



## An introduction to the EU-Japan Economic Partnership Agreement

### Public procurement

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#### What is public procurement?

Every year, national, regional and municipal governments in Japan and the EU procure – or buy – goods and services worth billions of euros from private companies. They issue public contracts or tenders which companies then bid for.

#### Why does the EU-Japan Economic Partnership Agreement cover public procurement?

The EU and Japan have two of the largest public contracts markets in the world.

It is estimated that in a developed economy like the EU or Japan the procurement of goods and services by the State represents over 15% of the total economy. This is a large market, full of business opportunities. Much of this is at the level of regional or local government, and in construction services.

But so far a relatively low share of public procurement in Japan - 3.5% - is supplied by foreign firms. The equivalent share in the EU varies but is around 4.5%.

Japan's commitments under the WTO Government Procurement Agreement (GPA) provide a theoretical level of access to its market, but they fall short of what the EU offers.

In addition, Japan has interpreted its commitments in a restrictive way when

implementing them, which has further limited access.

Difficulties for EU suppliers in the Japanese procurement market have included:

- the extensive use of an “operational safety clause” to exclude foreign suppliers from even bidding for public contracts in the rail transport sector
- complex customer-supplier relationship requirements which favour domestic bidders
- requirements to demonstrate previous work carried out in the Japanese market, and previous experience of working with local partners, which may deter new bidders.



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## ECONOMIC PARTNERSHIP AGREEMENT

### What were the EU's goals for this part of the agreement?

The EU wanted to make sure that in this part of the agreement, both sides:

- agreed on rules that prohibit unfair discrimination by one side against bidders from the other side
- agreed on rules to maximise transparency in tendering for public contracts to ensure EU firms are aware of opportunities in Japan
- maximised the opportunities for EU firms to participate in public tenders at all government levels – national, regional and municipal.

### What has the EU secured in the talks?

The EU has gained better access to contracts put out for tender in Japan by both the central government and regional and local governments.

#### 1. Central government

##### *Railways*

One of the EU's priorities in the negotiations was to secure greater access to the Japanese market in railway equipment and infrastructure.

Japan has in large part agreed to offer this, by removing a so-called Operational Safety Clause. This ostensibly aimed to ensure the safety of rail transport in Japan, a country where natural disasters frequently occur.

But in reality it precluded foreign suppliers from bidding for contracts to supply trains and other railway equipment.



Japan has also agreed to accept an exchange of letters on railways. This anchors the current cooperation between the two sides on railways to the FTA. Such cooperation includes the "Railway Industrial Dialogue" and the "Technical Expert Group on Railways".

##### *Other*

Japan has also agreed to open up tenders to EU bidders for:

- Hospitals and academic institutions (87 entities)
- Electricity distribution (29 entities)

#### 2. Regional and local government

Japan has agreed to grant non-discriminatory access for EU suppliers to the procurement markets of 48 cities of around 300.000 inhabitants. Together they represent roughly 15% of the Japanese population.

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## ECONOMIC PARTNERSHIP AGREEMENT

### 3. All levels of government

In addition, Japan has agreed to several measures that, amongst other things:

- allow fairer assessments of EU companies' technical abilities and experience when they bid for public tenders in Japan
- make information about public tenders more easily accessible
- set new standards for the remedies available to bidding companies if they think they have been treated unfairly.

These go beyond the WTO's Agreement on Government Procurement (GPA), which 49 WTO members have signed up to.

#### **What has the EU offered Japan?**

For its part, the EU has agreed to partially open its market in equipment for public transport in towns and cities, such as trains and signalling for metro systems, and facilities for overland railways.

The EU also grants Japan improved access to procurement by towns and cities (municipal authorities) equivalent to what Japan has offered the EU.