

Opinion of the European Economic and Social Committee on the Role of civil society in the EU-Japan Free Trade Agreement

(own-initiative opinion)

(2015/C 012/06)

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On 19 September 2013, the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an own-initiative opinion on

The role of civil society in the EU-Japan free trade agreement

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The Section for External Relations, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 18 September 2014.

At its 502nd plenary session, held on 15 and 16 October 2014 (meeting of 15 October 2014), the European Economic and Social Committee adopted the following opinion by 133 votes to 1, with three abstentions.

1. Conclusions and recommendations

1.1 Conclusions

1.1.1 Together, the EU and Japan account for more than one third of world trade. A partnership with an ambitious, comprehensive and mutually beneficial Free Trade Agreement (FTA)/Economic Partnership Agreement (EPA) between the EU and Japan would boost mutual trade and investment, and could improve their economies, job opportunities, and help strengthen international rules and standards. Their citizens would welcome a fair distribution of the expected gains but are keeping a careful watch and do not want to see their respective standards diminished.

1.1.2 The EESC welcomes these FTA/EPA negotiations with Japan and especially the decision to continue them after the first year review. However, the Committee finds the lack of information and transparency regarding the current negotiations regrettable. Since promoting and protecting consumer interests is a vital means of securing widespread public support for the agreement, it calls for the establishment of consultation mechanisms similar to those used for the Transatlantic Trade and Investment Partnership (TTIP) negotiations, so as to ensure that civil society is better informed about the comparative advantages that opening up the market between the EU and Japan would offer to stakeholders. In this connection, the EESC encourages the two parties to improve transparency and the provision of information associated with the negotiations by setting up an official mechanism to keep civil society informed and then a consultation structure within the framework of the agreement. Furthermore the Committee points out that business on both sides has already the opportunity to profit from the EU-Japan Business Round Table as a platform for involvement and consultation.

1.2 Recommendations

1.2.1 The EESC insists on being kept fully informed about the revision of the 2012 impact study. It requests that it be notified as soon as possible of the timetable for implementation, in particular as far as the harmonisation of technical standards is concerned and believes that before any decision is taken a more precise document than the impact analysis should be published in all official EU languages.

1.2.2 The EESC urges the EU to do everything possible to ensure that:

- the values it upholds around the world are reflected in this agreement and that the environmental, social, health and cultural standards are preserved and that the benefits of the agreement are shared fairly among citizens, consumers, employees and businesses;
- the two parties are ambitious not only when it comes to reducing tariffs, but also when it comes to non-tariff barriers, while at the same time committing to aim high in regulatory consistency without lowering their standards and norms, or their employment levels, acting in a fully reciprocal way, and without weakening the EU's commitment to WTO multilateralism;
- both parties acknowledge the vital importance of advancing the interests and health of consumers;
- the precautionary principle is enshrined in the agreement and legal certainty is ensured for trade in agri-food products in terms of each side's geographical indications;
- a chapter is devoted to SMEs as they account for over 99 % of all firms in both the EU and Japan and are the main creators of new jobs — as a result of which SMEs would expect to become more competitive and anticipate fewer constraints. The aim is to improve mutual market access and keep them fully informed about the new business opportunities that should open up through this agreement;
- a strong and positive chapter on services, with sufficient guarantees, is included, building on existing EU agreements, as it presents a major opportunity in these negotiations;
- the specific nature of public services in the EU is preserved in line with the Treaty obligations;
- equality of access to public procurement markets wherever appropriate is guaranteed on both sides accompanied by legal certainty;
- the right of each party to regulate and set their priorities and policies is reaffirmed, as regards sustainable development, employment and the environment;
- to this end, an ambitious chapter on sustainable development is incorporated into the agreement ensuring a prominent position for civil society and covering at least:
 - adherence to obligations stemming from both parties' membership of the ILO and the eight ILO fundamental conventions as minimum conditions;
 - the commitment to promoting and putting in place environmental laws and initiatives;
 - the commitment to managing and using natural resources sustainably in line with international agreements.

Given the highly sensitive nature of Investor-State Dispute Settlement (ISDS), and the diverging views of the different stakeholders, the EESC welcomes the public consultation exercise launched by the Commission in connection with the Transatlantic trade negotiations, and awaits the outcome with great interest⁽¹⁾. The EESC considers, given the strength of Japanese democracy, that the gathering of stakeholder views on this topic on the Japanese side might inform and help to facilitate the negotiations.

1.2.3 Dialogue between the civil societies of Japan and the EU will make an important contribution to the FTA/EPA. The Committee recommends that a joint consultative body be set up in the framework of the EU-Japan EPA/FTA, as they have been established in other agreements concluded recently by the European Union, and that its role be discussed by representatives of the two civil societies during the negotiations. This body must have the option of examining any area of the agreement so that it can put forward its point of view. The Committee strongly recommends that at least half of the European members should be nominated by the EESC — the EU's consultative body responsible for representing the interests of European organised civil society.

1.2.3.1 The EESC has established excellent ties with organisations representing Japanese employees, employers, farmers, cooperatives, consumers, NGOs, NPOs and universities⁽²⁾. With its Japan follow-up committee, it is at the forefront of promoting dialogue and consultation with civil society on both sides.

2. Setting the scene

2.1.1 The EU and Japan have decided to strengthen their ties by opening negotiations on a Free Trade Agreement/Economic Partnership Agreement (FTA/EPA). A Strategic Partnership Agreement (SPA) is being negotiated in parallel⁽³⁾. The Committee welcomes the positive outcome of the first year review and the decision to continue the negotiations. If the assumptions made come true, EU exports to Japan would increase by 30 %, the EU's GDP by 0,8 % and 400 000 new jobs would be created in the EU. Japanese GDP would increase by 0,7 %, and its exports to Europe by 24 %, whilst the agreement would also underline the major trade and investment role played by the EU in East Asia⁽⁴⁾.

2.1.2 The EU and Japan share many values and principles, including democracy, the rule of law, human rights, and market economics with high technological know-how. At the same time, they face similar challenges (e.g. aging and shrinking populations), and need to find new sources of growth and jobs.

2.1.3 The civil society bodies of the two regions and their respective consultation mechanisms are not readily interchangeable⁽⁵⁾, but a growing dialogue between such bodies would be a very important adjunct to any agreement. The EU has made social and civil dialogue a cornerstone of its social model by providing it with an institutional framework and Japan recognises the importance of civil society in the broader sense (Labour Policy Council, Multi-Stakeholder Forum).

2.2 **In Japan as in the EU**, steps are being taken to boost the economy⁽⁶⁾. At present, Japan's public debt remains close to 230 % of its GDP. The strength of the yen has put its imports at a disadvantage and following the triple disaster of Fukushima, retail trade fell by 2.3 % in one year (February 2013).

⁽¹⁾ EESC opinion, REX/390-EESC-2013-05469, Rapporteur J. Krawczyk, Co-rapporteur S. Boyle (4.6.2014).

⁽²⁾ Four EU Institutes (universities consortiums) are established in Japan with the financial support from the EC; in Japan, university teachers are considered to be civil society stakeholders (http://www.eeas.europa.eu/eu-centres/eu-centres_en.pdf).

⁽³⁾ The SPA covers political, global and sectoral cooperation (such as research, innovation, space, education, culture, energy, development cooperation, disaster management, etc.)

⁽⁴⁾ European Commission, Impact Assessment Report on EU-Japan Trade relations, Point 5.1.3 (July 2013).

⁽⁵⁾ OJ C 97/34, 28.4.2007, p. 34.

⁽⁶⁾ The 'three arrows' of prime minister Shinzō Abe form 'Abenomics': combination of measures across 3 key areas: monetary policy, fiscal stimulus and structural reforms to secure long-term, sustainable growth of Japan's economy and stimulate private-sector capital investment.

2.2.1 Bilateral free trade agreements are opening Japan up to world trade and have led to the creation of regional integration zones. Since 2002, Japan has concluded numerous bilateral agreements in both Asia and Latin America, and also with Switzerland. It is currently negotiating a trilateral agreement with China and the Republic of Korea. Japan is also part of the Trans-Pacific Partnership (TPP) negotiations.

2.2.2 Japan and the EU have already signed important agreements facilitating trade procedures in telecommunications, chemical and pharmaceutical products, anti-competitive activities, science and technology and administrative cooperation and assistance⁽⁷⁾.

3. Trade and Sustainable Development

3.1 The quest for economic growth through globalised trade risks having environmental consequences⁽⁸⁾. In its opinion on negotiating new trade agreements⁽⁹⁾, the Committee emphasised the importance of including a chapter on trade and sustainable development in EU trade negotiations, incorporating environmental and social provisions together with a key monitoring role for civil society.

3.2 The EU-Japan FTA/EPA negotiations provide an opportunity to reiterate both parties' commitment, at international level, to work towards the three pillars of sustainable development: economic growth, social development and environmental protection. These elements have been central to all EU trade negotiations and every agreement since the FTA was signed with the Republic of Korea⁽¹⁰⁾. Biodiversity, climate change, fisheries, forestry and wildlife are priorities for the EU and the world. The parties should reiterate their commitment to Multilateral Environmental Agreements (MEAs).

3.3 Any new agreement should reiterate the right of the EU Member States and Japan to regulate and to establish sustainable development priorities and encourage them to respect labour or environmental protection standards, in line with their commitments to international standards and agreements in these areas.

3.4 The FTA/EPA⁽¹¹⁾ will provide an opportunity to reiterate this commitment (possible ratification and effective implementation of ILO conventions)⁽¹²⁾ and to enhance bilateral dialogue and cooperation on labour-related issues, including in areas covered by the Decent Work Agenda.

3.4.1 The EESC, which represents European civil society as a whole, stresses the fact that it is possible that the benefit of any FTA/EPA may not be felt equally⁽¹³⁾ by the various Member States or by different sectors⁽¹⁴⁾.

3.4.2 While job increases (in % terms) are expected in the EU in the electrical machinery sector, in agriculture, forestry, fisheries, the processed food, insurance and construction sectors, a small reduction may be expected in chemicals, motor vehicles, metal and metal products and the air transport sectors⁽¹⁵⁾. These difficulties must be identified at an early stage in order to implement appropriate support and retraining measures. It is important that benefits are spread evenly across business, employees, consumers and wider civil society, whilst guarding against any major disruptions and ensuring the possibility of compensation for this⁽¹⁶⁾.

⁽⁷⁾ The agreements are as follows: the EU-Japan Mutual Recognition Agreement; the Agreement on Cooperation on Anti-competitive Activities; a Science and Technology Agreement and an Agreement on Cooperation and Mutual Administrative Assistance.

⁽⁸⁾ COM(2006) 567 final, http://europa.eu/legislation_summaries/external_trade/r11022_en.htm

⁽⁹⁾ OJ C 211, 19.8.2008, p. 82-89.

⁽¹⁰⁾ EU-Korea FTA (chapter 13): OJ L 127, 14.5.2011, pp. 62-65.

⁽¹¹⁾ See e.g. EU-Korea FTA Article 13.4.3 (OJ L 127 14.5.2011, pp. 62-65).

⁽¹²⁾ Conventions No 87 and No 98 on freedom of association and the right to collective bargaining; No 29 and No 105 on elimination of forced and compulsory labour; No 138 and No 182 on elimination of child labour, and No 100 and No 111 on non-discrimination with regard to employment and occupation.

⁽¹³⁾ Communication COM(2010) 343 final.

⁽¹⁴⁾ European Commission, *ibid.*, points 5.2.2, 5.3 and 5.6.2.

⁽¹⁵⁾ EC's Impact Assessment Report on EU-Japan Trade Relations (2012), page 49.

⁽¹⁶⁾ Such as the EGF — European Globalisation Adjustment Fund.

4. Consultation of civil society

4.1 Information and transparency

4.1.1 The EESC, which welcomes being a major partner of the Commission within the framework of its remit, finds regrettable the lack of transparency of current negotiations highlighted by stakeholders on both sides. The Commission's mandate has not been made public, whereas negotiations should be as open and transparent as possible. Numerous Japanese and European civil society organisations complain that they have received only scraps of information about the negotiations. This influences the content of the negotiations and the opportunities for civil society to make its voice heard on this matter. As we know, involvement of civil society would not only enhance our mutual understanding, but also improve the quality of the current FTA/EPA negotiations in terms of expert knowledge.

4.1.2 European citizens are calling for application of the EU's texts, which establish the principle of transparency. The EESC calls for the texts to be made available to the relevant stakeholders at the earliest opportunity.

4.1.3 Given the legitimate public demand in Europe for there to be full transparency in the trade negotiations, the EESC draws the attention of the Council and the Commission to the strict and consistent application of Article 218 TFEU and in particular paragraph 10 thereof: 'The European Parliament shall be immediately and fully informed at all stages of the procedure.'

4.1.4 The EESC recommends the EC to establish a civil society consultation model for the EU-Japan FTA/EPA negotiations similar to that for the EU-TTIP negotiations (session with stakeholders after every round of negotiations, creation of an advisory group of civil society representatives that should include EESC members). The Committee also understands that there is a similar mechanism for the transpacific negotiations involving the US and Japan.

4.2 Consultation

4.2.1 As stated above, all the FTAs concluded recently by the EU contain a chapter on trade and sustainable development⁽¹⁷⁾ with a key monitoring role for civil society — independent and representative organisations with balanced representation from business, employees and other stakeholders. The EESC supports the Commission's efforts to also have such a chapter included in the agreement with Japan.

4.2.2 **The Japanese authorities** want to generate stable growth through sustainable development (see 'Abenomics'⁽¹⁸⁾). The FTAs Japan has concluded with partners in Asia include provisions for the establishment of a subcommittee for monitoring the impact of the agreement on the business environment. Although the scope and modalities are different, the European Union and Japan are familiar with the principle of monitoring the impact of FTAs and the EESC would therefore encourage the inclusion of a strong Trade and Sustainable Development chapter.

4.2.3 The Japanese government has set up a number of internal, multilateral committees for consulting business on the impact of FTAs on the business environment, and consultation structures exist bringing together government and cooperatives, and government and trade unions. In addition other broad base consultation structures exist, such as the Multi-stakeholder Forum on Social Responsibility for Sustainable Future (MSF)⁽¹⁹⁾ or Labour Policy Council.

4.3 The EU's economic and social model 'places (...) emphasis, for example, on solid institutional structures for the management of economic, employment, social and environmental issues (...), on strong social and civil dialogue and on investment in human capital and the quality of employment'⁽²⁰⁾. The Committee notes that this model reflects the EU's values and that all its institutions must promote it throughout their policies.

⁽¹⁷⁾ TFEU Article 11, 21(2)(f).

⁽¹⁸⁾ 'Abenomics': three arrows to relaunch growth, see: <http://www.eu.emb-japan.go.jp>, <http://en.wikipedia.org/wiki/Abenomics>, and the article by Wolff and Joshii, *Japan and the EU in the global economy*, April 2014, on <http://bit.ly/1mLgY2r>

⁽¹⁹⁾ MFS: <http://sustainability.go.jp/forum/english/index.html>

⁽²⁰⁾ COM(2004) 383 final, 18 May 2004, *The Social Dimension of Globalisation*.

4.3.1 The Committee welcomes the EU's commitments at international level ⁽²¹⁾:

- to promote more effective participation of the social partners and other civil society representatives in global governance (WTO), policy development and monitoring of trade agreements implementation,
- to promote European values in the globalisation era ⁽²²⁾.

4.3.2 As regards the FTA with Japan, **the European Parliament has recommended that the Commission** focus on basic standards relating to labour law and provide for an ambitious chapter on sustainable development and a 'civil society forum that monitors and comments on its implementation'. The EESC insists on being consulted and would press for these recommendations to be implemented.

4.4 The EESC points out that the Commission itself published a guide to *Transparency in EU Trade negotiations*, which states that 'their work can only be a success if it meets the expectations of European citizens' and that 'the views of civil society play a crucial role in the preparatory phase of the negotiating process' ⁽²³⁾.

The EESC would very much like:

- the Commission to be able to recognise the role of the EESC and keep it in the loop in all aspects of the negotiating process;
- there to be regular dialogue between the Parliament, the Commission and the EESC throughout the negotiation process;
- that an inclusive role for civil society be maintained throughout the negotiating process;
- the Commission to provide for in the agreement:
 - a joint monitoring mechanism involving European and Japanese civil society, to be established in the implementation phase;
 - domestic advisory bodies providing opinions and recommendations to each of the parties and to the joint political authorities as well as to the joint authorities involved in the agreement, and authorised to receive requests from other stakeholders (especially on the sustainable development chapter) and to transmit them accompanied by their opinions and recommendations;
 - the possibility of requesting a consultation or dispute settlement procedure in the event of failing to meet the objectives of the sustainable development chapter;
 - a joint body bringing together civil society from the EU and Japan and providing a framework for a regular, structured dialogue and cooperation between them, as well as for exchanges with government representatives from the EU and Japan.

4.5 Nearly all of the representatives of European and Japanese civil society organisations consulted ⁽²⁴⁾ were in favour of establishing such a joint monitoring body under the future Free Trade Agreement.

⁽²¹⁾ Commission communication on decent work, May 2006, COM(2006) 249 final, points 2.3 and 3.5.

⁽²²⁾ Conclusions of the Council Presidency, 16 and 17 December 2004, point 53; and of 16 and 17 June 2005, point 31.

⁽²³⁾ European Commission, *Transparency in EU Trade negotiations* 2012; and also:
http://trade.ec.europa.eu/doclib/docs/2012/june/tradoc_149616.pdf

⁽²⁴⁾ During a hearing, held on 15 January 2014 at the EESC, and a subsequent mission to Japan, at the end of January 2014, a total of about 40 organisations, social partners and other stakeholders were consulted and shared their views, expectations and concerns regarding the future EU-Japan free trade agreement.

4.5.1 The monitoring mechanisms should be developed taking into consideration existing structures and respecting experience to date in the EU and Japan. The EESC wishes to be involved in determining the role, scope and composition of the EU advisory group and joint monitoring body. All stakeholders must be consulted and the EESC must be a key component in this process.

4.5.2 A structured dialogue between the representatives of civil society from the EU and Japan will add an important dimension to the FTA/EPA, including a cultural dimension. The EESC considers it to be of paramount importance that ties be maintained with its Japanese counterparts in order to ensure that the shape, scope and content of a future joint monitoring mechanism meets the expectations of both parties.

5. Key points

5.1 Negotiations

5.1.1 The Committee welcomes the fact that, in June 2014⁽²⁵⁾, the favourable progress report enabled the Council of the EU to continue the negotiations.

5.1.2 The agreement seeks to boost access to the market, ensure regulatory consistency, and therefore promote development of mutual trade and investment. It should accelerate sustainable growth, the creation of more and better jobs, enhance consumer options, and develop the competitiveness and productivity of both economies.

5.1.3 The priority for the European Union is to abolish non-tariff barriers (NTBs). In its *Impact Assessment*⁽²⁶⁾ the Commission indicates that these barriers often have cultural origins and protectionist outcomes. The EESC notes that they are difficult to change when they are based on standards which are constantly changing, though set at the highest level. Sometimes they protect entire sectors, like the Japanese rail sector.

5.2 Trade in goods

5.2.1 The elimination of tariff barriers must cover all products, and not exclude agricultural and processed products, motor vehicles that have been recognised as 'sensitive' goods, or chemical and pharmaceutical products, with transitional periods as appropriate.

5.2.2 Trade would be promoted through the mutual recognition of certified products by virtue of them having similar and equivalent product standards and cooperation on harmonising rules and systems wherever possible. However, it will be vital to ensure that such cooperation to establish new world standards does not result in lowering of standards.

5.2.3 Non-tariff barriers (NTBs), which act as a brake on EU exports, are used as hidden protectionist measures. These must be reduced or eliminated, especially where already identified during the negotiations and standards must be realigned with international standards.

5.3 SMEs

5.3.1 Since SMEs make up 99 % of the economic fabric in both Japan and Europe and create 70-80 % of employment, the EESC calls on the Commission to pay particular attention to such businesses.

5.3.2 As SMEs have limited resources due to their size, including when dealing with government and trade regulations, they can be expected to gain from an EU-Japan FTA/EPA, and above all from streamlined regulations and reduced administrative costs. They, however, require assistance in order to overcome the obstacles related to any increased international involvement: language barriers, different business cultures, high transport costs, shortage of personnel with relevant skills, information about foreign markets and a lack of sufficient financial resources.

⁽²⁵⁾ European Council of 18 and 19 October 2012, point 2(k); EU Foreign Affairs (Trade) Council, 29 November 2012, mandate to negotiate the free-trade agreement with Japan given to the Commission; Council of 29 June 2014.

⁽²⁶⁾ European Commission, 2012, *Impact Assessment Report on EU-Japan trade relations*, http://trade.ec.europa.eu/doclib/docs/2012/july/tradoc_149809.pdf

5.3.3 In order to maximise the benefits of the EU-Japan FTA/EPA, it will be essential that both parties work to increase the awareness of SMEs as to existing support services and programmes⁽²⁷⁾ offered by the EU-Japan Centre for Industrial Cooperation⁽²⁸⁾ and JETRO⁽²⁹⁾, and particularly about the new business opportunities that should open with this agreement. For instance, European SMEs could be interested in Japan's ICT, health care⁽³⁰⁾, service, renewables, organic⁽³¹⁾ and gourmet food sectors.

5.4 *Agri-food industry*

5.4.1 Liberalising the market would guarantee new opportunities for the agri-food products of both partners (200 % increase), yet agriculture is one of the more contentious areas for negotiation. The Japanese agricultural sector can guarantee only 40 % food self-sufficiency and is particularly concerned. Japanese farmers are asking that five types of product be excluded from the tariff restrictions of any negotiations with foreign countries: rice; beef and pork; milk and dairy products; wheat and barley; and sugar and sweeteners. For the EU, the export of an enlarged amount of processed food products would be seen as a major opportunity, especially if many Japanese NTBs were to be removed.

5.4.2 The EESC would like the question of Intellectual Property Rights (IPRs)⁽³²⁾ to be covered, in order to protect European innovations fairly. The question of Protected Geographical Indications (PGI) is a difficult point in the discussions. The intellectual protection of high-quality agricultural production may form a veiled barrier to imports. In the framework of the WTO, the EU and Japan had already adopted a different approach: the EU wanted to broaden the scope of PGI to ensure a higher level of protection with a binding effect (TRIPs agreements — 1998 EU proposal) and Japan proposed together with the United States (1999), that members inform the WTO of their GI with a view to setting up a database as a source of information for the other members, without a binding effect. The EESC considers this to be an important issue which must be handled carefully in the negotiations.

5.5 *Services*

5.5.1 Japanese farmers and consumers are heavily involved in the cooperative movement, which provides mutual insurance and banking services. They view liberalisation of services as a threat, whereas for many others this represents a major opportunity, not least for the so-called 'silver economy'. Services offer a key opening for a significant increase in trade.

5.5.2 In terms of gross figures, in 2012 the EU 27 exported EUR 24,2 billion of services to Japan, while imports from Japan amounted to EUR 15,6 billion — a surplus of EUR 8,6 billion for the EU 27, bearing in mind of course that the Japanese population is four times smaller than that of the EU. Almost all Japanese organisations consulted and that mentioned liberalisation of services have been against the 'negative list', by virtue of which all services not specifically excluded by the text of the agreement would be subject to opening up to trade. Whereas farmers and consumers may be against the negative list, business is strongly in favour. For the public authorities, this negative list would reduce their scope for intervention. Future services would automatically come under the liberalised domain. The EESC supports the non-restrictive right of countries to regulate in the public interest.

5.6 *Public procurement*

5.6.1 It is important for EU companies to obtain access to Japanese government procurement by eliminating standard-based barriers, establishing transparent procedures and providing information which are identical for all stakeholders, ending very sensitive restrictions in the rail market, and creating a system for accessing information online. Beyond the declared political commitment, the actual negotiations require legal stability with regard to standards.

5.6.2 Reciprocity concerning fair competition will be indispensable. The Committee believes that the agreement should clarify in full the forms of authorisation practised by each party as regards State aid and subsidies.

⁽²⁷⁾ <http://www.eu-japan.eu/smes-support>; <http://www.jetro.go.jp/en/database>

⁽²⁸⁾ <http://www.eu-japan.eu/smes-support>

⁽²⁹⁾ <https://www.jetro.go.jp/en/database/>

⁽³⁰⁾ 38 % of Japan's population is expected to be 65 years or older in 2050.

⁽³¹⁾ Organic food represents only about 0.4 % of all food sold in Japan (EBC data).

⁽³²⁾ OJ C 68, 6.3.2012, p. 28.

5.6.3 The European Union, the Member States and Japan must be able to retain the possibility to finance objectives of general interest set according to their democratic procedures, which include among other things the social sector, the environment and public health. The EU has Treaty obligations associated with public services.

5.7 Investment ⁽³³⁾

5.7.1 In 2012, the EU 27's foreign direct investment (FDI) in Japan amounted to EUR 434 million, while Japan's FDI in the EU 27 amounted to EUR 3 374 million ⁽³⁴⁾. With the key principle of a FTA/EPA being reciprocity, if the agreement leads to job losses, the EESC calls on the Commission to be vigilant on this point, and to consider using the European Globalisation Fund to compensate these. Equally, the EESC feels that it may turn out to be necessary to provide appropriate compensation for losses suffered by companies, of human resources and of technology previously financed by public funds.

5.7.2 The EU and Japan should review their rules on ownership restrictions, on authorisations and controls and on facilitating investment.

5.7.3 The EESC notes that both the law and courts in Japan and EU allow for disputes to be resolved fairly under ordinary procedures; the EU Member States and Japan offer investors a full range of institutional and legal guarantees. Given the highly sensitive nature of investor-state dispute settlement and the diverging views of the different stakeholders, the EESC welcomes the public consultation exercise launched by the Commission in connection with the Transatlantic trade negotiations, and would also welcome it if a similar initiative were taken in Japan, in order to take into account the views of Japanese stakeholders.

5.7.4 The EESC suggests promoting a broad dialogue on dispute settlement once the terms have been laid down and the results evaluated by the Commission. Indeed, the Committee is already drafting its own opinion to this end.

5.7.4.1 In all cases, no dispute settlement provision concerning investment should be able to hinder the ability of EU Member States to regulate in the public interest and to pursue public policy objectives. The definitions of investment and 'fair and equitable treatment' need to be clear. This should be covered by the negotiations.

Brussels, 15 October 2014.

The President
of the European Economic and Social Committee
Henri MALOSSE

⁽³³⁾ The European Commission has had competence in investment since the entry into force of the Lisbon Treaty. It published a Communication entitled *Towards a comprehensive European international investment policy* to which the Committee responded with its own opinion ((OJ C 318, 29.10.2011, p. 150-154).

⁽³⁴⁾ Source: Eurostat 170/2013 — 18 November 2013.