand given the low energy intensity of the sectors involved. We also expect no increased pressure in the form of imported natural resources and waste production. Sectors benefitting from the trade agreement are also low waste intensive sectors and the impact on the waste intensive sectors is negative or negligible. Despite extensive outreach to the civil society groups, there were no concerns raised about the EU-Japan FTA.

14.5 Recommendations and flanking measures

Given the existing high level of cooperation, low or no negative impact and potentially important economic benefits, the analysis overwhelmingly supports the economic rationale for concluding a comprehensive EU-Japan FTA, with ambitious and symmetrical levels of reduction of NTMs.

Sequencing and priorities

Sequencing will be a key factor in the negotiations. Given the concentration of potential gains in processed food sector for Europe, the conclusion of the market access negotiations (especially on agriculture) should be given precedence. It is acknowledged that such option may have not been available to the EU. This is particularly true for products of particular interests to the EU that were not liberalised under TPP.

Overall, emphasis must be given to offensive market interests with the intention to utilise the liberalisation achieved in the negotiation.

Job creation and SMEs

Employment and SME gains are equally likely to take place from output increases (exports) and investment. In the case of EU-Japan, the main concern is not with possible

investor disputes, but the improvement of the business environment through an FTA that tackles tariffs on intermediate goods, NTMs and mode 4. Some Japan specific SME issues have been identified, such as language barriers, high costs of entry, understanding local laws and practices.

Regulatory coherence and cooperation

There is a wide range of issues on the table, and the numerous existing bilateral forums of cooperation have by and large not been adequate to address them. Some of the NTMs are also overly complex and politically difficult to address. Therefore, a more horizontal and permanent instrument for addressing the current and future regulatory divergences between the EU and Japan may have to be developed. Almost all sector analysis pointed to the need to establish a more comprehensive and predictable solution than MRAs – either through equivalence, mutual recognition or self-declaration of conformity.

Specific sectoral annexes

- On motor vehicles, there is some risk that the benefits might only apply to a very limited number of manufacturers or model types. Prioritisation among the list of NTMs is perilous task, but must be done with respect to market segments and model types with existing market potential, most likely already exported to Japan. There is evidence that the stakeholders intend to utilise the market access that the FTA will provide. This includes manufacturers of commercial vehicles.
- For railways, the main recommendation is an intense effort on an industrial cooperation. The kind of industrial cooperation mentioned above concerns more the RSI firms than the governments since they focus on how to cooperate in order to achieve joint benefits in order to compete in the emerging, high growth markets for railways. In fact, it may be desirable from the EU perspective to eventually involve third country RSIs, such as Korea with whom the EU already has a FTA, in such cooperation.
- Unlike some TPP countries, the EU is a counterpart that can offer reciprocal value from transparency and procedural non-discrimination reimbursement on pharmaceuticals and medical devices.
- The approval times could be further improved and simplified (in particular for SMEs in medical devices).
- Amongst the service sectors that were analysed, domestic regulation disciplines, mode 4 and qualifications were prioritised issues for the stakeholders. A variety of horizontal issues should be explored given the high standard of the regulatory environments in the EU and Japan. For the retail and wholesale sectors the links with barriers for merchandise trade, i.e. TBT and SPS issues, should also be considered.

15 References

- Abdullah A. and Zhou X., 2014. Environmental Goods and Service Sector (EGSS) in Japan: Classification and mapping with national input-output table for green economy assessment, Green Economy Area Institute for Global Environmental Strategies (IGES)
- Agustí-Panareda, J., Ebert, F.C. and LeClercq, D., 2014. "Labour Provisions in Free Trade Agreements: Fostering their Consistency with the ILO Standards System". ILO, Background Paper, Social Dimensions of Free Trade Agreements. Geneva: International Labour Organization.
- APEC, 2011. The Impact of Business Mobility in Reducing Trade Transaction Costs in APEC. APEC Policy Support Unit.
- Arto I., et al., 2015. EU Exports to the World: Effects on Employment and Income. Luxembourg: Publications Office of the European Union.
- Baccini, L. and Koenig-Archibugi, M., 2014. " Why do states commit to international labor standards? Interdependent ratification of core ILO conventions 1948-2009". World Politics 66 (3) 446-490.
- Ball, L.M., Leigh, D. and Loungani, P., 2013 Okun's law: Fit at fifty?, National Bureau of Economic Research Working Paper No. 18668. Cambridge MA: NBER.
- Bank of Japan, 2015. Financial System Report (April 2015). Available at: <https://www.boj.or.jp/en/research/brp/fsr/fsr150422.htm/>
- Billmeier, A. and Nannicini, T., 2007. "Trade openness and growth: Pursuing empirical glasnost". IMF Working Paper WP/07/156. Washington DC: International Monetary Fund.
- Bloom, N., Draca, M. and Van Reenan, J., 2011. "Trade induced technical change?
- Botta, E. and Koźluk, T., 2014. Measuring Environmental Policy Stringency in OECD Countries: A Composite Index Approach, OECD Economics Department Working Papers, No. 1177, OECD Publishing. <http://dx.doi.org/10.1787/5jxrjnc45gvg-en>
- Cattaneo, O. 2003. 'Service Providers on the Move: The Economic Impact of Mode 4', OECD Working Party of the Trade Committee. Paris: OECD.
- Cazes, S., Verick, S., Al Hussami, F., 2011. Diverging trends in unemployment in the United States and Europe: Evidence from Okun's law and the global financial crisis, ILO Employment Working Paper 106. See: http://www.ilo.org/wcmsp5/groups/public/---ed_emp/---emp_elm/---analysis/documents/publication/wcms_170782.pdf
- CEPII/ATLASS, 2011. The Economic Impact of the Free Trade Agreement (FTA) between the European Union and Korea.

Cernat, L., Kutlina-Dimitrova, Z., 2014. Thinking in a Box: a 'Mode 5' Approach to Services Trade. Available at: http://trade.ec.europa.eu/doclib/docs/2014/march/tradoc_152237.pdf

Cling, J.P., 2006. "Commerce, croissance, pauvreté et inégalités dans les PED: une revue de littérature". Document de Travail DIAL. Paris: Développement, Institutions et Analyses de Long Terme.

Cole, M. et al., 2006. "Globalization, firm-level characteristics and environmental management: A study of Japan," *Ecological Economics*, Elsevier, vol. 59(3), pages 312-323, September.

Copenhagen, 2007. Copenhagen Economics, Joseph Francois, Economic Impact of a Potential Trade Agreement between the European Union and Korea, a report for the European Commission, March 2007. Copenhagen: Copenhagen Economics.

Copenhagen Economics, 2009. Assessment of Barriers to Trade and Investment between the EU and Japan. See: http://trade.ec.europa.eu/doclib/docs/2010/february/tradoc_145772.pdf

Copenhagen Economics, 2014. The impact of trade liberalisation on the EU automotive industry: trends and prospects.

Dasgupta, S. et al., 1995. 'Environmental Regulation and Development: A Cross-Country Empirical Analysis.' World Bank, Policy Research Department, Working Paper No. 1448.

Deblitz, C., 2015. Is the TTIP a threat to EU beef production? DLG-Membership, International Newsletter, January.

Dee, P and Hanslow, K., "Multilateral Liberalisation of Services Trade". Productivity Commission Staff Research Paper. Canberra: Productivity Commission.

Deloitte Belgium, 2012. EU-Japan Free Trade Agreement: Impact Assessment on the Automotive Industry.

Dihel, N. and Dee, P., 2006. 'Services as outputs and intermediate inputs: the impact of liberalization', in *Trading Up: Economic Perspectives on Development Issues in the Multilateral Trading System*. Paris: OECD: 231-275.

EESC, 2014. Opinion of the European Economic and Social Committee on the role of civil society in the EU-Japan Free Trade Agreement. REX/389, 15 October 2014. Brussels: EESC.

EESC, 2015. Corporate social and societal responsibility as a lever for action in the EU's partnership agreements (information report), REX443.

EGA, 2014. The EU-Japan Free Trade Agreement: A Crucial Opportunity To Increase Cooperation With Japan And Boost The European Generic And Biosimilar Medicines Industries. Position Paper.

Enste, D.H., 2015. The Shadow Economy in Industrial Countries.

Ernst and Young and Eurospirits Organisation, 2010. The contribution of the spirits industry to the EU economy. See: <http://spirits.eu/files/56/december-2010-thecontribution-of-spirits-industry-to-the-eu-economy-summary.pdf>

Etsy D.C. and Porter M. E., 2005. National Environmental Performance: An Empirical Analysis of Policy Results and Determinants, *Environment and Development Economics*, 10(04): 381-389

EUA, 2014a. TTIP Update No. 1 April 2014. European University Association.

EUA, 2014b. TTIP Update No. 2 August 2014. European University Association.

EU-Japan Centre for Industrial Cooperation, 2014. An assessment of key EU industrial sectors open to Japanese technological cooperation and investment.

European Commission, 2003. Communication from the Commission to the Council and the European Parliament: Forest Law Enforcement, Governance And Trade (FLEGT) – Proposal for an EU Action Plan.

European Commission, 2006. Handbook for Trade Sustainability Impact Assessment. See: http://trade.ec.europa.eu/doclib/docs/2006/march/tradoc_127974.pdf

European Commission, 2007. Discrimination in the European Union. Special Eurobarometer 263. Brussels: European Commission.

European Commission, 2011. Opportunities for the Internationalisation of SMEs.

European Commission, 2011a. COM (2011) 20 'Towards a better functioning Single market for services- building on the results of the mutual evaluation process of the Services Directive'.

European Commission, 2011b. SEC (2011) 102 'On the process of mutual evaluation of the Services Directive'.

European Commission, 2012. "Impact Assessment Report on EU-Japan Trade Relations. Accompanying the document: Recommendation for a Council Decision authorising the opening of negotiations on a Free Trade Agreement between the European Union and Japan". Commission Staff Working Document, 18 July 2012. Brussels: European Commission.

European Commission, 2013. 'Market functioning in Network Industries – electronic communications, Energy and Transport', DG EcFin, European Economy, Occasional Paper No. 129, February.

European Commission, 2013. The economic impact of the EU-Singapore Free Trade Agreement. See: http://trade.ec.europa.eu/doclib/docs/2013/september/tradoc_151724.pdf

European Commission, 2015. 23rd EU-Japan Summit, Tokyo, 29 May Joint Press Statement. See: http://europa.eu/rapid/press-release_MEMO-15-5075_en.htm

European Commission, 2015. Trade for All — New EU Trade and Investment Strategy.

European Commission, 2015. Guidelines on the Analysis of Human Rights Impacts in Impact Assessments for trade-related Policy Initiatives. See: http://trade.ec.europa.eu/doclib/docs/2015/july/tradoc_153591.pdf

European Parliament, 2010. The Lisbon Strategy 2000-2010. Brussels: European Parliament.

FAO, 2011. Food Balance Sheet of Fish and Fishery Products 2011.

Francois, J. and H.K. Hall, 2002. Global simulation analysis of industry level trade policy. 2002. Downloadable from <https://ideas.repec.org/p/lnz/wpaper/20090803.html>

Francois, J., Manchin, M., Norberg, H., 2011. Economic Impact Assessment of an FTA between the EU and Japan.

Freeman, R., 2006. 'People Flows in Globalization' Journal of Economic Perspectives 20, 145-170.

Ghani, Gairuzazmi M., 2012. "Does trade liberalization effect energy consumption?" Energy Policy, Elsevier, vol. 43(C), pp. 285-290.

Graneli, A and Lodefalk, M., 2015. How cross-border movement of persons facilitates trade: The case of Swedish exports. Stockholm: National Board of Trade of Sweden.

Gravel, E. and Delpech, Q., 2013. "The comments of the ILO's supervisory bodies: Usefulness in the context of the sanction-based dimension of labour provisions in US free trade agreements". ILO Research Paper No. 4, March.

Hausmann, R., Tyson, L. and Zahidi, S., 2013. Global Gender Gap Report 2013. Report prepared for the World Economic Forum.

Heydon, K. and Woolcock, S., 2009. The Rise of Bilateralism: Comparing American, European and Asian Approaches to Free trade agreements. Tokyo: United Nations University Press.

ILO, 1998. Labour and Social Issues Relating to Export Processing Zones. Geneva: ILO.

ILO, 2013. Social Dimensions of Free Trade Agreements. Geneva: International Labour Organization; International Institute for Labour Studies.

ILO, 2014. Review of annual reports under the follow up to the ILO Declaration on Fundamental Principles and Rights at Work. Geneva: International Labour Office.

ILO et al., 2014. Achieving stronger growth by promoting a more gender-balanced economy. Geneva: ILO, OECD, IMF, World Bank.

ILO, 2015. Report of the Committee of Experts on the Application of Conventions and Recommendations of International Labour Standards 2015, Geneva: International Labour Office.

IMF, 2011. IMF 2011. Regional Economic Outlook: Europe. Washington DC: International Monetary Fund.

IMF, 2012. Country Report No. 12/208 Japan. Washington DC: IMF.

IMF, 2012. Japan: Financial Sector Stability Assessment Update. August 2012. Available at: <https://www.imf.org/external/pubs/ft/scr/2012/cr12210.pdf>

IMS Health Market Prognosis, 2015.

IOE, 2006. The Evolving Debate on Trade and Labour Standards. Geneva: International Organisation of Employers.

Irwin, D.A., 2002. Free Trade Under Fire. Princeton: Princeton University Press.

ITC, 2014. Trade in Environmental Goods and Services: Opportunities and Challenges, Geneva: ITC, 2014. (Technical Paper) Doc. No. DMD-14-255.E.

ITUC, 2011a. Internationally-recognised Core Labour Standards in the European Union: Report for the WTO General Council Review of Trade Policies of the European Union, Geneva 6-8 July 2011. Geneva: International Trade Union Confederation.

ITUC, 2011b. Internationally-recognised Core Labour Standards in Japan: Report for the WTO General Council Review of the Trade Policies of Japan, Geneva, 15-17 February 2011. Geneva: International Trade Union Confederation.

JAMA, 2014. Common Challenges, common future, Japanese Auto Manufacturers contribute to the competitiveness of Europe's Motor Industry.

Jansen, M. and Piermartini, R., 2005. 'The Impact of Mode 4 Liberalization on Bilateral Trade Flows'. WTO Staff Working Paper ERSD-2005-2006.

Jansen, M., Peters, R. and Salazar-Xirinachs, J.M. (eds.), 2011. Trade and Employment: From Myths to facts. Geneva: ILO and European Commission.

Japan Dairy Council, Japan Dairy Farming, undated. See: <http://www.dairy.co.jp/jp/engall.pdf>

Jaumotte, F., 2005. Female Labour Force Participation: Past Trends and Main Determinants in OECD Countries. Paris: OECD.

Jeffrey A. F. & Andrew K. R., 2005. Is Trade Good or Bad for the Environment? Sorting Out the Causality. The Review of Economics and Statistics, MIT Press, vol. 87(1), pages 85-91.

JETRO, 2011. Quasi Drugs in Japan.

Jones, R.S. and Urasawa, S., 2011. "Labour Market Reforms in Japan to Improve Growth and Equity". OECD Economics Department Working Paper No. 889. Paris: OECD.

Kawasaki, 2011. Determining Priority Among EPAs: Which trading partner has the greatest economic impact?

Kawasaki, 2014. Rise of the Mega EPAs: A comparison of economic effects.

Kawasaki, 2014. The Relative Significance of EPAs in Asia-Pacific.

Korinek, J., 2005. "Trade and Gender: Issues and Interactions". OECD Trade Policy Working Paper No. 24. Paris: OECD.

Koumenta, M., Humphris, A., Kleiner, M. and Pagliero, M., 2014. Occupational regulation in the EU and UK: Prevalence of labour market impacts. Study conducted for the UK Department of Business, Innovation and Skills. London: Queen Mary College, University of London.

Krugman, P.R., 2008. "Trade and Wages Reconsidered", Brookings Papers on Economic Activity, Spring 2008).

Lee-Makiyama, H., 2012. FTAs and the crisis in the car industry.

McKinsey & Co., 2012. Women Matter: An Asian Perspective.

MedTech Europe, 2014. The European Medical Technology Industry in Figures.

Miroudot, S. 2012. "Trade and Investment" in Heydon, K. and Woolcock, S. (eds.) The Ashgate Research Companion to International Trade Policy. Farnham: Ashgate Publishing

Miroudot, S., Sauvage, J. and Shepherd, B., 2013. Measuring the Cost of International Trade in Services, World Trade Review Vol. 12 No. 4 October. Cambridge: Cambridge University Press.

Mitsubishi Research Institute, 2012. Assessment of the Impact on the Automobile Market of an EU-Japan Economic Integration Agreement (EIA).

Momii, M., 2014. Trade in Illegal Timber: The Response in Japan.

Muhammad-Sukki, F., et al., 2014. Feed-in tariff for solar photovoltaic: The rise of Japan. Renewable Energy, 68, pp. 636-643.

Mustilli, F. and Pelkmans, J., 2013. Access Barriers to Services Markets: Mapping, tracing, understanding and measuring. CEPS Special Report No. 77, June. Brussels: Centre for European Policy Studies.

OECD. 1996. Trade, Employment and Labour Standards: A Study of Core Workers' Rights and International Trade. Paris: OECD.

OECD. 2000. International Trade and Core Labour Standards. Paris: OECD.

OECD. 2008. The Price of Prejudice: Labour Market Discrimination on Grounds of Gender and Ethnicity. Paris: OECD.

OECD, 2010. Environmental Performance Reviews: Japan 2010, OECD publishing, Paris, France.

OECD. 2012. Closing the Gender Gap: Act Now. Paris: OECD.

OECD, 2013. Public spending on health and long-term care: a new set of projections.

OECD. 2013. OECD Economic Surveys: Japan. Paris: OECD.

OECD, 2015. PSE database. OECD website.

Olsen, M. 1965. The Logic of Collective Action. Cambridge, Mass.: Harvard.

Palley, T.I., 1999. The Economic Case for International Labor Standards: Theory and some Evidence. Mimeo. Washington DC: AFL-CIO.

Pareto, V., 1971. Manual of Political Economy. Translated by Ann S. Schwier. New York: Augustus M. Kelley.

Polaski, S., 2004. "Protecting Labour Rights through trade agreements: An analytical guide." Journal of International Law and Policy, vol. 10, No. 13.

PWC, 2011. Pharma 2020 Report.

Rodrik, D., 1997. Has Globalization Gone Too Far? Washington, DC: Institute for International Economics.

Saunders, J., 2014. Trade in Illegal Timber: The Response in Vietnam.

Schneider, F., Enste, D.H., 2013. The Shadow Economy — An International Survey.

Shinichiro N., Yasushi K., 2009. Waste Input-Output Analysis: Concepts and Application to Industrial Ecology, Eco-Efficiency in Industry and Science, Vol. 26, Springer, February 2009.

Siroën, J-M., 2008. The use, scope and effectiveness of labour and social provisions and sustainable development aspects in bilateral and regional free trade agreements. Report written for the European Commission. Brussels: European Commission.

Stieglitz, J., 2000. Democratic Development as the Fruits of Labour. Keynote Address, Industrial Relations Research Association, Boston, January.

Suntory, 2014. Suntory Water Report. See: <http://www.suntory.com/softdrink/news/pr/d/SBF0174.html>

Tinbergen, J., 1956. Economic Policy: Principles and Design. Amsterdam: North Holland.

TRAFFIC, 2015. Report: Shirashi, Crook, Eel market dynamics: An analysis of Anguilla production, trade and consumption in East Asia.

TUC, 2014. Written evidence to the House of Lords Sub-Committee on External Affairs. UK Trade Union Congress.

United Nations Economic Commission for Europe / Food and Agriculture Organisation, 2015. Forests in the ECE Region, pp. 47–49.

US Trade Representatives, 2015. Trans-Pacific Partnership. See: <http://ustr.gov/tpp/#issues>

USDA, 2015. Trans-Pacific Partnership, Benefits to US agriculture.

Van Horne, P.L.M. and N. Bondt, 2014. Competitiveness of the EU poultry meat sector. LEI Wageningen. November.

Wellesley, L., 2015. Trade in Illegal Timber: The Response in China.

World Bank. 2012. World Development Report 2012: Gender Inequality and Development. Washington DC: World Bank.

Yasar, M., Lisner, D. and Roderick, R., 2012. 'Bilateral trade impacts of temporary foreign visitor policy'. Review of World Economics 148, 501-521.

16 Annexes

16.1 Sector selection survey

Q1 Name of your organisation (text entry)

Q2 Name of contact person (text entry)

Q3 Email address (Text entry, request response)

Q4 In which country is your company located? (If more than one, choose the country where your headquarters is located) (Dropdown list of countries²⁶⁵)

Q5 In which sector does your company operate? (Text entry, request response)

Q6 What is the number of employees in your company? Note: Trade associations should indicate the number of organisations represented.

1. Less than 10 (1)
2. 10 - 24 (2)
3. 25 - 49 (3)
4. 50 - 99 (4)
5. 100 - 149 (5)
6. 150 - 199 (6)
7. 200 - 249 (7)
8. 250 - 499 (8)
9. More than 500 (9)

Q7 What was your total turnover in 2013?

10. below € 2 million (1)
11. between € 2 million and € 10 million (2)
12. between € 10 million and € 50 million (3)
13. above € 50 million (4)
14. Prefer not to say (5)

Q8 What sector(s) should be particularly analysed for its economic, social or environmental impact from the EU-Japan Free Trade Agreement? (Text entry, request response)

Q9 What are the key issues in that sector before the Agreement? (Text entry)

Q10 What provisions do your organisation assume that the Agreement will contain affecting the sector in question? (Text entry)

Q11 Have your organisation conducted any analysis of such impact from the FTA? Please summarise its findings and also provide link. (Text entry)

²⁶⁵ List of countries provided from <http://www.state.gov/misc/list/>.

16.2 Questionnaire on social, human rights and environmental impacts

The Trade Sustainability Impact Assessment is carried out in support of the ongoing negotiations of a free trade agreement between the European Union and Japan. It provides an assessment of the potential economic, social and environmental effects resulting from trade and trade-related provisions of the agreement in the EU and Japan as well as third countries, including developing countries, and Turkey which is in a customs union with the EU. The team is conducting a series of surveys which directly feed into the analysis of sustainability and sectoral issues. With the current survey, we aim to collect information on potential impacts on social, human rights and environmental issues resulting from the EU-Japan FTA or from the cooperation of the two countries on the issues. Where applicable, please provide additional information to support your replies. The survey will take approximately 15 minutes. You will be able to go back over your responses before clicking the submit button and you can request a copy of the full survey by emailing lsee.tsia-japan@lse.ac.uk. Any incomplete surveys will not be taken into account for the analysis. Thank you in advance for your feedback.

Q2.1 About your organisation (text entry)

- Name of organisation (1)
- Name of contact person (2)
- Email address (3)

Q2.2 In which country is your organisation located? (If more than one, choose the country where your headquarters are located)²⁶⁶ (Dropdown list of countries)

Q2.3 In which sector does your company operate? (if relevant) (text entry)

Q2.4 What is the number of employees in your company?

15. Select one (1)
16. Less than 10 (2)
17. 10 - 24 (3)
18. 25 - 49 (4)
19. 50 - 99 (5)
20. 100 - 149 (6)
21. 150 - 199 (7)
22. 200 - 249 (8)
23. 250 - 499 (9)
24. More than 500 (10)
25. Prefer not to say (11)

Q2.5 What was your total turnover in 2013 (in Euros)?

26. Select one (1)
27. below € 2 million (2)
28. between € 2 million and € 10 million (3)
29. between € 10 million and € 50 million (4)
30. above € 50 million (5)
31. Prefer not to say (6)

Q2.6 What describes best your organisation's field of activities? (Classification of the EC Register of Interest Representatives)

32. Professional consultancies/law firms/self-employed consultants: law firms; professional consultancies; self-employed consultants (1)
33. In-house lobbyists and trade/professional associations: companies and groups; other similar organisations; trade unions; trade, business and professional associations (2)
34. Non-governmental organisations (3)
35. Think tanks, research and academic institutions: academic institutions; think tank and research institutions (4)
36. Organisations representing churches and religious communities (5)
37. Organisations representing local, regional and municipal authorities, other public or mixed entities, etc. (6)
38. Other (7) _____

²⁶⁶ List of countries provided from <http://www.state.gov/misc/list/>.

Q2.7 Please select below the issues for which you would like to provide feedback. This selection does not preclude you from viewing and completing all sections of the survey.

- 39. Social impacts (1)
- 40. Human rights impacts (2)
- 41. Environmental impacts (3)
- 42. Fisheries (4)
- 43. Forestry (5)

Q3.1 Do you foresee a socio-economic impact from an FTA between the EU and Japan?

- 44. Yes (1)
- 45. No (2)

Q3.2 How would you describe the socio-economic impact from an FTA between the EU and Japan? Please describe potential impact, or provide reference to any evidence: (text entry)

Q3.3 How might this FTA affect employment, e.g. overall job creation/loss; direct job creation/loss in specific sectors, professions, skills or regions; Indirect effects on employment levels; skills development; socio-economic context;). Please describe potential impact, or provide reference to any evidence: (text entry)

Q3.4 How might this FTA affect working conditions, e.g. wages or wage setting mechanisms or labour costs; quality of work contracts, risk of undeclared work or false employment; work organisation; health and safety at work; social dialogue; vocational learning; labour standards and their effective implementation; gender equality. Please describe potential impact, or provide reference to any evidence: (text entry)

Q3.5 How might this FTA affect income, distribution and social inclusion, e.g. on social security and social protection schemes, and access and quality thereof; income distribution and inequalities; poverty rate; availability and affordability of basic goods and services including services of general interest. Please describe potential impact, or provide reference to any evidence: (text entry)

Q3.6 How might this FTA in particular (i.e. not FTAs in general) impact on access to and effects on social protection, health and educational systems? Please describe potential impact, or provide reference to any evidence: (text entry)

Q3.7 How might this FTA foster the following, including via compliance with ILO conventions?

| | None (1) | Little (2) | Some (3) | A Lot (4) | Cannot decide (5) |
|--|----------|------------|----------|-----------|-------------------|
| A. Greater female participation in the workforce and closing the wage gap. | | | | | |

| | | | | | |
|--|--|--|--|--|--|
| B. Non-discrimination in the work place, and particularly greater gender equality. | | | | | |
| C. Freedom of association and the right to collective bargaining. | | | | | |
| D. Other. | | | | | |

Q3.8 Please describe all relevant effects, or provide reference to any evidence: (text entry)

Q3.9 How might this FTA affect attitudes in the EU (in Japan) towards the issues below?

| | None (1) | Little (2) | Some (3) | A Lot (4) | Cannot decide (5) |
|---|-------------|---------------|-------------|--------------|-------------------------|
| A. Labour market flexibility (1) | | | | | |
| B. Social protection arrangements (2) | | | | | |
| C. Assessing the burden on employers (3) | | | | | |
| D. Rendering EU companies more competitive in Japan / Japanese companies more competitive in the EU (4) | | | | | |
| E. Other (5) | | | | | |

Q3.10 Please describe all relevant effects, or provide reference to any evidence: (text entry)

Q3.11 Do you foresee any impact of this FTA on business mobility between the EU and Japan?

1. Yes (1)
2. No (2)

Q3.12 What impact do you envisage from this FTA on business mobility between the EU and Japan? Please describe potential impact, or provide reference to any evidence: (text entry)

Q3.13 Are there barriers on mobility of professionals arising from immigration laws, social security, labour market regulation, lack of recognition of qualifications and other regulatory impediments (including those on spouses or families) in either the EU or Japan? Please describe, or provide reference to any evidence: (text entry)

Q3.14 Do you foresee impacts for consumer protection in the EU, Japan and third countries?

- 3. Yes (1)
- 4. No (2)

Q3.15 Which impacts do you foresee for consumer protection in the EU, Japan and third countries? Please describe potential impact, or provide reference to any evidence: (text entry)

Q3.16 Do you think the contracting parties should pursue flanking measures to assist in trade-related structural adjustment as a result of this FTA?

- 5. Yes (1)
- 6. No (2)

Q3.17 Which flanking measures should the contracting parties pursue to assist in trade-related structural adjustment as a result of this FTA? (text entry)

Q3.18 Has your organisation conducted any analysis of socio-economic impacts from this FTA? Please summarise its findings or provide link. (text entry)

Q4.1 Do you envisage direct or indirect impact of this FTA on human rights issues or EU-Japan cooperation on such issues?

- 7. Yes (1)
- 8. No (2)

Q4.2 What direct or indirect impact of this FTA do you envisage on human rights issues or EU-Japan cooperation on such issues? Please describe potential impact, or provide reference to any evidence: (text entry)

Q4.3 How might this FTA foster the following: A. Freedom of expression, free press and addressing hate speech (including on internet and in digital contexts). B. Anti-corruption policies. C. Data privacy protection. (text entry)

Q4.4 Are there currently any issues between the EU and Japan arising from the following issues. Please describe potential impact, or provide reference to any evidence: A. Freedom of expression, free press and addressing hate speech (including on internet and in digital contexts). B. Anti-corruption policies. C. Personal data. (text entry)

Q4.5 Has your organisation conducted any analysis of human rights impacts from this FTA? Please summarise its findings or provide link. (text entry)

Q5.1 Do you envisage a direct or indirect impact from this FTA on environmental issues or EU-Japan cooperation on environmental issues?

- 9. Yes (1)
- 10. No (2)

Q5.2 How would you describe the environmental impact from an FTA between the EU and Japan? Please describe potential impact, or provide reference to any evidence: (text entry)

Q5.3 Do you foresee an impact of this FTA on the following sustainable development indicators.

Trade Sustainability Impact Assessment (Final Report)
Free Trade Agreement between the European Union and Japan

| | None (1) | Little (2) | Some (3) | A Lot (4) | Cannot decide (5) |
|--|-------------|---------------|-------------|--------------|-------------------------|
| A. Atmosphere (climate change, ozone layer Depletion, air quality) (1) | | | | | |
| B. Land (agriculture, forest, desertification, urbanisation) (2) | | | | | |
| C. Oceans (seas and coasts, coastal zone, fisheries) (3) | | | | | |
| D. Fresh Water (water use quantity, water quality, water supply) (4) | | | | | |
| E. Biodiversity (ecosystem, protected areas, species) (5) | | | | | |
| F. Mode of productions and consumption (urban areas, energy resources, waste, transport) (6) | | | | | |
| G. Other (7) | | | | | |

Q5.4 Please describe potential impact, or provide reference to any evidence: (text entry)

Q5.5 Do you foresee an impact from this FTA on EU-Japan cooperation on the following environmental policies?

| | None (1) | Little (2) | Some (3) | A Lot (4) | Cannot decide (5) |
|--|-------------|---------------|-------------|--------------|-------------------------|
| A. Sustainable Agriculture (1) | | | | | |
| B. Sustainable Fisheries (2) | | | | | |
| C. Sustainable Forestry (3) | | | | | |
| D. Implementation of Multilateral Environmental Agreements (MEA) (4) | | | | | |
| E. Environmental Goods and Services (5) | | | | | |
| F. Mode of productions and consumption (Urban areas, Energy resources, Waste, Transport) (6) | | | | | |
| G. Other (7) | | | | | |

Q5.6 Please describe potential impact, or provide reference to any evidence: (text entry)

Q5.7 Within the sector your organisation belongs to, do you expect changes in the consumption and productions patterns in the coming years? How would you expect this FTA to affect these changes? Please describe, or provide reference to any evidence: (text entry)

Q5.8 Within the sector your organisation belongs to, to what extent would you expect this FTA to alter production techniques? In particular, would you expect this FTA to foster the development of climate-friendly technologies? Please describe potential impact, or provide reference to any evidence: (text entry)

Q5.9 Has your organisation conducted any analysis of environmental impacts from this FTA? Please summarise its findings and also provide link. (text entry)

Q6.1 Do you foresee changes in your country's trade (imports and exports) of timber and timber products (including paper) as a result of this FTA?

- 11. Yes (1)
- 12. No (2)

Q6.2 What changes do you foresee in your country's trade (imports and exports) of timber and timber products (including paper) as a result of this FTA? Please describe potential impact, or provide reference to any evidence: (text entry)

Q6.3 Do you expect any increase in imports of timber from countries with major problems with forest governance and illegal logging as result of this FTA? Please describe potential impact, or provide reference to any evidence: (text entry)

Q6.4 Do you expect any increase in demand for wood (mainly chips and pellets) for biomass power generation as a result of this FTA? Please describe, or provide reference to any evidence: (text entry)

Q6.5 What societal and cultural impact (e.g. employment, way of life) in the forestry sector do you foresee in your country as a result of this FTA? Please describe potential impact, or provide reference to any evidence: (text entry)

Q7.1 Do you foresee changes in your country's trade (imports and exports) of fish as a result of this FTA?

- 13. Yes (1)
- 14. No (2)

Q7.2 What changes do you foresee in your country's trade (imports and exports) of fish as a result of this FTA? Please describe potential impact, or provide reference to any evidence: (text entry)

Q7.3 Would you expect any increase in imports of fish from potentially illegal, unreported and unregulated (IUU) sources as a result of this FTA? Please describe potential impact, or provide reference to any evidence: (text entry)

Q7.4 Do you foresee societal and cultural impact (e.g. employment, way of life) in the fisheries sector in your country as a result of this FTA?

- 15. Yes (1)
- 16. No (2)

Q7.5 What societal and cultural impact (e.g. employment, way of life) in the fisheries sector do you foresee in your country as a result of this FTA? Please describe potential impact, or provide reference to any evidence: (text entry)

Q8.1 Thank you very much for your time and participation. Your input is much appreciated. Please add any comments or feedback below or email them to us at e.v.garnizova@lse.ac.uk. Best wishes, The LSEE Team

16.3 Survey for European SMEs (English)

Introduction:

The current survey is being carried out by LSE Enterprise, the consultancy arm of the London School and Political Science, on behalf of the Directorate-General for Trade of the European Commission. It is an essential part of the Trade Sustainability Impact Assessment, carried out in support of the ongoing negotiations of a free trade agreement between the European Union and Japan. To facilitate the exchange between the EU and Japan, the two parties are negotiating a free trade agreement (FTA). The FTA is aimed at removing tariff and non-tariff barriers between the countries in the EU and Japan.

In November 2012 the Council authorised the European Commission to start the negotiations with Japan. The negotiations' purpose is to conclude an ambitious and mutually beneficial trade agreement which will lead to economic growth both in the EU and in Japan. During the negotiations a number of concerns are addressed, including the non-tariff barriers which companies such as yours encounter in Japan.

The Trade Sustainability Impact Assessment provides an assessment of the potential economic, social and environmental effects resulting from trade and trade-related aspects of the agreement in the EU and Japan as well as third countries, including developing countries, and Turkey which is in a customs union with the EU.

Our aim is to collect information on potential effects on SMEs resulting from the EU-Japan FTA or from the cooperation of the two countries on the issues. Where applicable, please provide additional information to support your replies. The survey will be instrumental to make it easier for your company to do business in Japan.

The survey will take approximately 15 minutes. You will be able to go back over your responses before clicking the submit button and you can request a copy of the full survey by emailing lsee.tsia-japan@lse.ac.uk. Any incomplete surveys will not be taken into account for the analysis.

The information you give us will be treated as strictly confidential and anonymous. It will feed into LSE Enterprise's overall assessment of the impact of an EU-US trade agreement but no reference to the survey respondents will be made in reports.

Thank you in advance for your feedback.

1. Name of your organisation
2. In which sector does your company operate?
3. What is the number of employees in your company?

Less than 10 people
Less than 50 people
Less than 250 people
Above 250 people

4. What was your total turnover in 2014?

Less than or equal to € 2 million
Less than or equal to € 10 million
Less than or equal to € 50 million
More than € 50 million

Or What was your balance sheet total in 2014?

Less than or equal to € 2 million
Less than or equal to € 10 million
Less than or equal to € 43 million
More than € 43 million

5. In which country is your company located?
6. Does your firm belong to another company or group of companies?
No, we are an independent company
Yes, we belong to a group (subsidiary/affiliate)
Yes, we control a group
7. If headquarters are different, please indicate where?
8. Are you currently involved in trading internationally?
Yes
No

NO: If no, are you planning to do so in the near future?

a.Yes; b. No

If no, why not?

9. Do you do business (buy from/ sell in) in Japan?

NO: If not, are you planning to do so in the near future?

a.Yes; b. No

If no, why not do business in Japan?

10. If yes, which is the main activity?

Purchasing products and parts from Japan
Supplying products and parts to Japanese firms
Subcontractor to Japanese companies
Subcontracting Japanese companies
Involved in technological co-operation with a Japanese partner
Other activity _____

11. If yes, do you face any restrictions in doing business in Japan? Please provide details.
12. What problems need to be addressed for you to conduct business in Japan in the future? Please provide details.
13. Could the Free Trade Agreement have negative effects? How could such negative effects be avoided or lessened? Please provide details.

16.4 Survey for Japanese SMEs (Japanese)

このアンケート調査は、EU・欧州委員会貿易事務総局（the Directorate-General for Trade of the European Commission）の委託を受けて、ロンドン・スクール・オブ・エコノミクス（LSE）のコンサルティング業務を担うLSEエンタープライズがおこなっています。日本・EU間の商取引を促進するため、両者は自由貿易協定（FTA）の交渉に取り組んでいます。この協定はEU加盟国と日本の間における関税および非関税障壁を取り除くことを目的としています。

2012年11月に欧州理事会（the Council）は欧州委員会に日本との交渉開始を認可しました。この交渉の目的は、日本・EU双方の経済成長につながるような、互恵的な貿易協定を締結することです。交渉において多くの課題が提示されましたが、その一つが貴社のような日本の中小企業がEUにおいて直面する様々な非関税障壁です。

このアンケートは貿易持続性影響アセスメント（The Trade Sustainability Impact Assessment）の一環です。このアセスメントは、EUと日本、また途上国を含む第三国との間における貿易及び貿易関連の合意がもたらす、経済、社会、環境面での影響を評価するものです。EUと関税同盟を締結しているトルコも第三国として扱います。

この調査の目的は、日EU間の自由貿易協定やその他の経済協力が中小企業に与える影響について、データを収集することです。回答の多くは選択式ですが、該当する箇所にはできるだけ詳細な回答をお願いしています。このアンケートは、貴社を含む日本の中小企業がEUで事業を展開しやすくするために重要なデータとなります。

このアンケート回答には15分ほどを要します。提出ボタンを押すまでは、前の質問に戻って回答を変更することができます。最終調査結果のコピーを希望される場合は lsec.tsia-japan@lse.ac.ukまでご連絡ください。不完全な回答は分析されません。この調査結果は日EUFTAの最終レポートに反映されますが、個々の企業の名前はレポートに公開されません。

お忙しい中、ご協力ありがとうございます。

Q2 貴社の概要を教えてください。

社名または組織名 (1)

Eメールアドレス (2)

Q3 どのセクター（業種・業界）で事業を展開していますか。

Q4 従業員数を教えてください。（該当するもっとも大きい数字を回答してください）

5人以下(11)

~20人(12)

~50人(13)

~100人(14)

~300人(15)

300人以上(16)

Q5 2014年度に申告された資本金の額を教えてください。

5000万円以下(5)

- ～1億円 (6)
- ～3億円 (7)
- 3億円以上 (8)

Q6 あなたの会社は他の企業または企業グループに属していますか?

- いいえ、独立企業です (1)
- はい、他の企業の子会社または系列企業です； *親会社を教えてください (2)

はい、グループに属していますが、子会社または系列企業ではありません (3)

Q8 あなたの会社は貿易にかかわっていますか (商品・部品の輸出入を含む)

- はい (1)
- いいえ (2)

Q9 将来的に貿易にかかわる計画はありますか

- はい (1)
- いいえ (2)

Q10 貿易を検討しないのはなぜですか。

Q11 何があれば、またはどんな条件がそろえば海外展開を検討しますか

Q12 EU加盟国での事業展開を今後検討しますか。

EU加盟国：アイルランド、英国、イタリア、エストニア、オーストリア、オランダ、キプロス、ギリシャ、クロアチア、スウェーデン、スペイン、スロバキア、スロベニア、チェコ、デンマーク、ドイツ、ハンガリー、フィンランド、フランス、ブルガリア、ベルギー、ポーランド、ポルトガル、マルタ、ラトビア、リトアニア、ルーマニア、ルクセンブルク

- はい (1)
- いいえ (2)

Q13 EUでの事業展開を検討しないのはなぜですか。

EU加盟国：アイルランド、英国、イタリア、エストニア、オーストリア、オランダ、キプロス、ギリシャ、クロアチア、スウェーデン、スペイン、スロバキア、スロベニア、チェコ、デンマーク、ドイツ、ハンガリー、フィンランド、フランス、ブルガリア、ベルギー、ポーランド、ポルトガル、マルタ、ラトビア、リトアニア、ルーマニア、ルクセンブルク

Q14 何があれば、またはどんな条件がそろえばEUでの事業展開を検討しますか。

EU加盟国：アイルランド、英国、イタリア、エストニア、オーストリア、オランダ、キプロス、ギリシャ、クロアチア、スウェーデン、スペイン、スロバキア、スロベニア、チェコ、デンマーク、ドイツ、ハンガリー、フィンランド、フランス、ブルガリア、ベルギー、ポーランド、ポルトガル、マルタ、ラトビア、リトアニア、ルーマニア、ルクセンブルク

Q15 あなたの会社はEU加盟国と取引がありますか（商品・部品の輸出・輸入を含む）。

EU加盟国：アイルランド、英国、イタリア、エストニア、オーストリア、オランダ、キプロス、ギリシャ、クロアチア、スウェーデン、スペイン、スロバキア、スロベニア、チェコ、デンマーク、ドイツ、ハンガリー、フィンランド、フランス、ブルガリア、ベルギー、ポーランド、ポルトガル、マルタ、ラトビア、リトアニア、ルーマニア、ルクセンブルク

はい (1)

いいえ (2)

Q16 EUとの取引を行わないのはなぜですか。

EU加盟国：アイルランド、英国、イタリア、エストニア、オーストリア、オランダ、キプロス、ギリシャ、クロアチア、スウェーデン、スペイン、スロバキア、スロベニア、チェコ、デンマーク、ドイツ、ハンガリー、フィンランド、フランス、ブルガリア、ベルギー、ポーランド、ポルトガル、マルタ、ラトビア、リトアニア、ルーマニア、ルクセンブルク

Q17 EUでの主な活動を教えてください。

EU加盟国：アイルランド、英国、イタリア、エストニア、オーストリア、オランダ、キプロス、ギリシャ、クロアチア、スウェーデン、スペイン、スロバキア、スロベニア、チェコ、デンマーク、ドイツ、ハンガリー、フィンランド、フランス、ブルガリア、ベルギー、ポーランド、ポルトガル、マルタ、ラトビア、リトアニア、ルーマニア、ルクセンブルク

製品・部品の購入や調達 (1)

EU企業への製品・部品の納入 (2)

EU企業の下請け (3)

EU内の下請け企業の管理 (4)

EUのパートナーとの技術協力・提携 (5)

その他 (6) _____

Q18 EUでの事業で、何らかの制約に直面しましたか？ 詳細を教えてください。

EU加盟国：アイルランド、英国、イタリア、エストニア、オーストリア、オランダ、キプロス、ギリシャ、クロアチア、スウェーデン、スペイン、スロバキア、スロベニア、チェコ

、デンマーク、ドイツ、ハンガリー、フィンランド、フランス、ブルガリア、ベルギー、ポーランド、ポルトガル、マルタ、ラトビア、リトアニア、ルーマニア、ルクセンブルク

Q19 将来的にEUで商取引を行う際、どのような問題が解決されるべきでしょうか。

EU加盟国：アイルランド、英国、イタリア、エストニア、オーストリア、オランダ、キプロス、ギリシャ、クロアチア、スウェーデン、スペイン、スロバキア、スロベニア、チェコ、デンマーク、ドイツ、ハンガリー、フィンランド、フランス、ブルガリア、ベルギー、ポーランド、ポルトガル、マルタ、ラトビア、リトアニア、ルーマニア、ルクセンブルク

Q20 日EU自由貿易協定は何らかの悪影響がある可能性がありますか。どうしたらその悪影響を除去ないし軽減できますか。詳細に教えてください。

調査にご協力いただき、ありがとうございます。

疑問・質問などがございましたら、lsee.tsia-japan@lse.ac.uk までご連絡ください

16.5 Sample of stakeholder newsletters



EU-JAPAN FTA: TRADE SIA

ISSUE 4

Dear Sir or Madam,

EU-Japan Summit

In May 2015 the EU and Japan held the 23rd Japan-EU Summit in Tokyo. EU Commissioner for Trade Cecilia Malmström was part of a delegation led by Presidents Jean-Claude Juncker and Donald Tusk and joined by High Representative/Vice-President Federica Mogherini. Between 27 and 29 May she met with the Minister of Foreign Affairs Fumio Kishida, Minister of Economy, Trade and Industry Yoichi Miyazawa, and other Ministers responsible for policy areas being discussed in the negotiations for a free trade Agreement between the EU and Japan and delivered a speech to members of the Keidanren.



In her speech, Commissioner Malmström highlighted the opportunities for growth and prosperity for both economies as a result of the FTA through boosting demand for exports, strengthening competitiveness and exploring untapped potential. She also outlined the issues which could deliver such results: lowering tariffs, boosting investment flows, tackling public procurement and making regulation more compatible. The Commissioner reiterated that the benefits of an ambitious deal go beyond the EU and Japan since the FTA can set an example in the setting of certain standards as well as contribute to an open global market. For the full speech [here](#) and video [here](#).

The Summit followed the 10th round of FTA talks in Tokyo in April where progress was made on a wide range of issues. The 11th round of FTA talks is scheduled to take place in Brussels before the summer break.

The Summit followed the 10th round of FTA talks in Tokyo in April where progress was made on a wide range of issues. The 11th round of FTA talks is scheduled to take place in Brussels before the summer break.

Stakeholder meetings

Also in May, the third meeting of EU-Japan Industrial Dialogue on Railways, organised by the European Commission and Japanese government and joined by the European Rail Industry Association (UNIFE) and Community of European Railway and Infrastructure Companies (CER), took place in Brussels. The Industrial Dialogue addressed issues such as market access coverage, safety standards, and regulatory cooperation, discussing how the agreement can achieve a level playing field between the European and Japanese rail markets.

In parallel, the LSEE team organised a series of round tables for stakeholders, including a round table on potential social impacts, on the motor vehicles sector, on food, feed and tobacco sector (processed foods), and combined round table on business services & financial services sectors and on the other transport equipment sector. Information on the issues raised will feature in the update on the implementation of the stakeholder consultation plan. Further round tables include one on potential environmental impacts, the chemical sector and pharmaceutical and medical devices.

The team is currently working on the finalising the draft interim technical report which will provide our progress with the analysis across all work packages, roadmap for completing the SIA as well as our engagement with stakeholders. The report will be published for feedback by stakeholders at the end of the month.

Survey on environmental, social and human rights impacts

In the meantime we would like to remind you to take part in the EU-Japan Trade SIA survey on social, human rights and environmental impacts launched in May. The aim of our second survey is to collect information on potential impacts resulting from the EU-Japan FTA or from the cooperation of the two countries on the issues. The survey will take approximately 15 minutes. The questionnaire will remain open until 6 July 2015 at midnight CET. Please follow the link: <https://goo.gl/JWS1ns>.

Please do forward this newsletter to other interested individuals and organisations.

Thank you for your interest and input so far.

With kind regards,

LSEE team



LSE Enterprise Ltd

To unsubscribe, please email us with the subject 'UNSUBSCRIBE'.

The Study is commissioned by DG Trade of the European Commission.

16.6 Overview of Civil Society Dialogue Meetings

CIVIL SOCIETY DIALOGUE

MEETING ON TRADE SUSTAINABILITY IMPACT ASSESSMENT (SIA) IN SUPPORT OF NEGOTIATIONS OF A COMPREHENSIVE TRADE AND INVESTMENT AGREEMENT BETWEEN THE EU AND JAPAN

Date: 5 February 2015

Time: 14.30 – 16.00

Location: Charlemagne Building, room Sicco Mansholt, 170 Rue de la Loi, 1049 Brussels

Lead speakers:

Mr Antonio Parenti, Deputy Head of Unit, Far East, Directorate-General for Trade
Mr Timothée Sautter, Co-ordinator of bilateral trade relations with Japan, Directorate-General for Trade
Mr João Pereira, Evaluation Coordinator, Directorate-General for Trade
Ms Jana Votoupal, Evaluation Coordinator, Directorate-General for Trade
Mr Hosuk Lee-Makiyama, LSE Enterprise
Mr Kenneth Heydon, LSE Enterprise
Mr Patrick Messerlin, LSE Enterprise
Mr Philipp Lamprecht, LSE Enterprise
Ms Elitsa Garnizova, LSE Enterprise

Moderator:

Ms Montserrat Gago, Co-ordinator relations with civil society, Information, Communication and Civil Society Unit, Directorate-General for Trade

Panel Presentation:

The European Commission welcomed participants and explained that the session would focus on a presentation by LSE Enterprise (LSEE) followed by questions and answers. The European Commission provided a brief update on the negotiations between the EU and Japan. The European Commission outlined that the parties have undergone nearly two years of negotiations and a lot of progress has been made during the period and recalled that the next round will take place in the week of 23 February 2015. It highlighted that these are major negotiations and the European Commission has been mandated with an ambitious agenda and both parties have committed to cover as many issues as possible. The European Commission underlined that Japan has mentioned that the goal is to finalise the negotiations by the end of the year but substance will prevail over timing as only an ambitious agreement could deliver real benefits to both partners. Negotiators will be closely guided by the Trade SIA and the dialogue with Civil Society representatives.

LSEE delivered a presentation of the Draft Inception Report of the Trade Sustainability Impact Assessment and informed that further comments on the inception report could be

sent via email to LSEE (Lsee.Tsia-Japan@lse.ac.uk) until Monday 16th February 2015. The presentation emphasised the integrated character of the stakeholder consultation in providing input to the study team throughout and during all phases of the study. On sectoral analysis it mentioned that the selection of an 8th sector will be done on the basis of the results of the stakeholders' consultation. It also highlighted that the deadline for the on-going survey to provide input to the sector selection is Tuesday 31st March 2015.

The presentation delivered by LSEE is available at:

http://trade.ec.europa.eu/doclib/docs/2015/february/tradoc_153084.pdf

Discussion highlights / questions and replies:

International Trade Union Confederation (ITUC) made an enquiry concerning the use of a CGE model based on the GTAP8 database. ITUC asked whether it would be possible to include other models to complement the CGE model, which they found problematic due to its assumptions. ITUC suggested inclusion of macroeconomic models, in particular the UN Global Policy Model or the Global Forecasting Framework. ITUC also asked whether the impact on income inequality and wealth inequality would be part of the analysis. With regard to the case studies, ITUC welcomed their use to complement the analysis but asked whether the number of case studies for the social and human rights analysis was not too low. On the environment, ITUC asked how the team would capture the impact of trade liberalisation on environmental goods and services.

Greenpeace European Unit welcomed the use of case studies. Greenpeace highlighted that the EU and Japan are major importers with low bilateral trade volumes in both sectors chosen for the case studies of the environmental analysis. Greenpeace enquired whether an additional case study could be included in the analysis of one of the sectors identified for the sectoral analysis section of the report.

European Services Forum (ESF) welcomed the inclusion of financial and business services as part of the sector selection, highlighting that their inclusion is indispensable. ESF asked how the services sectors are defined. ESF also questioned the criteria used to choose the other sectors for in-depth study and explained that investment is missing from the criteria. ESF pointed out that sectors in which their members have difficulties include the telecom sectors (especially in regards to interconnections and VPN), postal and express delivery, and retail sector. ESF highlighted that it has been very difficult for any EU firm to open retail locations in Japan since this is regulated at the municipality level. ESF also asked how regulatory co-operation would be analysed and highlighted that existing industrial co-operation between the EU and Japan is only within manufactured goods, and not in services.

LSEE explained that the CGE model based on GTAP8 data is currently the best existing model and the only methodology that is satisfactory to capture all the effects of trade liberalisation. LSEE also highlighted that re-doing the economic analysis done under the Impact Assessment falls outside of the scope of the Trade SIA and also explained that the alternative models mentioned have multiple flaws for the study of trade policy impacts.

LSEE clarified that the assessment of the impact on social inequality is part of the methodology for the Trade SIA through indicators such as the Gini coefficient and will feature in the sectoral analysis. With regard to income inequality, skills level effects can also be used as a proxy. On the environmental analysis, LSEE underlined that the team will look at the environmental impacts horizontally in its quantitative analysis that covers the environmental impacts that were requested. LSEE also highlighted that the team will look at the environmental impacts within the analysis of each sector. The choice of the specific environmental case studies outside of these sectors thus maximizes the coverage of environmental issues.

With regard to sector selection, LSEE explained that it is based on publicly available data, and previously utilised classification in the Impact Assessment. Through the sector selection survey, the team will collect feedback on the additional sector to be chosen. If stakeholders do not think that a specific sector is covered by those outlined already, they should contact the team through the survey or the other channels and make a proposal. With regard to investment volumes, data is not available to such disaggregated levels as in the Impact Assessment, and could not be used as an additional criterion.

LSEE also answered that information on regulatory cooperation is relatively limited and the team's approach will be to compare the similarities and differences in prior FTAs of the EU and Japan, taking into consideration the negotiation sequencing and timing which will be especially important.

The European Commission clarified that LSEE are not responsible for redoing the economic modelling. The European Commission explained that the methodology chosen for the Impact Assessment is the best out there in order to calculate impact of trade policy since CGE models are multi-sector, multi-country models that allow inter- and intra-sectoral analysis. The European Commission also explained that the UN global policy model is a macro model and as such it is impossible to plug in detailed trade policy data. Lastly the European Commission highlighted that the analysis does not stop with the economic modelling and that the Consultant will complement the existing work with in-depth sectoral analysis.

The International Confederation of Music Publishers (ICMP) inquired why certain stakeholders have not been included into the list of identified stakeholders in Annex 3 of the report.

The International Federation of the Phonographic Industry (IFPI) supported the question of ICMP and enquired after the composition of Annex 3 asking, in particular why the audio-visual services sector is absent. IFPI also enquired further explanation of the sector selection criteria. IFPI questioned how the team would review the economic impact of the FTA as well as the potential of the FTA to strengthen intellectual property.

AeroSpace and Defence Industries Association of Europe raised two points. Firstly, it highlighted high hopes with regard to aircraft exports while at the same time the European Aviation Safety Agency is not recognised in Japan and asked what can be done with regards to the low market penetration in Japan, especially considering the

importance of NTMs in this regard. Secondly, AeroSpace and Defence Industries Association of Europe asked what could be done to alleviate any environmental impact by the intensification of aircraft movement, and mentioned in particular gains through improved air traffic management (ATM).

LSEE confirmed that based on the variables the team has reviewed the aerospace sector is one of the most interesting. The team is also reviewing transport equipment and any documentation by the Association is much appreciated. LSEE also reiterated that the team is looking into environmental impacts, including the possible technology spill-over effects and other positive impacts of the FTA, and welcomed any documentation available.

With regard to Annex 3 and the stakeholder list, LSEE underlined that the list is only preliminary, only included for purely illustrative purposes, and does not claim to be comprehensive and to exhaust all stakeholders. LSEE explained that no omissions have been deliberate and that the stakeholder consultation is open to all interested parties. There will be numerous channels to provide feedback to the team, among which the on-going sector selection survey.

Confederation of Danish Industry enquired whether any results will be reported at the Member States-level and whether overall the results of the EU-Japan Trade SIA will be comparable with the results from other Trade SIAs such as the one conducted for TTIP.

European Panel Federation expressed an interest in whether the Trade SIA will look into Japan's promotion of the use of domestic wood. The Federation highlighted the existence of labels on furniture 'made in Japan' and inquired how the European wood-working industry would be impacted, especially with regard to certification.

European Services Forum followed-up on an earlier question, highlighting that according to the first three criteria for sector selection, business and financial services would not be included and emphasised again the importance of investments and requested further clarification. ESF also highlighted the importance of Mode 4.

IFPI enquired after the composition of Annex 5 on SMEs and whether any additions could be made.

The European Commission added that the terms of reference for the Trade SIA on EU-Japan are very similar to those of the Trade SIA on TTIP and therefore, although the contractors for the two studies are different, the essential elements should be comparable.

LSEE explained that labour structure and environmental issues would be looked at for each sector. The team highlighted that Member States level impact can be reviewed only for goods using OECD data. The team is exploring the available data. They indicated that there would be material at Member State level in the qualitative section of the social chapter. The economic impact on Member State level would be solely a reflection of industry structure of each Member State, and not necessarily the true effects of EU-Japan trade liberalisation.

LSEE clarified that Annex 5 is also included for purely illustrative purpose and is based on a report by the EU-Japan Centre for Industrial Cooperation compiled in 2013. LSEE does not claim that this list is comprehensive and any additions are welcome.

The chair recalled that 16th February 2015 was the deadline to deliver comments on the draft inception report, in order for them to be taken into account in the final inception report. Comments received after this time would be taken into account for the draft interim report.

List of registered participants:

| <u>Name</u> | <u>Organisation</u> |
|--------------------------|--|
| ALLES, Alexander | EUROCHAMBRES – Association of European Chambers of Commerce and Industry |
| ALTINTZIS, Georgios | International Trade Union Confederation |
| ALVERA, Sandra | DIGITALEUROPE |
| ANKERSMIT, Laurens | ClientEarth |
| AZEVEDO, Daniel | European Farmers |
| BATUT, Laure | European Economic and Social Committee (EESC) |
| BAUMANN, Julia | Deutscher Industrie- und Handelskammertag e.V. |
| BOONSTRA , Else | European Economic and Social Committee (EESC) |
| BROSE, Isabelle | European Panel Federation |
| BUCO, Maria Teresa | Fur Europe |
| CRAIG GRAY, Simon | EU-Japan Centre for Industrial Cooperation |
| CISNEROS, Jesus | Insurance Europe |
| CLARKE, Penny | European Federation of Public Service Unions |
| ENTZMINGER, Catherine | European Cocoa Association |
| FERMONT, Maurice | BUSINESSEUROPE |
| GARTLAND, Josh | COMITE EUROPEEN des FABRICANTS de SUCRE |
| IWASZKO, Xenia | IFPI Representing recording industry worldwide |
| KERNEIS, Pascal | EUROPEAN SERVICES FORUM |
| KANDER, Máté | Association des Constructeurs Européens d'Automobiles |
| KIRKEGAARD, Peter Bay | Confederation of Danish Industry |
| KNIRSCH, | Greenpeace European Unit |

| | |
|------------------------------|--|
| Juergen | |
| LAVA, Paul-Henri | Association de l'Aviculture, de l'Industrie et du Commerce de Volailles dans les Pays de l'Union Europeenne asbl |
| MIEVIS, Diane | DIGITALEUROPE |
| NGUYEN, Jonathan | UNIFE |
| OKA, Shinichiro | Japan Automobile Manufacturers Association, Inc. European Office |
| PAARENDSON, Eve | European Economic and Social Committee (EESC) |
| PAST, Harald | EuroCommerce |
| PATER, Krzystof | European Economic and Social Committee (EESC) |
| PENNING , Sandra | Chambre de commerce et d'industrie de région Paris Ile-de-France |
| PERO, Jerome | Federation of the European Sporting Goods Industry |
| PICON MUNOZ, Concha | ORGALIME |
| POFFERI, Leonardo | Confederazione Cooperative Italiane |
| QUADRO, Stefano | Confederazione Cooperative Italiane |
| ROUHIER, Pascale | European Liaison Committee for Agriculture and agri-food trade |
| SWEDBORG, Siri | ICMP, the global voice of music publishing |
| TSUMITA, Kitayoshi | Japan Business Council in Europe |
| TSURUOKA, Mayuko | Japan Automobile Manufacturers Association, Inc. European Office |
| WALSH, Katrina | Union Européenne du Commerce du Bétail et des Métiers de la Viande |
| YOKOTA, Tetsuya | Japan Business Council in Europe |
| YOSHINO, Seiji | Japan Business Council in Europe |
| ZEIDLER, Anders Grauballe | Danish Shipowners Association |
| ZIVEC, Lucia | AeroSpace and Defence Industries Association of Europe |

CIVIL SOCIETY DIALOGUE

MEETING ON STATE OF PLAY OF THE EU-JAPAN TRADE NEGOTIATIONS AND UPDATE ON THE TRADE SUSTAINABILITY IMPACT ASSESSMENT

Date: 25/06/2015

Time: 14h30 – 16h30

Location: Centre Albert Borschette, Room AB-5B, Rue Froissart, 1040 Brussels

Lead speakers:

Mr Antonio Parenti, Deputy Head of Unit, Far East, Directorate-General for Trade
Mr Timothée Sautter, Co-ordinator of bilateral trade relations with Japan, Directorate-General for Trade
Ms Jana Votoupal, Evaluation Coordinator, Directorate-General for Trade
Ms Alessandra Tucci, Economist, Chief Economist and Trade Analysis Unit, Directorate-General for Trade
Mr Hosuk Lee-Makiyama, LSE Enterprise
Mr Stephen Woolcock, LSE Enterprise
Mr Philipp Lamprecht, LSE Enterprise

Moderator:

Mr. Didier Bloch, Policy Officer, Information, Communication and Civil Society Unit, Directorate-General for Trade

Panel Presentation:

Mr. Bloch opened the meeting with a brief introduction of the main speakers.

Mr. Parenti of DG Trade presented the state of play of the ongoing EU-Japan FTA negotiations. The EU-Japan summit that took place at the end of May 2015 provided a new impetus to the negotiations. He reaffirmed the goal of finalizing the negotiations by the end of 2015, while noting that the process could continue until 2016. Intersessional and full negotiation rounds have been ongoing and focused on NTMs, public procurement, services and GIs, for example. The EU currently awaits Japanese feedback on the 2nd list of NTMs. On public procurement, Mr. Parenti noted that negotiations in this area are complicated and could take more time. There are also discussions on sustainable development and future regulatory cooperation. In addition, a sectoral annex on cars has been discussed. Mr. Parenti stated that there will be additional negotiation rounds up to the G20 meeting in December, where leaders will assess the next steps of the EU-Japan negotiations.

Discussion Highlights / Questions and Replies:

EESC inquired about an update on the sustainable development chapter. In particular, EESC inquired about the work on relevant mechanisms concerning the Domestic Advisory Group (DAG) such as the identification of reciprocal organisations in Japan. On ISDS, the representative asked for a confirmation that the EU-Japan negotiations are based on the CETA model. A representative from the Danish industry stressed that TPP will give the USA a head start in the Japanese market. He inquired what could be done in order to reduce this negative impact for the EU. EESC stressed that the negotiations

should be accelerated. EESC also inquired about proposals of a SME chapter and about the progress on the services side.

Mr. Parenti replied that no options in the negotiations on the sustainable development chapter are precluded, whereas one of the difficulties is that Japanese civil society is not used to the process. On ISDS, Mr. Parenti stressed that there is currently still an internal examination of the exact model to be used. He emphasized that the outcome of the TPP negotiations will take a lot of time to be implemented. Speeding up the negotiations is an option, but it also depends on the TPP negotiations. He stated that there is no SME chapter at the moment, noting that this is one of the issues which could also be directly addressed by dissolution of NTMs. There has not been major progress in the services negotiations. Japan Post remains an important issue.

Humane Society International/Europe asked about references to Multilateral Environmental Agreements (MEAs) and the issue of whaling. A representative from the International Federation of Reproduction Rights Organisations (IFFRO) inquired which areas of copyright are included in the agreement and whether the cultural sector and the book sector are specifically addressed. The Italian Association of GI producers mentioned a new law in Japan on GIs and asked about an update on GIs in the negotiations. The European Patent office asked about the state of play of the IP chapter.

Mr. Parenti stated that some MEAs are covered by the sustainable development chapter. He also replied that whaling is not addressed in the FTA negotiations. On IP, copyright and the specific question of patents, no specific proposal has been given yet as negotiators wait for the outcome of TPP. On GIs, Mr. Parenti confirmed that the new law in Japan is relevant but insufficient and stated that the issue of GIs is a point of contention between the EU and Japan.

The German business representation BDI mentioned the issue of rules of origin and highlighted that in comparison to TTIP negotiations, a more liberal approach should be taken in EU-Japan FTA negotiations. This would also result in an advantage for SMEs. He also asked for an update on the issue of medical devices.

Mr. Parenti replied that internal coordination on rules of origin is not completed yet and that this issue will be dealt with in the final phase of the negotiations. On medical devices, he noted that overall progress in the negotiations is good.

The German business representation BDI stressed the importance of increasing transparency of the negotiations and asked about the resolution mechanism for NTMs. EESC noted the importance of eHealth issues for the EU-Japan negotiations.

Mr. Parenti replied that increasing transparency is a major priority of DG Trade. He also stated that finding a common mechanism of NTB resolution is important.

A representative from the EU wine industry (CEEV) asked about the timetable of tariff reduction in wines, which is important given the severe competition they face from Australia and Chile. He also inquired about progress on the issue of food additives.

Mr. Parenti stated that all food additives of the first list of NTMs have been approved by Japan. He also noted that a second list of food additives has been submitted. Concerning tariff elimination on wines, the EU has tabled a request and negotiations are ongoing.

Panel Presentation:

Mr. Lee-Makiyama presented the interim report of the EU-Japan Trade SIA study and the state of play of the ongoing research work. Mr. Lee-Makiyama stressed that the interim report presents work in progress and that additional ongoing research will also rely on further stakeholder feedback, which is a crucial source for the Trade SIA. He provided a brief overview of the economic, social and environmental sections of the report, as well as the individual sector studies and the state of play of the ongoing stakeholder

consultations. A timeline of the next steps as well as further measures to receive stakeholder feedback were presented as well. Through stakeholder feedback, survey and other recorded opinions, retail and wholesale (classified under "Other Services" in the 2012 Impact Assessment) has been suggested as the additional eighth sector for further analysis in the Trade SIA. The final selection was based on the selection method used for other sectors.

Discussion Highlights / Questions and Replies:

A stakeholder from the electrical engineering industry inquired why the sectors of electrical manufacturing and mechanical engineering were not included as a specific sectoral study in the Trade SIA. EESC asked why the report does not lay a stronger focus on the defensive interests of trading partners.

Mr. Lee-Makiyama stressed the importance of electrical machinery in this FTA, especially for employment, and that technical barriers to trade (TBTs) are addressed in the economic section of the Trade SIA. Furthermore, key sectors, of both offensive and defensive nature, are highlighted in the Trade SIA. Mr. Woolcock from LSE further stressed that the chapters on TBTs of the economic section will address aspects of interest to electrical machinery and engineering.

Japan Automobile Manufacturers Association (JAMA), European office, stressed that Japan has adopted three new UNECE regulations in the passenger car sector. He also stated that the issue of acquisition tax is being addressed as this tax is already becoming lower.

Mr. Lee-Makiyama stated that IPR issues are included in the report. However, patent related issues are not elaborated, explained by the state of play of the negotiations.

List of registered participants:

| <u>Name</u> | <u>Organisation</u> |
|--------------------------|---|
| APREA, Chiara | Union européenne de l'Artisanat et des petites et moyennes entreprises, aisbl |
| BERNARD, Guillaume | ASSOCIATION EUROPÉENNE DU COMMERCE DE FRUITS ET LÉGUMES DE L'UE - European Fruit and Vegetables Trade Association |
| BOYLE , Sandy | European Economic and Social Committee (EESC) |
| BRANDENBURG, Felix | ASSUC- European Association of Sugar Traders |
| CHAPELLE, Sylviane | European Patent Office |
| CISNEROS, Jesus | Insurance Europe |
| FITCH, Jessica | European Council of Young farmers |
| GROSBOIS, Claire | STARCH EUROPE |
| HØYER, Lise Andreasen | Danish Dairy Board Brussels s.a. |
| HÜLL, Hannah | Zentralverband Elektrotechnik- und Elektronikindustrie e.V. |
| ISTAR ATES, | TUSIAD |

| | |
|---------------------------------|--|
| Dilek | |
| JENKINS, Tom | EUROPEAN TRADE UNION CONFEDERATION |
| KANDER, Máté | Association des Constructeurs Européens d'Automobiles |
| KIRKEGAARD, Peter Bay | Confederation of Danish Industry |
| KOENE, Laura | PROFEL - European Association of Fruit and Vegetable Processors |
| LAVA, Paul-Henri | Association de l'Aviculture, de l'Industrie et du Commerce de Volailles dans les Pays de l'Union Européenne asbl |
| LESBURGUERES, Pierre-Olivier | International Federation of Reproduction Rights Organisations |
| LOSSY, Fanny | Associazione Italiana Consorzi Indicazioni Geografiche |
| MARIN, Cristina | Bureau Européen de l'Agriculture Française |
| MELCHIOR, Frederic | European Coordination Committee of the Radiological, Electromedical and healthcare IT Industry |
| MULVIHILL, Conor | Irish Co-operative Organisation Society Ltd. |
| MÉRIAUX, Jean-Luc | Union Européenne du Commerce du Bétail et des Métiers de la Viande |
| NAULIN, Sylvain | Comité Européen des Entreprises Vins |
| O' DONOVAN, Alice | EUROPEAN ASSOCIATION OF DAIRY TRADE |
| OKA, Shinichiro | Japan Automobile Manufacturers Association, Inc. European Office |
| PAARENDSON, Eve | European Economic and Social Committee (EESC) |
| PEEL, Jonathan | European Economic and Social Committee (EESC) |
| PERRIS, Nikos | Fur Europe |
| PEUZIAT, Jean-Philippe | UNIFE |
| QUADRO, Stefano | Confederazione Cooperative Italiane |
| RAMADANI, Visar | Verband der Chemischen Industrie e.V. |
| SCHWARZ, Friederike | Deutscher Industrie- und Handelskammertag e.V. |
| SWABE, Joanna | Humane Society International/Europe |
| TAKITA, Yu | Insurance Europe |
| TRUYENS, Alix | Federation of the European Sporting Goods Industry |
| TSURUOKA, Mayuko | Japan Automobile Manufacturers Association, Inc. European Office |
| UNGER, Eckart | Bundesverband der Deutschen Industrie e.V. |

| | |
|--------------------------------|---|
| WEILER, Isabelle | EUROPEAN APPAREL AND TEXTILE CONFEDERATION |
| WORSØE, Katinka Clausdatter | Confederation of Danish Enterprise |

CIVIL SOCIETY DIALOGUE

OUTREACH – TRADE SUSTAINABILITY IMPACT ASSESSMENT (SIA) IN SUPPORT OF NEGOTIATIONS BETWEEN THE EU AND JAPAN

Date: 20/11/2015

Time: 14:30 – 16:30

Location: Albert Borschette Conference Centre, Room 3C, Rue Froissart 36, Brussels

Speakers:

Mr. Peter Berz, Head of Unit, Far East, Directorate-General for Trade
Mr. Timothée Sautter, Co-ordinator of bilateral trade relations with Japan, Directorate-General for Trade
Ms Jana Votoupal, Evaluation Coordinator, Directorate-General for Trade
Ms Alessandra Tucci, Economist, Chief Economist and Trade Analysis Unit, Directorate-General for Trade
Mr. Hosuk Lee-Makiyama, LSE Enterprise
Mr. Patrick Messerlin, LSE Enterprise
Ms. Stefania Lovo, LSE Enterprise
Mr. Philipp Lamprecht, LSE Enterprise

Moderator:

Ms Montserrat Gago, Co-ordinator relations with civil society, Information, Communication and Civil Society Unit, Directorate-General for Trade

Mr. Peter Berz started the meeting with an introduction on the state of play of the negotiations, with recent exchange of offers on services and public procurement. He stressed that the results of the Trans-Pacific Partnership (TPP) agreement cannot set the limits on the outcome of the EU-Japan FTA. The EU aims at obtaining higher results and is willing to make higher concessions for it. He also stated that the EU-Japan FTA will likely not be finished in 2015.

Discussion Highlights / Questions and Answers:

A representative from the EESC inquired about an update on a sustainability chapter and about the structure of involving civil society. DG Trade replied that there is progress in the negotiations on the Trade and Sustainable Development (TSD), but Japan is still reluctant to engage in details on the issue of the civil society monitoring mechanism.

The Eurogroup for Animals inquired to what extent animal welfare will be included and whether the proposals for the negotiations will be disclosed. DG Trade stated that it has been agreed that animal welfare will be included into the agreement and that negotiations on the text are currently ongoing under the SPS chapter. Regarding transparency on the proposals for negotiations, the approach is discussed with the Council and the European Parliament.

The ZVEI (Zentralverband Elektrotechnik- und Elektronikindustrie e.V.) inquired on offers in negotiations on government procurement, on the state of play on market access in goods and the linkage with the rules of origin, and TBT. DG Trade replied that negotiators aim at GPA-plus and TBT-plus outcomes. Concerning preferential rules of origin, the Commission is well aware of their importance for market access in goods.

A representative from EPF inquired about the issues of illegal timber and timber, domestic preferences and NTMs in the construction industry. DG Trade replied that it is a serious offensive interest for the EU and that the Commission pays attention both to tariffs and relevant NTMs. Mr. Lee-Makiyama also referred to the NTMs that are discussed in the case study under the environmental analysis of the Trade SIA.

Presentation of the Draft Final Report:

Mr. Lee-Makiyama from LSE Enterprise gave a brief overview of the findings of the Trade SIA.

Mr. Peter Berz pointed out that stakeholders have until 11th December 2015 to submit feedback on the draft final report. He also mentioned that a position paper will be presented by DG Trade in spring next year.

Discussion Highlights / Q&As:

EESC inquired how the gini coefficient is calculated concerning the social analysis. EESC also inquired if ISDS would be included in the FTA.

ACEA pointed out that demographics should be included when assessing the impact of the EU-Japan FTA. The Japanese market does not appear to be growing in the future and car ownership is also on a downward trend in Japan. ACEA made reference to the importance of the kei car market for European business. Finally, ACEA stated that if the tariffs on motor vehicles in the EU are abolished, increased trade might have a negative effect on investment by Japan and might thus have a negative effect on EU employment.

JAMA mentioned that the taxes on Kei cars have increased. Furthermore, they stressed that despite a decline of the Japanese market during this year, Japan still has the potential of a market size of 5 million, which is still the third largest in size. Also, the Tokyo Olympics in 2020 could promote market growth. On the issue of the young generation losing interest in car ownership, JAMA stated that other countries have the same problem, including EU countries with a mature economy.

ACEA remained sceptical about the effect from the Tokyo Olympics on the passenger car market. It also referred to projections that the Japanese population will decrease in the future. The Trade SIA should take more into account that Japan is a declining market.

Mr. Lee-Makiyama from LSE Enterprise referred to the references already made on population changes in the report. However, the Trade SIA is meant to assess how the EU-Japan FTA impacts a baseline (a no-FTA scenario). Population size is unaffected by the FTA. He explained that the gini coefficient relies on the calculation of wages, taking into account skill groups used in different sectors. On the issue of ISDS, he stated that the LSE Enterprise team could not find a case of a Japanese firm involved in an investor-state dispute.

Mr. Peter Berz then stated that there is a reform of ISDS provisions in the context of the Transatlantic Trade and Investment Partnership (TTIP) and that this will be reflected in the EU-Japan negotiations.

COPA-COGECA stated that it has offensive interests and it is thus supportive of the EU-Japan FTA. However, it inquired to what extent the positive impacts for its industry resulting from the EU-Japan FTA could be outweighed by negative impacts resulting from TPP and other agreements.

Mr. Patrick Messerlin from LSE Enterprise answered that it depends on the degree of liberalisation envisaged in the EU-Japan FTA, which is, according to LSE Enterprise, likely to be between 50-100%.

EESC also inquired about whether Japan has a similar communication strategy as to the EU Trade SIA process, and if there are further follow-up activities to the Trade SIA. It also thanked the LSE Enterprise team for a pleasant cooperation.

LSE Enterprise repaid acknowledgement. DG Trade replied that it is not aware of any similar communication strategy by Japan, and that after the completion of the Trade SIA, the Commission will prepare a position paper on the findings of the Trade SIA.

List of registered participants:

| <u>Name</u> | <u>Organisation</u> |
|-------------------------|--|
| AZEVEDO, Daniel | European Farmers |
| BATUT, Laure | European Economic and Social Committee (EESC) |
| BERGELIN, Erik | Association des Constructeurs Européens d'Automobiles |
| BROSE, Isabelle | European Panel Federation |
| CRAIG GRAY, Simon | EU-Japan Centre for Industrial Cooperation |
| CABANNE, Cédric | European Economic and Social Committee (EESC) |
| CHAPELLE, Sylviane | European Patent Office |
| CHÂTELLIER, François | European Patent Office |
| DANUSEVIČS, Henriks | Latvijas Tirgotāju asociācija |
| DEWAR, Flora | European Dairy Association aisbl |
| DOZ ORRIT, Javier | European Economic and Social Committee (EESC) |
| FERMONT, Maurice | BUSINESSEUROPE |
| HAJDU, Nelli | Freshfel Europe - the forum for the European fresh fruits and vegetables chain |
| HÜLL, Hannah | Zentralverband Elektrotechnik- und Elektronikindustrie e.V. |
| KANDER, Máté | Association des Constructeurs Européens d'Automobiles |
| KOENE, Laura | PROFEL - European Association of Fruit and Vegetable Processors |
| LAVA, Paul-Henri | Association de l'Aviculture, de l'Industrie et du Commerce de Volailles dans les Pays de l'Union Européenne asbl |
| LIVIDINI, Thomas | US Dairy Export Council |
| MARIN, Cristina | Bureau Européen de l'Agriculture Française |
| MELEGARI, Silvia | European organisation of the sawmill industry |
| MIEVIS, Diane | DIGITALEUROPE |

| | |
|--------------------------------|---|
| NAULIN, Sylvain | Comité Européen des Entreprises Vins |
| O' DONOVAN, Alice | EUROPEAN ASSOCIATION OF DAIRY TRADE |
| OKA, Shinichiro | Japan Automobile Manufacturers Association, Inc. European Office |
| PAARENDSON, Eve | European Economic and Social Committee (EESC) |
| PERO, Jerome | Federation of the European Sporting Goods Industry |
| QUAINI, Priscila | Apex-Brasil Brussels-Europe |
| REITERER, Regina | European Milk Board |
| SAINT LAGER, François | BREIZ EUROPE |
| SELANDARI, Silvia | ORGALIME |
| TRUYENS, Alix | Federation of the European Sporting Goods Industry |
| TSURUOKA, Mayuko | Japan Automobile Manufacturers Association, Inc. European Office |
| WALTER, Jan | Eurogroup for Animals |
| WORSØE, Katinka Clausdatter | Confederation of Danish Enterprise |
| YOKOTA, Tetsuya | Japan Business Council in Europe |

16.7 Overview of roundtables for stakeholder consultation

Stakeholder Roundtable on Potential Social Impacts of EU-Japan FTA

Thursday, 23 April 2015, 14h30 to 17h00,

European Economic and Social Committee, Jacques Delors Building,

Room JDE 3252, Rue Belliard 99-101, Brussels.

Programme:

- | | |
|---------------|--|
| 14h30 - 14h40 | Introduction by Mr. Ken Heydon, LSE Enterprise team. |
| 14h40 - 16h50 | Discussion of topics I to IV. The discussion will be guided by individual questions outlined below. At the outset, before the detailed questions are addressed, stakeholders will be invited to summarize their main interests and perspectives. |
| 16h50 - 17h00 | Short summary and concluding remarks by Mr. Ken Heydon, LSE Enterprise team. |

Topics for discussion:

I: Quantitative analysis section:

1. What is likely to be the effect of trade opening in the FTA on overall EU:
 - a. Employment and skills development?
 - b. Working conditions, including wages, social dialogue and health & safety?
 - c. Income distribution and social inclusion, including social protection schemes?
 - d. Health and education?
2. Is trade opening in the FTA likely to impact differently on manufacturing and services?
3. Is there likely to be a gender impact from trade opening?
4. Which sectors are likely to gain and lose?
5. What is likely to be the relative labour market impact of (a) trade opening in the FTA and (b) technological change?
6. How might EU consumers and consumer protection be affected by the FTA?
7. What FTA provisions are needed to foster compliance with undertakings in employment-sensitive areas, like NTBs in the motor vehicle sector?
8. What flanking measures, such as active labour market policies, might be needed to deal with trade related structural adjustment?

II: Qualitative Analysis section (labour standards, social dialogue and human rights):

1. What scope is there to use the FTA to secure improved compliance, in the EU and Japan, with core labour standards?
2. What should be the priority areas of attention in the FTA among the 8 ILO Fundamental Conventions?
3. What lessons can be drawn from EU-Korea and EU-Canada in dealing with labour standards in FTAs, including for the effectiveness of:
 - a. The Committee on Trade and Sustainable Development?
 - b. The Panel of Experts?
 - c. Technical cooperation and advice from the ILO?
 - d. Involvement of the ILO in dispute resolution?
 - e. The Domestic Advisory Group?
 - f. The Civil Society Forum?
4. How might provisions in the FTA impact on human rights and on the ability of partners to comply with their human rights obligations against the benchmark of the EU Charter of Fundamental Rights?
5. What lessons can be drawn from provisions in recent FTAs dealing with issues such as freedom of expression (for example in provisions on e-commerce or audio-visual services) and data privacy?

III: Discussion of Case Study: The Gender Gap in Employment and Wages:

1. How do you view the status of women in the EU and Japanese workforce?
2. What scope is there to use the FTA to improve the status of women in employment and wages in the EU and Japan?
3. In particular, what is the scope to use the FTA to obtain improved compliance, implementation and monitoring of the ILO conventions addressing non-discrimination, including gender inequality in the workforce?
4. On which ILO instruments should attention focus?
5. What flanking measures should accompany provisions in the FTA, such as:
 - a. Fostering improved public awareness of existing anti-discrimination legislation in the EU and Japan.
 - b. Reform in the areas of fiscal, social and education policy.
6. What economic and social benefits might be expected from reduced gender gaps in employment and wages in the EU and Japan?

IV: Discussion of Case Study: Mode 4 Delivery of Services (the presence of natural persons):

1. What are the main regulatory impediments to the movement of service professionals, including immigration laws, labour market regulation, recognition of professional qualifications, and the provision of health care and other social services for service providers and accompanying family?
2. What might be expected from the FTA in improving the mobility of service providers between the EU and Japan?
3. What lessons might be drawn from EU-Korea and EU-Canada on the fostering of mutual recognition of professional qualifications?

4. Can a precedent be expected from the provision in EU-Korea and EU-Canada that in the case of temporary entry of service providers, all requirements regarding work and social security measures shall continue to apply, including regulations concerning minimum wages and collective wage agreements?
5. What economic and social benefits might be expected from:
 - a. Liberalisation commitments in the FTA on mode 4 delivery of services?
 - b. Enhanced cooperation in the mutual recognition of professional qualifications?

List of registered participants:

| <u>Name</u> | <u>Organisation</u> |
|-----------------------|--|
| Paul-Henri Lava | a.v.e.c. Association of Poultry Processors and Poultry Trade in the EU countries |
| Nils Karssen | AVISA |
| Desirée LeClercq | ILO |
| Pascal Kerneis | ESF |
| Máté Kander | ACEA |
| Salla Ahonen | Confederation of Finnish Industries EK |
| Maret Veiner | CECIMO |
| Philippe Huysveld | GBMC (Global Business & Management Consulting) |
| Motoko Huysveld | GBMC (Global Business & Management Consulting) |
| Maurice Fermont | BusinessEurope |
| Daniele Basso | ETUC |
| Alexander Kirschall | Deutsche Post DHL |
| Tzonka Iotzova | EESC |
| Cédric Cabanne | EESC |
| Ichiro Takahashi | East Japan Railway Company Brussels Branch |
| Tetsuro Fukunaga | JMC (Japan Machinery Centre for Trade and Investment) |
| Frederic Feller | Toyota Motor Europe |
| Concha Picón Muñoz | Orgalime |
| Jesus Cisneros | InsuranceEurope |
| Cecile Coulet | ESF |
| Giovanni Casale | UIL (Unione Italiana del Lavoro) |
| Yuki Hirajo | Grayling |
| Magdalena Ruda | EESC |
| Melina van der Velden | European Parliament |
| Elina Viilup | European Parliament |
| Shinichiro Oka | JAMA |
| Mayuko Tsuruoka | JAMA |
| Patrice Chazerand | DigitalEurope |
| Jana Votoupal | European Commission |

Summary minute:

The participants discussed both the quantitative and qualitative implications of the agreement and also referred to the proposed case studies. The discussion first focused on the impact on jobs and employment and the participants made reference to previous studies conducted both in Europe and Japan. Participants highlighted the different impacts across sectors and the importance of the sectoral analysis to explore these differences. The attendees agreed that the consumer impact (on consumer standards, protection and safety) has not been raised as a concern on either side. They also agreed that gender equality, human rights, freedom of expression and data privacy should be looked at within the international context as well as the positive spill over from an agreement between the EU and Japan. The LSEE team noted the suggestions put forward and as a follow-up has reviewed the studies and data suggested, as well as highlighted the issues discussed as part of the social chapter presented in the final report.

**Roundtable for Stakeholders in the Motor Vehicles Sector
on Potential Economic Impacts of EU-Japan FTA**

Wednesday, 29 April 2015, 9h00 to 10h30,

European Centre for International Political Economy (ECIPE),

Rue Belliard, 4-6, 1040, Brussels.

Programme:

- | | |
|---------------|--|
| 9h00 - 9h05 | Introduction by Mr. Lee-Makiyama, LSE Enterprise team. |
| 9h05 - 10h25 | Discussion of topics 1 to 3. |
| 10h25 - 10h30 | Short summary and concluding remarks by Mr. Lee-Makiyama, LSE Enterprise team. |

Topics for discussion:

The overall topic of discussion is: "EU-Japan FTA and domestic production of automobiles and commercial vehicles". The agenda of the meeting lays a focus on European production of passenger cars, the customs union with Turkey, and commercial vehicles. Please observe that we do not wish to discuss any individual decisions by corporations.

1. Passenger cars:

1.1 Impact on production in Europe:

- What are the expected results from tariff liberalisation on production in Europe?
- What are the assumptions behind these expectations?
- What are, industry-wide, the key incentives for investments in Europe?
- Official statistics suggest varying productivity and value-added in EU production. What are the causes, and how should we interpret these numbers?
- What are the flanking measures you suggest to tariff liberalisation?

1.2 Supply chains:

- What are the main features of trade in components between EU and Japan?
- What are the incentives behind them? In which areas (products, third markets) are there complementarity and competition?
- Will the industrial cooperation between Japanese and EU manufacturers increase relative to other relationships?

- Where are the impediments on trade in spare parts (after-market sales)?

1.3 Smart cars and future technologies:

- What are the market impact from new-entrants and "industry 4.0"?
- Any future trade and supply chain issues - globally and or bilaterally.

2. Customs union with Turkey:

- What are main incentives for production in Turkey?
- To what extent are these supply chains integrated?
- What are the expected results from tariff liberalisation?
- What are the assumptions behind these expectations?
- What are the flanking measures you suggest to possible trade diversion (to/from Europe)?

3. Commercial vehicles:

- What is the relative importance of EU and Japanese markets? Are there (structural, temporary) differences in demand?
- What impact on trade in commercial vehicles?
- What are the expected results from tariff liberalisation?
- What are the key impediments on trade?

List of registered participants:

| <u>Name</u> | <u>Organisation</u> |
|---------------------------|---------------------|
| Mate Kander | ACEA |
| Erik Bergelin | ACEA |
| Anthony Millington | ACEA |
| Frederic Feller | Toyota Motor Europe |
| Georgios Altintzis | ITUC |
| Niels Karssen | AVISA |
| Raluca Schumacher | ALSTOM |
| Yuki Hirajo | Grayling |
| Vanessa Chesnot | Grayling |
| Maurus Unsoeld | BMW |
| Ute Deceuninck-John | Daimler |
| Sabine Jost-Heil | Daimler |
| Simon Ashwell | Ford |
| Catherine Berckmans | GM Europe |
| Madeleine Koskull | Hyundai |
| Marie-France Van der Valk | Renault |
| Clara Brück | Scania |
| Melissa Günnewig | Volkswagen Group |
| Patrice Chazerand | DigitalEurope |
| Klemens Kober | BDI |
| Mayuko Tsuruoka | JAMA |
| Shinichiro Oka | JAMA |

| | |
|--------------------|---|
| Kenji Mikami | Japan Machinery Center for Trade & Investment |
| Gohar Topchyan | EESC |
| Vessela Wassenaar | ETRMA |
| Fabienne Goyeneche | ETRMA |
| Eleri Wessman | CLEPA |
| Kristina Hahnemann | VDA (German Association of the Automotive Industry) |
| Yoshihiro Yano | JAMA |
| Tetsuro Fukunaga | JMC (Japan Machinery Centre for Trade and Investment) |
| Hideaki Homma | Toyota Motor Europe |
| Jesper Kleingeld | Brunswick |

Summary minute:

The overall topic driving the discussion was 'EU-Japan FTA and domestic production of automobiles and commercial vehicles'. The meeting reviewed impact assessments undertaken by the European Commission and the stakeholders, with a comparison of the assumptions and the results of each study. The discussions also covered effects on European production of passenger cars, the customs union with Turkey, commercial vehicles, parts and supply chains and future challenges, e.g. smart cars. The LSEE team presented an overview of existing studies that assess the potential impact of the EU-Japan FTA on the motor vehicles sectors in the EU and Japan. The attendees highlighted the importance of the final outcome of the negotiations. The discussion has been reflected in the final report.

Roundtable for Stakeholders in the Food, Feed & Tobacco (Processed Foods) Sector on Potential Economic Impacts of the EU-Japan FTA

Thursday, 7th May 2015, 14h00 to 15h30,

European Centre for International Political Economy (ECIPE),

Rue Belliard, 4-6, 1040, Brussels.

Programme:

- | | |
|---------------|---|
| 14h00 - 14h05 | Introduction by Prof. Patrick Messerlin, LSE Enterprise team. |
| 14h05 - 15h25 | Discussion of topics 1 to 2. |
| 15h25 - 15h30 | Short summary and concluding remarks by Prof. Patrick Messerlin, LSE Enterprise team. |

Topics for discussion:

The overall topic of discussion is: "EU-Japan FTA and the processed food sectors". The agenda of the meeting lays a focus on European production of processed food products, EU offensive and defensive interests, and the interactions of the EU-Japan discussions with those on the Trans-Pacific Partnership (TPP). Please observe that we do not wish to discuss any individual decisions by corporations

1. Processed food sectors:²⁶⁷

1.1 Impact on production in Europe:

- What are the expected results from tariff liberalisation on production in Europe and in Japan?
- What are the assumptions behind these expectations?
- What are, industry-wide, the key incentives for investments in Europe and in Japan?
- What are the flanking measures you suggest to tariff liberalisation in Europe and in Japan?

1.2 Supply chains:

- What are the main potentials of trade in components in the food sectors between EU and Japan?

²⁶⁷ The sectoral classification of the processed foods sector used by the European Commission is the basis for the TSIA study. It includes, among others, the following product groups: beefmeat and preparations; porkmeat and preparations; dairy products and cheese; candies, chocolates, pasta, breads; waters and non-alcoholic beverages; wines, spirits, beer; sorbitol and starches. Any other processed foods sectors will be considered as well, if participants wish so.

- What are the incentives behind them? In which areas (products) is there complementarity and competition?
- Will the industrial cooperation between Japanese and EU processed food manufacturers increase relative to other relationships — in particular in third markets such as China — banking on food safety in EU and Japan?

1.3 Non-tariff measures (NTMs):

- Are there criteria for “prioritizing” among the NTMs (sanitary and phytosanitary measures (SPS)) which can be suggested by the businesses?
- How do you evaluate the future of using the mutual equivalence approach for (some) NTMs (SPS) in the food sectors? Mutual equivalence means that each party recognizes the regulations of the other party as “different but equivalent” — hence accepting without restrictions the regulations of the partner. Mutual equivalence is preceded by a mutual evaluation of the regulations of the two parties by their regulatory bodies.

2. EU-Japan negotiations and TPP negotiations:

- How do you evaluate the interaction between these two negotiations?

List of registered participants:

| <u>Name</u> | <u>Organisation</u> |
|----------------------|--|
| Niels Karssen | AVISA |
| Yuki Hirajo | Grayling |
| Vanessa Chesnot | Grayling |
| Patrice Chazerand | DigitalEurope |
| Kenji Mikami | Japan Machinery Center for Trade & Investment |
| Gohar Topchyan | EESC |
| Paul-Henri Lava | a.v.e.c. Association of Poultry Processors and Poultry Trade in the EU countries |
| Alice O'Donovan | Eucolait |
| Felix Martin | UECBV |
| Jose Ramon Fernandez | Pernod Ricard |
| Yutaka Nishigaki | JCIF Brussels |
| Louis Hinzen | FoodDrinkEurope |
| Margherita Rosada | EU-Japan Centre for Industrial Cooperation |
| Daniel Azevedo | COPA-COGECA |
| Maike Möllers | Landmark Europe |
| Flora Dewar | European Dairy Association/European Whey Products Association |
| Jesper Kleingeld | Brunswick |

Summary minute:

The overall topic of discussion was 'EU-Japan FTA and the processed food sectors'. Stakeholders discussed European production of processed food products, EU offensive and defensive interests, and the interactions of the EU-Japan discussions with those on the Trans-Pacific Partnership (TPP). On the first point the participants shared their views on the impact on production in Europe, the impact on supply chains and the importance of both further tariff reductions and non-tariff measures (NTMs). On the issue of NTMs stakeholders flagged that issues related to mutual recognition and recognition of equivalence are important for evaluating the impact. Discussants also spoke about the positive consumer impact and the importance of Japan as a hub and opportunities for European companies from the agreement. The comments received and the follow-up materials have been used by the team for finalising the overview of the specific sector.

Roundtable for Stakeholders in the Business Services and Financial Services Sectors on Potential Economic Impacts of the EU-Japan FTA

Friday, 8th May 2015, 14h00 to 16h00,

BusinessEurope, Schuman room,

Avenue de Cortenbergh 168, 1000, Brussels.

Programme:

- 14h00 - 14h05 Introduction by Mr. Lee-Makiyama and Mr. Patrick Messerlin, LSE Enterprise team.
- 14h05 - 15h55 Discussion of topics 1 to 3.
- 15h55 - 16h00 Short summary and concluding remarks by Mr. Lee-Makiyama and Mr. Patrick Messerlin, LSE Enterprise team.

Topics for discussion:

The overall topic of discussion is: "EU-Japan FTA and the financial/business services sectors". The agenda of the meeting lays a focus on European production and investment relating to these services, EU offensive and defensive interests, and the interactions of the EU-Japan discussions with those on the Trans-Pacific Partnership (TPP). Please observe that we do not wish to discuss any individual decisions by corporations.

1. Business services and professional services²⁶⁸:

- How do you plan to operationalise and make use of the FTA?
- Are there any specific investment and establishment barriers on both sides?
- Which model should the FTA employ on recognition of qualifications? In particular, is there any interest in the mutual equivalence approach for (some) regulations in some of these sectors? Mutual equivalence means that each party recognizes the regulations of the other party as "different but equivalent" — hence accepting without restrictions the regulations of the partner. Mutual equivalence is preceded by a mutual evaluation of the regulations of the two parties by their regulatory bodies.
- Any competition from other FTAs (especially TPP, Japan bilaterals).
- Other issues in Japan?

²⁶⁸ The discussion will lay a focus on legal services, accounting, architects, medical and dentists, midwives/nurses and any other professional services. Any other business services subsectors will be considered as well, if participants wish so.

2. Financial services:

- Hearing of statements on Japan Post from stakeholders.
- How do you plan to operationalise and make use of the FTA?
- Are there any specific investment and establishment barriers on both sides?
- Discussions on current trend in Japanese banking.
- Any competition from non-EU/Japan actors, other FTAs (especially TPP, Japan bilaterals).
- Other issues or products (asset management, corporate finance, market oversight, CSR, etc.).

3. Other services (horizontal services issues, and other sectors):

Do you have any comments regarding the following horizontal services issues or other services sectors?

- Cross border data flows.
- Mode 4.
- Insurance.
- Retail.
- Express services.
- Telecom.

List of registered participants:

| <u>Name</u> | <u>Organisation</u> |
|-------------------|---|
| Jesus Cisneros | InsuranceEurope |
| Niels Karssen | AVISA |
| Yuki Hirajo | Grayling |
| Patrice Chazerand | DigitalEurope |
| Frederic Feller | Toyota Motor Europe |
| Kenji Mikami | Japan Machinery Center for Trade & Investment |
| Gohar Topchyan | EESC |
| Tetsuro Fukunaga | JMC (Japan Machinery Centre for Trade and Investment) |
| Yutaka Nishigaki | JCIF Brussels |
| Pascal Kerneis | ESF |
| Piotr Plizga | European Commission |
| Damien Kenny | FSI/Ibec |
| Ian Pritchard | ACE |
| Jesper Kleingeld | Brunswick |

Summary minute:

The overall topic of discussion was 'EU-Japan FTA and the financial/business services sectors'. The meeting centred on a number of issues: European production and investment relating to these services, EU offensive and defensive interests, and the interactions of the EU-Japan discussions with those on the TTIP, TPP and existing bilateral agreements. The discussion was divided into three parts: an exchange of views

on business services and professional services,²⁶⁹ financial services and other services sectors not identified in the terms of reference (notably retail, insurances, and postal services) horizontal services issues, such as professional qualifications and mode 4. Attendees discussed the current trends in Japanese banking and insurance and the challenges and opportunities for European companies. They also exchanged views on the ways in which the agreement can improve regulatory cooperation and the advantages of sector specific dialogues on regulatory cooperation. The exchange also highlighted possible issues resulting from competition from non-EU/Japan actors, other FTAs (especially TPP and bilateral agreements).

²⁶⁹ The discussion will lay a focus on legal services, accounting, architects, medical and dentists, midwives/nurses and any other professional services. Any other business services subsectors will be considered as well, if participants wish so.

Roundtable for Stakeholders in the Transport Equipment (Railway, Ships, Aircraft) and Government Procurement Sectors on Potential Economic Impacts of the EU-Japan FTA

*Wednesday, 13th May 2015, 15h00 to 16h30,
European Centre for International Political Economy (ECIPE),
Rue Belliard, 4-6, 1040, Brussels.*

Programme:

- | | |
|---------------|---|
| 15h00 - 15h05 | Introduction by LSE Enterprise team. |
| 15h05 - 16h25 | Discussion of topics 1 to 2. |
| 16h25 - 16h30 | Short summary and concluding remarks by Prof. Patrick Messerlin, LSE Enterprise team. |

Topics for discussion:

The overall topic of discussion is: "EU-Japan FTA and the transport equipment/public procurement sectors". The agenda of the meeting lays a focus on European production of transport equipment products, EU offensive and defensive interests, and the interactions of the EU-Japan discussions with those on the Trans-Pacific Partnership (TPP). Please observe that we do not wish to discuss any individual decisions by corporations.

1. Transport equipment/public procurement sectors

1.1 Impact on production in Europe:

- What are the expected results from tariff liberalisation on production in Europe and in Japan?
- What are the assumptions behind these expectations?
- What are, industry-wide, the key incentives for investments in Europe and in Japan?
- What are the flanking measures you suggest to tariff liberalisation in Europe and in Japan?

1.2 Supply chains:

- What are the main potentials of trade in components in the transport equipment/public procurement sectors between EU and Japan?
- What are the incentives behind them? In which areas (products) is there complementarity and competition?
- Will the industrial cooperation between Japanese and EU transport equipment manufacturers increase relative to other relationships?

1.3 Non-tariff measures (NTMs):

- Are there criteria for “prioritizing” among the NTMs which can be suggested by the businesses?

2. EU-Japan negotiations and TPP negotiations:

- How do you evaluate the interaction between these two negotiations?

List of registered participants:

| <u>Name</u> | <u>Organisation</u> |
|----------------------|---|
| Niels Karssen | AVISA |
| Yuki Hirajo | Grayling |
| Talander Jansen | Grayling |
| Patrice Chazerand | DigitalEurope |
| Ichiro Takahashi | East Japan Railway Company Brussels Branch |
| Frederic Feller | Toyota Motor Europe |
| Kenji Mikami | Japan Machinery Center for Trade & Investment |
| Tetsuro Fukunaga | JMC (Japan Machinery Centre for Trade and Investment) |
| Leonardo Dongiovanni | UNIFE |
| Lucia Zivec | ASD |
| Gohar Topchyan | EESC |
| Kathrin Obst | European Commission |
| Susana Mendonca | European Parliament |
| Bahar Güclü | Permanent Delegation of Turkey to the EU |
| Jesper Kleingeld | Brunswick |

Summary minute:

The overall topic of discussion was ‘EU-Japan FTA and the transport equipment/public procurement sectors’. The meeting focused on European production of transport equipment products, EU offensive and defensive interests, and the interactions of the EU-Japan discussions with those on the TPP. Concerning the discussion on transport equipment/public procurement sectors, the participants discussed the impact on production in Europe, the importance of supply chains and the issues pertaining to NTMs. Attendees highlighted the advantages of increased business transactions and business cooperation in the sector. Increased cooperation, the attendees pointed out, can also be helpful in addressing the issue of NTMs. Stakeholders also noted that the interaction of the EU-Japan FTA with the ongoing TPP negotiations is not particularly important for the railway sector. Beyond the railway sector, the discussants highlighted issues linked to the aircraft sector and the benefits achieved by the EU-Japan industrial dialogue, as well as potential for EU-Japan space dialogue and the EU-Japan cyber dialogue.

Roundtable for Stakeholders in the Retail and Distribution (including Textiles/Leather) Sector on Potential Economic Impacts of the EU-Japan FTA

Friday, 16th July 2015, 15h00 to 16h30,

BUSINESSEUROPE, Schuman room,

Avenue de Cortenbergh 168, 1000, Brussels.

Programme:

- 15h00 - 15h05 Introduction by Mr. Lee-Makiyama, LSE Enterprise team.
- 15h05 - 16h25 Discussion.
- 16h25 - 16h30 Short summary and concluding remarks by Mr. Lee-Makiyama, LSE Enterprise team.

Topics for discussion:

The overall topic of discussion is the retail and distribution (including leather/textiles) sector. The agenda of the meeting also lays a focus on investment relating to these services, EU offensive and defensive interests, and the interactions of the EU-Japan discussions with those on the Trans-Pacific Partnership (TPP).

List of registered participants:

| <u>Name</u> | <u>Organisation</u> |
|------------------------|--|
| Niels Karssen | AVISA |
| Pierre-Michael Gröning | Foreign Trade Association |
| Paul Kamm | Foreign Trade Association |
| Pascal Kerneis | ESF |
| Harald Past | Eurocommerce |
| Maurice Fermont | BUSINESSEUROPE |
| Eve Päärendson | EESC |
| Yuki Hirajo | Grayling |
| Simon Craig Gray | EU-Japan Centre for Industrial Cooperation |
| Jesper Kleingeld | Brunswick |
| Giorgio Garbasso | ECIPE |
| Maria Salfi | ECIPE |
| Gabriel Agostini | ECIPE |
| Hosuk Lee-Makiyama | LSE Enterprise |
| Philipp Lamprecht | LSE Enterprise |

Summary minute:

The overall discussion revolved around the retail and distribution (including leather/textiles) sectors. The meeting also focused on investment relating to these services, EU offensive and defensive interests, and the interactions of the EU-Japan discussions with those on the Trans-Pacific Partnership (TPP). Participants commented on the barriers to establishment of stores and to obtaining licenses in Japan. In addition, discussants flagged mergers and acquisitions (M&A) legislation in Japan and the link to investment. Stakeholders also mentioned issues that are relevant once stores are established in Japan, and the importation of EU goods to do business. Here, standards, such as SPS, as well as inspection issues were mentioned as barriers. Stakeholders also mentioned that rules of origin should be simplified. Additional points were raised vis-à-vis horizontal issues (in particular, zoning and competition). Among the organisations affected, participants mentioned that the fact that leather cannot be easily imported into Japan is a problem for fashion retailers. Overall stakeholders called for stronger collaboration between standard-setting bodies as well as underlined the competitiveness of the US (versus EU exporters) in these sectors.

Combined roundtable for stakeholders in the medical devices sector and the pharmaceuticals sector, including quasi-drugs and cosmetics

*Thursday, 24 September 2015, 14h15 to 15h45,
European Economic and Social Committee, Jacques Delors Building,
Room 2252, Rue Belliard 99-101, Brussels.*

Programme:

- 14h15 - 14h20 Introduction by Mr. Lee-Makiyama, LSE Enterprise team.
- 14h20 - 15h40 Discussion.
- 15h40 - 15h45 Short summary and concluding remarks by Mr. Lee-Makiyama, LSE Enterprise team.

Topics for discussion:

The overall topic of discussion is the medical devices sector and the pharmaceuticals sector, including quasi-drugs and cosmetics. The agenda of the meeting lays a focus on EU offensive and defensive interests, and the interactions of the EU-Japan discussions with those on the Trans-Pacific Partnership (TPP).

List of registered participants:

| <u>Name</u> | <u>Organisation</u> |
|-----------------------|---|
| Niels Karssen | AVISA |
| Sascha Marschang | EPHA |
| Zoltán Massay-Kosubek | EPHA |
| Kieran Chandler | EPHA |
| Servet Goren | CEFIC |
| Reka Szanto | EFPIA |
| Cedric Cabanne | EESC |
| Tzonka Iotzova | EESC |
| Tetsuro Fukunaga | JMC (Japan Machinery Centre for Trade and Investment) |
| Sergio Napolitano | EGA |
| Andrea Pucci | EGA |
| Simon Craig Gray | EU-Japan Centre for Industrial Cooperation |
| Jesus Rueda | EUCOMED |
| Merlin Rietschel | EUCOMED |
| Jesper Kleingeld | Brunswick |

Summary minute:

The issues raised by stakeholders include the importance of a mutual recognition agreement and barriers such as the duplication of clinical trials. Discussants also flagged the extent of the trading relations between the EU and Japan, where Japan is the second largest export market for medical devices. Key issues underlined include costly device-lag and drug-lag and issues of clinical evaluations and quality management systems. Stakeholders stated that NTBs such as high standards for tests and complicated requirements for registration should be addressed. Additionally, participants highlighted the need for regulatory convergence and expansion of mutual recognition of standards.

Roundtable on the environmental analysis of the EU-Japan Trade SIA

Thursday, 24 September 2015, 16h00 to 17h30,

European Economic and Social Committee, Jacques Delors Building,

Room 2252, Rue Belliard 99-101, Brussels.

Programme:

- 16h00 - 16h05 Introduction by Mr. Lee-Makiyama, LSE Enterprise team.
- 16h05 - 17h25 Discussion.
- 17h25 - 17h30 Short summary and concluding remarks by Mr. Lee-Makiyama, LSE Enterprise team.

Topics for discussion:

The overall topic of discussion is the potential environmental impact of the EU-Japan FTA. The meeting allowed for a discussion with environmental stakeholders based on the environmental analysis carried out by the LSEE team.

List of registered participants:

| <u>Name</u> | <u>Organisation</u> |
|------------------|---|
| Niels Karssen | AVISA |
| Cécile Toubeau | Transport & Environment |
| Matt Landon | Transport & Environment |
| Cedric Cabanne | EESC |
| Tzonka Iotzova | EESC |
| Tetsuro Fukunaga | JMC (Japan Machinery Centre for Trade and Investment) |
| Simon Craig Gray | EU-Japan Centre for Industrial Cooperation |
| Jesper Kleingeld | Brunswick |

Summary minute:

Discussants pointed out that the EU-Japan FTA needs to be in line with regulations concerning Illegal, Unreported and Unregulated (IUU) Fishing. Stakeholders inquired whether an energy trade chapter would be included into the EU-Japan FTA agreement, in light of the importance of transport efficiency. Additionally, participants highlighted that the EU-Japan FTA agreement could be seen as another way to promote cooperation between the EU and Japan to help the Japanese economy in the consequences of the Fukushima disaster.

HOW TO OBTAIN EU PUBLICATIONS

Free publications:

- one copy:
via EU Bookshop (<http://bookshop.europa.eu>);
- more than one copy or posters/maps:
from the European Union's representations (http://ec.europa.eu/represent_en.htm);
from the delegations in non-EU countries
(http://eeas.europa.eu/delegations/index_en.htm);
by contacting the Europe Direct service
(http://europa.eu/eurodirect/index_en.htm) or calling 00 800 6 7 8 9 10 11
(freephone number from anywhere in the EU) (*).

(*). The information given is free, as are most calls (though some operators, phone boxes or hotels may charge you).

Priced publications:

- via EU Bookshop (<http://bookshop.europa.eu>)

Priced subscriptions:

- via one of the sales agents of the Publications Office of the European Union
(http://publications.europa.eu/others/agents/index_en.htm).





