EU – JAPAN EPA

“Trade in Services, Services Domestic Regulations and Mutual Recognition Agreement”

This presentation has been prepared with the sole purpose of simplifying the understanding of some parts of the EU-Japan EPA and bears no legal standing.
Table of Content

A. EU & Japan Trade in Services: Facts & Figures

B. The Services chapters and annexes

C. Market access Pillar
   (incl. Public procurement in services)

D. Regulatory disciplines and cooperation

E. Movement of natural persons

F. Mutual recognition of qualification

G. Protecting Public services and policies
A. EU & Japan Trade in Services: Facts & Figures

**IMPORTANCE OF TRADE IN SERVICES IN THE EU-JAPAN TRADE RELATIONSHIP**

36.3% of EU exports to Japan = Services

**EU Exports to Japan – 2017 – Mio€**
- Total: 95 411 Mio€

**Japan Exports to EU – 2017 – Mio€**
- Total: 87 181 Mio€
A. EU & Japan Trade in Services: Facts & Figures

EU and UK Trade in Services with Japan

(Mio € - 2010-2017)

EU Surplus: +14 895 €Mio

IMPACT OF BREXIT:
UK = 24% of EU Exports of Services; and 31.2% of EU Imports!

Source: Eurostat bop_its6_det.
A. EU & Japan Trade in Services: Facts & Figures

**EU Exports of services to Japan per countries (Extra EU) – €Mio – 2018**

UK Exports represent + 25% of EU Export of services to Japan!

Source: Eurostat bop_its6_det.
A. EU & Japan Trade in Services: Facts & Figures

EU Services Exports and Imports to Japan per sectors
(2018 - € Million)

Source: Eurostat 2019
Note: Other business services comprise mainly: research and development, professional and management consulting services, technical, trade-related services.
A. EU & Japan Trade in Services: Facts & Figures

EU Exports and Imports to Japan per sectors
“Other business services” - (2018 - € Million)
B. The Services chapters and annexes

A summary of the results of the EPA for the services sectors

- Binding of current regulatory practice = increase legal certainty from WTO GATS Level (1995), and build on TiSA and TPP negotiations
  - Transparency on Domestic regulation and licensing procedures
  - Independent regulators, universal services, etc.
  - Process for Mutual recognition of qualification of professional services
- Use of negative approach = more transparency for businesses, who can easily find out what they cannot do in Japan
- Increase access to Japan Public Procurement for EU services providers
- Opens up services markets, in particular
  - Financial services,
  - Postal and express delivery,
  - Professional services, and
  - Telecommunications,
  - Distribution services,
  - Transport services
B. The Services chapters and annexes

WHAT’S IN THE EU-JAPAN EPA FOR SERVICES?

CHAPTER 8 = TRADE IN SERVICES, INVESTMENT LIBERALISATION AND ELECTRONIC COMMERCE

- SECTION A : General provisions
- SECTION B : Investment liberalisation
- SECTION C : Cross-border trade in services
- SECTION D : Entry and temporary stay of natural persons
- SECTION E : Regulatory framework
  - SUB-SECTION 1 : Domestic regulation (Incl. MRA Qualifications)
  - SUB-SECTION 2 : Provisions of general application
  - SUB-SECTION 3 : Postal and courier services
  - SUB-SECTION 4 : Telecommunications services
  - SUB-SECTION 5 : Financial services
  - SUB-SECTION 6 : International maritime transport services
- SECTION F : Electronic commerce
B. The Services chapters and annexes

Annex 8

Annex 8-A Regulatory cooperation on financial regulation

Annex 8-B Schedules for chapter 8

Annex 8-B I Reservations for existing measures
Annex 8-B II Reservations for future measures
Annex 8-B III Business visitors for establishment purposes, intra-corporate transferees, investors and short-term business visitors
Annex 8-B IV Contractual service suppliers and independent professionals

Appendix IV Limitations of business activities of contractual service suppliers and independent professionals in Japan

Annex 8-C Understanding on movement of natural persons for business purposes

444 pages out of 1570 pages total of EPA =

⇒ 28% of the text of EPA= on Services issues

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Under the supervision of
C. Market access pillar

- Bidding level for EU & Japan before EPA = GATS 1995
- Scheduling of Market access & National Treatment commitments using a Negative list (2nd time for the EU)
  - GATS +; TiSA+; CP TPP+
  - More Commitments on Mode 1 (Cross border transactions)
  - Mode 3: Removal of all equity caps, with negotiated exceptions
  - Binding of current practise (i.e. Higher Market access than in existing FTAs), with negotiated exceptions,
  - Standstill and Ratchet Clause (to lock in the autonomous reforms)
  - More commitments on Professional & Business services, Environmental services, energy related services, on financial services & insurance, postal and express, transport services, etc.
  - But not much improvements for the professional services!
D. Regulatory disciplines and cooperation Pillar

- Adoption of a strong Horizontal Chapter on Disciplines for Domestic Regulation (Chapter 18 of JEEPA):
  - Transparency of the regulation
  - Prior consultation of stakeholders
  - Impact assessment
  - Transparency of the licensing requirements and procedures (Contact Point, Proportionate to the goal, Clear Objectives, least burdensome administrative costs as possible, short and predefined delays, “reasonable fees”, right of appeal)

- Sector specific disciplines (e.g. on Telecoms, on Postal, on Energy, Environment, maritime and air transport, financial services, etc.) and Sector specific regulatory cooperation (living agreement)

- Disciplines on State Own Enterprises (SOEs)

- Japan and EU active in the on-going WTO Joint Statement Initiative in WTO
E. Movement of Natural Persons

- A key priority for EU businesses in EU-Japan EPA
- Temporary period only, not permanent migration
- Negotiate faster Business Visa and Work permits delivery procedures: Visa facilitation (Sensitive in EU – Competence- allowing spouses to work – a premiere!)
- In all Categories of Natural Persons Covered under Mode 4:
  1) Intra-Corporate Transfers (ICT)
     - Managers
     - Specialists
     - Graduate Trainees
  2) Business Visitors (BV)
  3) Contract Service Suppliers (CSS)
     (Employees of Juridical Persons)
  4) Independent Professionals (IP)
F. MRAs on Professional qualification

- The Commission and Canada Federal government have found a way to go forward. A Framework Agreement in CETA describes the modalities how MRAs on sector specific professional qualifications, once concluded by the private sector together with the “licencing bodies”, will finally be transformed into the binding International treaty (FTA), by being annexed to the CETA.

- The European and Canadian architects have already agreed on their Recommendations for an MRA, which is now under scrutiny by the MRA Committee of CETA.

- A similar approach has been included into EU-Japan FTA, but the text is much less precise. There are no specific “Guidelines for the sectors”. And no specific “MRA Committee”, but the “Committee on Trade in Services, Investment Liberalisation and Electronic Commerce” (Art. 22.3)

- Article 8.35 states that “Each Party shall encourage the relevant professional bodies in its territory to provide joint recommendations on mutual recognition to the Committee”.

- “Where the requirements are satisfied, the Committee shall establish the necessary steps to negotiate, through their competent authorities, of a mutual recognition agreement.”
G. Protecting Public services and policies

- Nothing in JEEPA prevents governments and local public authorities from regulating in the public interest, including for delivering public services, or adopting measures to protect or promote Japanese and European cultures.

- Services of General Interest and Public Services like Heath Services, Social services, Education services, and Water distribution services have not been negotiated in CETA.

- EU applies 3 layers of protection on these various public services in its commitments taken in trade agreements (WTO or Bilaterals):

  1. “Services supplied in the exercise of the government authority” are excluded from trade deals (ex: Defence, Police, Justice et Public Administration).

  2. Public Monopolies and concessions:

     “In all EC Member States services considered as public utilities at a national or local level may be subject to public monopolies or to exclusive rights granted to private operators.”

     - A Explanatory Note specifies that: “Public utilities exist in sectors such as (...) environmental, health, transport services (…)”

  3. For Public services in competition with private services (schools, universities, hospitals): Difference between establishments “privately funded” and those “receiving public funds”. E.g. Are considered as « public » schools where teachers are civil servants (payed by the State), hence, excluded from commitments.
INFORMATION SOURCES

Eurostat website: Eurostat bop its6 det.

Thank you for your attention

Pascal Kerneis – Managing Director
European Services Forum

QUESTIONS?

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