



## **Joint Minutes of the Fifth Meeting of the Committee on Government Procurement under the Agreement between the European Union and Japan for an Economic Partnership**

**Brussels and Tokyo (by video-conference), 13 December 2023**

The fifth 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 13 December 2023, by video-conference.

On Japan side, participants from the Ministry of Foreign Affairs (MOFA), Ministry of Economy, Trade and Industry (METI), Ministry of Internal Affairs and Communications (MIC), Ministry of Land, Infrastructure, Transport and Tourism (MLIT) were represented; on the EU side, there were participants from the Directorate-General for Trade (TRADE), the Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs (GROW) and the Delegation of the European Union to Japan.

The enclosed meeting agenda was adopted (cf. annex).

In this meeting, Japan and the EU exchanged views on topics including on the implementation of Chapter 10 of the EPA (e.g. single point of access). Regarding the JETRO website, which is Japan's single point of access, the EU side pointed out that the public tender notices published on Kanpo, Kenpo or other electronic medium under the Japan-EU EPA (hereinafter referred to as “Kanpo”) should be posted on the JETRO website together with the English summary exactly the same time, which is currently not being achieved due to a systemic delay on the Japanese side. The EU side argued that such Japanese side’s systemic delay puts the EU suppliers at a disadvantageous situation and violates the non-discrimination principle and transparency obligations of the GPA and the Japan-EU EPA.

The Japanese side explained that although there is an inevitable operational time lag between the first publication of tender information on Kanpo or other electronic medium and its upload to the JETRO website, the JETRO website has been operated in line with the relevant provisions of the Japan-EU EPA and that the summaries of notices in English are always published at the same time as the notices of intended procurement in Japanese on each medium. Therefore,

regarding the Japan's single point of access, the Japanese side does not recognise any discrimination between EU suppliers and domestic ones nor any violation of the Japan-EU EPA.

The Japanese side enquired the EU side whether such an inevitable "systemic delay" had caused any actual damage to the EU industry. In response, the EU side stated that there is no need to prove an actual damage in order to demonstrate a violation of the EPA.

At the request of the EU side, the Japanese side explained that although it has examined the possibility of systemic improvements on this issue in EU's favor, including the systemic renovation of the JETRO website, it would be difficult to realise it in a short period of time because of significant administrative cost it may cause and due to domestic laws and regulations, and asked for the understanding from the EU side in this regard.

The EU side presented specific examples of (1) cases showing time delays between the publication of tender notices by GPA/EPA-covered entities on their websites and their actual publication on the JETRO website, (2) cases showing insufficient provision of procurement information in English and discrepancies between the information provided in the English summaries and the notices in Japanese, and (3) cases showing lack of publication of notices on the JETRO website by certain covered entities, raising specific names of procuring entities.

The Japanese side explained that although it also found some cases without tender information, tender information was generally posted in accordance with the operational policy of the JETRO website and that the Japanese side would examine those cases raised by the EU side and would provide a response in due course.

The Japanese side, while stating that they would correct any deficiencies on the JETRO website under the Japan-EU EPA, stressed that human error may occur and is inevitable, and suggested that it would be more efficient to contact the procuring entity directly to make them correct the information appropriately when the EU side finds deficiencies in any Japanese tender information.

The EU side presented several examples, when the time required for submission of "expression of interest" seemed to be short. The Japanese side responded that it does not recognise any cases constituting the violation of the Japan-EU EPA in this respect and that they would check those cases raised by the EU side and reply if the EU side shared more detailed information and evidence. Of these, with regard to the case of the Tokyo Metropolitan Government's procurement, which the EU side pointed out that the time required for submission was very short (3 –

4 days) last year, the Japanese side explained that the period has been extended by 3 days on average compared to that in last year.

Regarding railway procurement, presenting specific examples with the names of procurement entities, the EU side raised three issues: (1) requests for comments (RfC) and/or requests for submission of materials (RSM) were not posted on the JETRO website but only posted on the procurement entity's website, (2) procurement of railway "maintenance" was not posted on the JETRO website, and (3) procurement contracts in the Japanese market seemed to be split up into several small procurement contracts.

In response, the Japanese side stated that they couldn't fully respond to each of these without examination and explained that the first issue (above (1)) is a part of a preliminary stage of the procurement process and not covered by the Japan-EU EPA's obligations of publishing a notice of intended procurement. As for the second issue (above (2)), the Japanese side explained their understanding that although "repair" is covered by the Japan-EU EPA, "maintenance" is not, so it does not cause any problem under the EPA. The Japanese side requested the EU side to provide more details about its assessment of the coverage of "maintenance" services under GPA/EPA and the EU side agreed to do so. As for the third issue (above (3)), the Japanese side explained that, while stating the case given as an example by the EU side being not a split of one procurement, the structure of Japanese railway procurement market and related companies and suppliers are totally different from those of the EU, that in Japan, they run multiple small-lot procurements.

The Japanese side further stated that they would examine and respond to all the cases presented by the EU side and reiterated that they would correct any deficiencies under the obligations of the Japan-EU EPA.

At the same time, the Japanese side stressed that discussions on this matter should focus on the case which caused actual damages to the EU industry rather than on each individual case which had deficiencies, because human error may occur in any case, so it is not very productive to dig down each example of such errors.

Regarding the follow-up of the Fourth Meeting of the Committee, the Japanese side presented the statistical data on the Japan Government Procurement market as referred to in the EPA. The EU side also introduced the latest data.

The EU side provided clarification about the enquiry from the Japanese side at the previous meeting regarding the absence of summaries of notices of intended procurement in one of the WTO official languages on the EU side. The EU side explained that the English summaries exist on the EU website Tenders Electronic

Daily (TED). Upon request from the Japanese side, the EU side agreed to share the links of the pages of the English summaries and to provide information about other cases where the summaries in one of the WTO official languages could not be found.

The EU side and the Japanese side would mutually exchange information and materials at a later date.

At the end of the meeting, the EU side and the Japanese side reaffirmed the importance of building a constructive atmosphere despite some differences in their views and concurred to follow up appropriately the discussions of the Committee.

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## **EU-Japan EPA**

### **Fifth Meeting of the Committee on Government Procurement under the Agreement between the European Union and Japan for an Economic Partnership**

**13<sup>th</sup> December 2023, 8:30h Brussels time/16:30h Tokyo time  
(Video Conference)**

**Draft Agenda**

- 1. Opening Statements**
- 2. Adoption of the Agenda**
- 3. Single Point of Access**
- 4. Short lead time for submission of expression of interest or documents required for qualification**
- 5. Railway Procurement**
- 6. Follow-up for the Previous Committee Meetings**
  - (1) Exchange of statistics**
  - (2) Feedback to the issues with EU tenders**
- 7. Any Other Business**
- 8. Closing Remarks**