



The EU-Japan Economic Partnership Agreement: Significance, Scope and Implications

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After four years of intense negotiations, spread over 18 rounds, the European Union (EU) and Japan signed a free trade agreement, called the Economic Partnership Agreement (EPA), on December 8, 2017. The conclusion of the deal is important from two aspects. First, and foremost, the agreement is considered as sending ‘a powerful message in defence of open, fair and rules-based trade’ in the wake of growing protectionist tendencies. Second, the agreement is the largest free trade deal signed by the EU and Japan, bringing together economies representing 600 million people and approximately 30 per cent of global gross domestic product (GDP).ⁱ

Against this backdrop, the paper attempts to review the significance and provisions of the EU-Japan EPA. In the process, this paper provides a brief overview of the history of negotiations of the agreement, reflecting its significance in Section I. This is followed by an evaluation of the provisions of the agreement in Section II. An analysis of the implications of the agreement on the EU and Japan is also undertaken based on available studies in Section III. Section IV provides concluding remarks.

I

History and Significance of the Agreement

The release of an impact assessment of a proposed Free Trade Agreement (FTA) in July 2012 authorised the opening of negotiations on a FTA between the EU and Japan.ⁱⁱ Following this, the EU-Japan FTA negotiations were officially launched on March 25, 2013. After eighteen rounds of negotiation, the EU and Japan reached an agreement in principle on the main elements of the EU-Japan EPA on July 6, 2017.ⁱⁱⁱ On December 8, 2017, the negotiations were finalised giving concrete shape to the chapters of

the agreement. The agreement would be put up for approval of the European Parliament and EU Member States following the completion of legal verification and translation processes.^{iv} After its approval, the agreement is expected to come into force in 2019.

Comprising 21 Chapters, the EPA builds on the in-principle political agreement reached during the EU-Japan Summit. As the title ‘Economic Partnership Agreement’ suggests the agreement entails both economic and strategic significance. As EU Trade Commissioner Cecilia Malmström indicated, the agreement “...represents not just a trade deal; but a strategic alliance between the EU and Japan”.^v The EU hopes that the agreement would not only remove trade barriers but also facilitate in shaping global trade rules in line with their high standards and shared values and help stave off protectionism.^{vi}

As far as economic rationale is concerned, Japan is an important trade partner of the EU. Japan is the EU’s second biggest trading partner in Asia after China and the sixth most important trading partner worldwide. The EU exports over €80 billion (bn) of goods and services [€58 bn in goods & €28 bn in services] to Japan every year. More than 600,000 jobs in the EU are tied to exports to Japan and more than half a million people in the EU are employed by Japanese companies. Further, Japan is the fourth richest economy in the world (by GDP) with a population of 127 million. Japan and the EU together account for more than a third of the world economy.^{vii} Similarly, the EU is the third most important export destination for Japan after China and the US, and is second important source of imports after China.^{viii} As such, the agreement is expected to have a significant impact on both the partners.

II

The Economic Partnership Agreement: Scope and Provisions

The Economic Partnership Agreement (EPA) covers not only trade in goods and services, but also a wide range of topics such as non-tariff measures, Geographical Indications (GIs) and the protection of intellectual property rights, State-owned Enterprises (SoEs) and others. The most striking feature of the EPA is that most of the provisions that have been negotiated are based on the standards of the EU-Canada Comprehensive Economic and Trade Agreement (CETA) as well as the Trans-Pacific Partnership (TPP). The main provisions of the agreement are:

Tariff Barriers

Considering that Japan is EU’s second largest trading partner in Asia after China, the agreement aims at elimination of tariffs on more than 90 per cent of the EU’s exports to Japan at entry into force of the agreement. On full implementation, Japan will remove custom duties on 97 per cent of goods imported from the EU (in tariff lines), while the remaining tariff lines would be liberalised partially through quotas and tariff reductions. Agriculture and food products are going to gain the most with around 85 per cent of EU agri-food products exported to Japan getting duty-free access. This corresponds to 87 per cent of current agri-food export by value.^{ix} The agreement also ensures duty-free trade for the agricultural products like processed pork meat and almost duty-free trade for fresh pork meat exports

from the EU^x. In this direction, the 4.3 per cent ad valorem duty for high value cuts will be phased out in 10 years.^{xi}

The agreement provides for a significant provision related to liberalisation of wines and spirits, which is the second biggest export of the EU. Tariffs in this sector and other alcoholic beverages (except traditional Japanese drinks like *shochu* and *sake*), which currently stands at 15 per cent, would be liberalised when the agreement enters into force.^{xii} It is noteworthy that the EU exports in this sector are worth €1billion.^{xiii} Similarly, the agreement provides for full liberalisation of tariffs for cheese and dairy products like gouda, cheddar, parmesan, fontina and others. Tariffs up to 28.9 per cent will be eliminated over a period of 15 years. For industrial goods, the agreement provides to abolish the existing quota system on leather and shoes at its entry into force. Tariffs on shoes will be reduced from 30 per cent to 21 per cent once the agreement enters into force and the remaining tariffs eliminated over 10 years.^{xiv}

Non-Tariff Barriers (NTBs)

The negotiation on elimination or reduction of NTBs, which was a key European objective, was, negotiated parallel to removal of tariffs.^{xv} The most significant non-tariff measures agreed under the agreement pertains to motor vehicles. This would facilitate the EU companies to export products to Japanese markets, which were previously subjected to Japanese technical requirements and certification process. With two parties agreeing to align themselves to the same international standards (United Nations Economic Commission for Europe (UNECE)–Regulations) on product safety and environment protection, European cars would be enjoying equal footing with Japanese cars. The agreement includes a dispute settlement mechanism on motor vehicles, as well as safeguard clause allowing the EU to reintroduce tariffs in case Japan imposes non-tariff barriers to EU's exports of vehicles. It further recognises European testing standards and procedures for hydrogen-powered vehicles to Japan's market. Japan also agreed to adopt international standards for textiles labelling, pharmaceuticals, medical devices and cosmetics.^{xvi}

Services

The text in services contains articles on market access, national treatment, most-favoured nation, non-conforming measures and denial of benefits. The section on cross-border services excludes some sectors including cabotage in maritime transport service; air services or related services in support of air services (other than five auxiliary air services); government procurement; audio-visual services and subsidies.^{xvii}

The agreement also provides for provisions on Mode 4 services (movement of natural persons) encompassing business visitors for establishment purposes, intra-corporate transferees and investors, contractual service suppliers and independent professionals. It also includes additional commitments on short term business visitors as provided in CETA committed by the EU.^{xviii}

Investment Liberalisation, Electronic Commerce and Regulatory Framework

The provisions on investment liberalisation, electronic commerce and regulatory framework have been included as sub-sections of Chapter 8 along with services. The agreement provides for investment liberalisation based on the principle of national treatment and Most Favoured Nation (MFN). However, the agreement does not include Investor-to-State Dispute Settlement (ISDS) procedures provided for in other international agreements.^{xix}

Both the parties also agreed to facilitate ‘the use and development of electronic commerce’, excluding gambling services, broadcasting services, audio-visual services, services of notaries or equivalent professions and legal representation services. In terms of domestic regulation, both agreed to ‘ensure that all its measures of general application affecting electronic commerce are administered in a reasonable, objective, and impartial manner’. However, the agreement does not contain provisions on the free flow of data. There is only a review clause whereby both sides would reassess its inclusion within three years of the entry into force of this Agreement.^{xx}

The agreement contains a chapter on regulatory cooperation relating to domestic regulation, mutual recognition and administrative measures. The provisions on regulatory framework ensure that measures relating to licensing requirements and procedures, qualification requirements and procedures ‘shall be clear, objective, transparent, publicly available and accessible’. Specific agreements pertaining to postal and courier services, telecommunications and financial services have also been agreed under the agreement.^{xxi}

Government Procurement

In terms of procurement, both the EU and Japan agreed to the WTO Public Procurement Agreement. At the same time, both agreed to a new set of provisions which include making procurement directly accessible by electronic means free of charge through a single point of access on the internet, the conditions for participation, qualification of supplier, technical and environmental specifications and test reports.^{xxii} The agreement underlined additional scope of application which includes hospitals and universities in a separate annexure.^{xxiii}

Corporate Governance

The agreement, for the first time in the history of agreements committed by the EU, contains provisions on corporate governance, reflecting the high standards and practices that both parties seek to promote.^{xxiv} The chapter on corporate governance, based on the principles of G20/OECD, includes general provisions recognising the ‘importance of corporate governance framework in providing timely and accurate disclosure’ of information in all publicly listed companies, as well as ensuring management accountability towards rights of shareholders through ‘responsible decision-making based on independent and objective standpoint’, ‘equal treatment of shareholders’ and transparent and fair conditions for takeovers.^{xxv}

State-owned Enterprises

Recognising the non-discriminatory treatment, the agreement provides for a level-playing field for both private and public enterprises in terms of commercial transactions of goods or services. It also ensures application of laws and regulations based on international standards, including the OECD Guidelines on Corporate Governance on State-owned Enterprises, in a consistent and non-discriminatory manner.^{xxvi}

Intellectual Property Rights (IPRs) & Geographical Indications

Both the EU and Japan agreed to high standards of Intellectual Property Rights (IPRs). In this direction, the agreement provided to 'ensure adequate, effective and non-discriminatory protection of intellectual property' and 'measures for the enforcement of intellectual property rights against infringement, including counterfeiting and piracy' as per the provisions of the WTO Agreement of Trade-related Aspects of Intellectual Rights (TRIPs), as well as other related international agreement to which both are party. Recognising the principle of National Treatment and Most Favoured Nation (MFN), both agreed to detailed provisions on copyrights, patents, trademarks and industrial designs. In terms of Geographical Indications (GIs), the agreement provided for high level protection to a total of 200 plus agri-based and food products for the EU. Both have agreed to protect trade secrets and enforcement of protection against misappropriation of trade secrets as well as border measures.^{xxvii}

Rules of Origin

The chapter on Rules of Origin (RoO) consists of general provisions underlining RoO, origin procedures and other related provisions. The agreement provides for an Annex on Product-specific Rules of Origin, including vehicles and parts of vehicles, footwear, leather articles, textiles and clothing.^{xxviii}

Apart from the aforementioned areas, the agreement also provides for provisions related to customs matter and trade remedies, sanitary and phytosanitary measures, technical barriers to trade, capital movements, payments and transfers and temporary safeguard measures, anti-trust and mergers, subsidies, trade and sustainable development, transparency, regulatory cooperation and practices, agriculture cooperation, small and medium sized enterprises (SMEs), and dispute settlement.

III Implications

The most significant impact of the EPA would be on bilateral trade between the EU and Japan. Despite the EU and Japan being important trade partners, there is a relative decline in bilateral trade. For instance, the share of EU's exports to Japan declined from 6.3 per cent in 1990 to 3.1 per cent in 2015, and its imports share decreased from 12.2 per cent in 1990 to 3.5 per cent in 2015. Similarly, Japan's share of exports to EU fell from 20.8 per cent in 1990 to 10.2 per cent in 2015, and Japan's share of imports to EU saw a decline from 16.3 per cent to 10.4 per cent in the corresponding years.^{xxix} Therefore, the EPA is seen as creating new opportunities of cooperation for the two partners.

Various studies have been undertaken assessing the implications in terms of the potential benefits of the EPA for both the EU and Japan. The findings of most of these studies suggest a positive impact on bilateral trade between the two partners.

A study by Sunesen et al in 2009 estimates that removal of bilateral tariffs will result in €14.1 billion additional exports and the increase in exports due to reduction of non-tariff measures (NTMs) is estimated at between €13.7 bn and €29.4 bn for EU exports to Japan. The largest increase will be for European chemicals export to Japan – of €6.3 bn to €11.0 bn - which includes pharmaceutical exports, cosmetics and chemical products, followed by processed foods registering a growth between €5.1 bn and €5.9 bn additional exports, and motor vehicles registering an increase by up to €5.4 bn.^{xxx}

According to a study by the European Commission in 2012, an EU-Japan FTA could boost EU's gross domestic product (GDP) by 0.34 per cent and 1.9 percent by 2020, depending on reduction of non-tariff barriers under different scenarios [asymmetric and symmetric NTM cost reductions]. For Japan, the increase is about 0.27% and 0.7 per cent.^{xxxi}

Another study (2015) estimates that that tariff elimination under EU-Japan FTA will result in a 0.07 % increase in Japanese GDP while the EU's GDP is expected to grow by an additional 0.02 %. In case of greater liberalisation including NTB reduction the growth would be larger with Japanese GDP increasing by 0.86 %, and that of EU by 0.2 %.^{xxxii}

A more recent study (2017), based on the EU-Korea agreement of 2011, estimates the potential gains for both the EU and Japan at €1bn and €9 bn respectively. In absolute terms, Germany would gain the most (€3.4 bn) followed by the United Kingdom (€ 1.6 bn), France (€1.2 bn) and the Netherlands (€0.9 bn).^{xxxiii}

With tariff liberalisation, the agreement is also expected to have significant impact on agri-based product sector as well as automotives for the EU and Japan. The agreement is expected to provide greater access to Japanese automotives, electrical engineering, electronics, mechanical engineering and fine chemical products to European markets. Similarly, EU's exports to Japan of food products, pharmaceuticals, medical, cosmetics, transport equipments and others would expand.^{xxxiv} On account of the agreement, EU's exports to Japan of processed food could rise by up to 180% and EU's exports to Japan of chemicals could rise by over 20%.^{xxxv}

Commenting on the potential impact of the agreement on agri-based products for the EU, Commissioner for Agriculture and Rural Development, Phil Hogan said:

“This agreement represents the most significant and far reaching deal ever concluded by the EU in agri-food trade. It will provide huge growth opportunities for our agri-food exporters in a very large, mature and sophisticated market. We were successful in developing a model free trade agreement that fits our export profile, while still delivering a mutually beneficial agreement with our partner. This shows the EU as a global leader and standard-setter in shaping international trade and its rules – a concrete example of

the EU harnessing globalization to benefit our citizens. EU agri-food exports create high-quality jobs, most of them in rural areas.^{xxxxvi}

IV Conclusion

The EU-Japan EPA indicates a significant step towards liberalisation. The analysis of the agreement indicates that the EPA intends to open huge market opportunities for both the EU and Japan. The analysis also suggests that the agreement is detailed and comprehensive. The agreement provides for improved market access through dismantling of tariff and non-tariff barriers. The agreement also opens up services markets, in particular financial services, e-commerce, telecommunications and transport. Besides trade and services, the agreement plans to strengthen cooperation between Europe and Japan in a range of areas, including SOEs, corporate governance, IPRs and GIs, and sustainable development. The agreement, if successfully ratified and implemented, would create the world's largest free trade area. Such extensive trade liberalisation in the wake of growing trends towards protectionism can be seen as an encouraging trend, and could pave way for deeper economic integration across countries.

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Disclaimer: The views expressed are that of the Researcher and not of the Council.*

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