



## EU-Japan EPA

### Joint Minutes of the 2nd meeting of the Committee on Government Procurement between the European Union and Japan for an Economic Partnership

Brussels and Tokyo (*by videoconference*), 10<sup>th</sup> February 2021

The second meeting of the Committee on Government Procurement under the Agreement between the European Union (“EU”) and Japan for an Economic Partnership (“EPA”) took place on 10th February 2021.

EU participants from the Directorate-General TRADE and from the EU Delegation to Japan, and Japanese participants from MOFA, METI and MLIT had a fruitful exchange of views on matters related to Chapter 10 of the EPA (Government Procurement).

The meeting agenda was adopted (cf. annex) and the following issues were discussed:

- a. **Implementation of Art. 10.4 of the EPA through the JETRO database:** the EU reiterated the concerns that had been expressed in the communication preceding the meeting, in particular the disadvantages for EU bidders resulting from tender notices being published on JETRO one or more days later than on Kanpo and other official publication media, and the concern that suppliers could miss out on an occasion to bid in cases where a tender was not published on JETRO at all. Japan explained that the JETRO website had been recognized by both parties as the single point of access and served properly as a single access point, and that all applicable tenders covered by the EPA had been properly published on JETRO website within one working day. Japan also stated that further possible improvements to the JETRO website were being considered to enhance the convenience for suppliers. **It was agreed that a dedicated meeting should be held in March in order to discuss this issue.**
- b. **Measures taken for the implementation of the Chapter on Government Procurement by Japan:** The parties discussed the concerns expressed by the EU in writing ahead of the Committee meeting and the Japan’s response. The EU expressed gratitude for the information and references provided, but pointed out that some of the information was not detailed enough and further references were still required. The EU pointed to individual examples showing that guidelines for, or internal rules adopted by, certain procuring entities still needed to be updated to reflect the coming into force of the EPA, and hence the necessity to implement it properly.

The EU would therefore appreciate **receiving clarifications from Japan** on the recent amendments made to the Operational Guidelines on Procedures

for Government Procurement mentioned in Japan's response to the EU. **The EU will reply to Japan in writing and will request the specific, exact references to the relevant ministerial notices related to the implementation of EPA Art. 10.5.2, 10.6.2, 10.9.1&10.9.2, and to Rules regarding the local Complaint Review procedure.** Japan confirmed to look into this further after receipt of EU reply. Remaining unresolved issues will be bundled into appropriate groups to be further examined in **dedicated meetings in the course of spring 2021.**

- c. **Procurement relating to operational safety of transportation:** The EU expressed concern that even after the entry into force of the EPA it was not clear whether all procurement notices related to the operational safety of transportation were published on JETRO. Japan stressed that it had made its utmost efforts to open access to railways procurement under the EPA and that JR companies had done the necessary to publish the relevant information on their websites. Japan therefore pointed out that no separate meeting needs to be organized to discuss the individual cases highlighted by the EU.

**Modification of the status of Osaka City Bureau of Transportation:** In the context of GP contracts in the transport sector, the EU inquired about the Osaka Transport Bureau, whose status changed in 2018 as a result of privatization, hence hinting to a possible modification of coverage (as it is now independent from Osaka City) which the EU considered requires notification to the WTO. Japan indicated this change had not been notified to the WTO as there was no change in Japan's Annex 2 to Appendix I to the GPA, but will convey this question to the proper relevant division of MOFA and related Ministries and Agencies. DG TRADE will relay this issue to DG GROW unit in charge of GPA and provide basic viewpoints or grounds for argument on the EU side to Japan.

**Supplier qualification system:** In addition, the EU expressed concern over the difficulties encountered by EU suppliers to qualify as suppliers for Japan Rail (JR) companies, in particular the fact that the exact criteria for qualification were not public. Japan explained that JR Hokkaido has no system for prior supplier registration while JR Freight does have such a system. JR Shikoku is still considering whether to set it up. Japan committed to look into the issue of suppliers' selection standards raised by the EU.

**Tender notices published by JR Shikoku on JETRO:** Responding to the EU's views regarding JR Shikoku and the lack of tender notices by this company on the JETRO website, Japan replied that this was because JR Shikoku currently did not have any tenders covered by the EPA, but applicable future tenders would be published there. The EU stressed that the problem was that JR Shikoku was not even listed among the entities searchable on the JETRO website.

Japan indicated it would examine what could be done about information on future tenders considering the importance of transparency. EU reiterated the need for Japan to go beyond "best efforts" and show some tangible evidence of improvements made to the JETRO website (e.g. screen shots, etc.).

- d. **Procurement related to the production, transport or distribution of**

**electricity by specific local governments:** in response to the concern raised by the EU in writing ahead of the meeting, Japan explained that the commitment under subparagraph 1(c) of Section B of Part 2 of Annex 10 of the EPA had been implemented through the removal of Article 3 (4) of the Special Cabinet Order on Government Procurement of Goods and Services by Local Governments. The EU took note of this clarification and will revert with views on whether this explanation is satisfactory.

It was confirmed the following items will be followed up in **separate meetings** – the EU proposed March 2021 as an indicative timing of the first meeting. Japan will confirm availability and timeline.

- Publication of tender notices on the JETRO website;
- Selected number of issues highlighted under the point b) above, bundled into groups for better efficiency;
- Modification of the status of Osaka Bureau of Transportation [*pending the EU internal consultation*];
- JP Legal amendments regarding procurement related to the production, transport or distribution of electricity provided by specific local governments [*pending the EU internal assessment*].

Both parties confirmed that the outcome of the Committee meeting will be reported to the next EPA Joint Committee, and concluded their discussions.

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