



Ms Cecilia Malmström
Commissioner for Trade
European Commission
Rue de la Loi 200
BE-1049 Brussels
BELGIUM

10 November 2016

Dear Commissioner,

In the margins of the G7 Ise-Shima Summit in May, political leaders reaffirmed their commitment to reach an agreement in principle for the EU-Japan FTA as early as possible in 2016. While BusinessEurope supports the conclusion of the EU-Japan FTA negotiations at the earliest opportunity, this FTA should be an ambitious agreement which sets a benchmark for other on-going and future FTA negotiations. It is therefore important that substance prevails over speed, and we would like to take this opportunity to recall our priorities and highlight the elements that would need to be part of this agreement.

On 16 September, BusinessEurope wrote a joint letter with Keidanren, the European Business Council in Japan, and the Japan Business Council in Europe in which we called for an acceleration of the FTA negotiations. As we mentioned then, an ambitious and comprehensive FTA is the only agreement that makes sense for partners of our size.

Beyond our joint priorities, BusinessEurope supports a parallel approach between an ambitious solution on the first and second lists of non-tariff barriers (NTBs) in exchange for a reduction of tariffs on our side that provides appropriate transitional arrangements for sensitive products. A good agreement on NTBs is essential in order to ensure the support of a wide range of European sectors for this agreement. For some sectors, such as automobile, this should involve creating a separate annex in the FTA. Although tariffs in Japan are generally low, there are some exceptions, notably in agriculture and processed food which would also need to be addressed. Adequate protection of geographical indications would complement the reduction in tariffs, and it should be part of a strong overall chapter on intellectual property rights (IPR). Alongside IPR, the agreement should also lead to the removal of obstacles in services, investment and competition.

On services, we are still looking for some progress in financial services, in postal services and in maritime transport, in particular on empty containers and feeder services. Furthermore, the agreement should include provisions that will promote free flow of data. This is to ensure that both the EU and Japan will reap the benefits of digital economy and innovation, without lowering data protection or security standards.



Our joint letter also calls for an ambitious chapter on public procurement. European companies have long faced hurdles in accessing Japan's public procurement market, which is why this chapter is key for the European business community as a whole. A meaningful procurement chapter should cover both central and sub-central procurement, in order to set European companies on a more equal footing with Japanese companies active in Europe. For the railway sector in particular, a more systematic use of transparent and non-discriminatory public procurement procedures is necessary, especially through open tenders that focus on commercially viable projects.

It is equally important that the EU-Japan FTA becomes a 'living agreement', in which regulatory cooperation will continue after the agreement has been concluded. We need a strong mechanism in the FTA which establishes an on-going dialogue between EU and Japanese regulators to ensure that future requirements do not inadvertently serve as new barriers to trade. In designing and developing regulations, the EU and Japan should each take into account the other party's regulatory approach, relevant international standards and their impacts on bilateral trade and investment. BusinessEurope will release a joint statement with Keidanren on regulatory cooperation that covers horizontal principles for this mechanism as well as a number of sectoral issues. Although there are still a number of pending regulatory issues in the negotiations, the joint paper reflects areas on which both Japanese and European sectors could agree.

Beyond elements of common agreement, we continue to press for the elimination of the Operational Safety Clause (OSC) which represents an important non-tariff barrier for several European sectors in accessing the Japanese market. Since the EU has comparable safety standards, it is imperative that the OSC is eliminated for European suppliers in all EU sectors by the time the negotiations are concluded in order to ensure a level playing field.

The agri-food sector also suffers from a number of regulatory barriers, such as long quarantine periods, exhaustive technical specifications, highly specific determinations regarding labelling and packaging, certification and quotas. It should be a priority to at least simplify regulations and to lessen the bureaucratic process to obtain documentation and certification.

This agreement is a unique opportunity to address these barriers and significantly improve the business environment in Japan, in particular for small and medium-sized enterprises.

I would like to thank you for taking our views into account, and we are at your disposal in case you would require further information.

Yours sincerely,

Markus J. Beyrer