

# Framework Contract FPI/PSF/2015 - Lot 4

## Specific Terms of Reference

### "EU-Japan EPA: Implementation Roadmap"

#### 1. PSF action summary

The purpose of this contract is to support the implementation of the EU-Japan Economic Partnership Agreement (hereinafter EPA). Specifically, the action will focus on the period prior to the entry into force of the EPA. Information will be provided to identify all the legislative actions that Japan must take in order to abide by its commitments, as foreseen in the EPA. The action will enable the EU to better track the implementation process and better engage with the relevant stakeholders (GoJ or other) with a view of ensuring that Japan takes all the necessary steps needed to abide by its obligations, as foreseen in the EPA. This activity is focused on the EU's interests in the implementation of the EPA and will serve as technical support to the EU.

#### 2. Background/ Context<sup>1</sup>

##### 2.1 Short description of the sector, area/policy domain identified in the partner country-(ies)/region/multilateral forum and analysis of the opportunity framework in which the action is expected to take place.

Japan is the 3rd largest economy in the world and with a per capita GDP six times that of China, it the high-tech economy of Asia. Following two decades of economic stagnation, Japan is currently in its 7th consecutive quarter of positive growth, the longest expansion in 16 years. The latest Cabinet Office forecasts are for GDP growth of 1.9% for FY2017 and 1.8% in FY2018.

Prime Minister Abe's economic revitalization plan ("Abenomics") consisting of a three-pronged strategy combining expansive fiscal policy, monetary easing, and structural reform has brought with it an increasingly globalised outlook and liberalisation efforts including to negotiate and conclude free trade agreements with key partners. Driven by its large middle class consumer base, Japan is a leading consumer and producer of goods and services and exerts significant commercial influence in global markets. Japan's major growth driver is exports despite external demand accounting for 16% of its total GDP.

Japan is the EU's seventh largest trade partner and its attractive market offers vast business opportunities for European companies. Such opportunities will be greatly facilitated by the EU-Japan EPA, the negotiations for which were concluded in December 2017.

The EPA is now foreseen to be signed in July 2018 and enter into force in the first quarter of 2019. Specific provisions agreed under the EPA will require Japan to make changes to its domestic legislations, enact new laws, or modify certain existing administrative procedures to

---

<sup>1</sup> Please be reminded that, unlike the Concept Note, the Terms of Reference are not an internal document and are designed to be shared with the contractor. Consequently, please ensure that no confidential information is contained in the Terms of Reference.

fully adhere to its commitments. Some may be adopted prior to ratification, whereas other regulations, operational guidelines or procedures will have to be revised in a timely manner during the implementation period.

In view of this, as part of the preparations for the implementation of the EPA, a detailed and exhaustive legal analysis is needed to determine the changes that will have to be implemented by the GoJ or their implementing agencies, in order to comply with the provisions of the EPA. In identifying the necessary changes that Japan must implement, this exercise will facilitate the monitoring process and allow the EU to discuss with the Japanese authorities any issues that may arise. Securing the effective implementation of the EPA is crucial for EU businesses to be able to reap the full benefits of the provisions that have been negotiated.

## **2.2 Description of the EU interest in this action.**

The proposed action directly contributes to one of the EU's most important political mandates as regards Japan as it relates to the EU-Japan EPA. Moreover, the action, which will contribute to the smooth implementation of the EPA is in the EU interest and requires no buy in from Japan for it to be successful and effective. Preparing of an implementation roadmap in case of all future trade agreements is a new EU policy to better prepare for implementation (of such agreements), an area under increasing focus and interest, in addition to trade negotiations. The preparation of an implementation roadmap for all future trade agreements responds to a new EU initiative which aims to better prepare for their implementation.

The EU has the obligation to ensure that once concluded, trade agreements like the EU-Japan EPA, are correctly implemented. Furthermore, a correct implementation of the provisions negotiated in an EPA is essential for European economic operators to be able to reap all the benefits offered by the agreement.

## **2.3 Description of the added value of the action.**

The "Implementation Roadmap" will assist and strengthen the EU's capacity to ensure a smooth implementation of the EPA. The action will contribute to the process of influencing and encouraging Japan, its negotiators and also its political and business leaders, to raise their level of ambition to further open trade and investment markets.

## **2.4 Key stakeholders and target groups.**

The target group of the project is the European Commission, notably the Trade Section of the EU Delegation to Japan and DG Trade in Brussels. Other stakeholders are EU Member States and EU companies operating in and trading with Japan.

Information shall be obtained from key stakeholders including the ministries and government agencies in Japan responsible for the policy areas covered in the EU-Japan EPA.

## **2.5 Description of the risk(s) which may affect the action and how this/these could be mitigated.**

Risk: Correctly anticipating the number of working days required and in particular the amount of translation that will be necessary.

Mitigation: The exact number of working days required and the amount of translation needed is approved following a request from the contractor and/or instructions from the EU.

## **2.6 Indicate whether a methodology is required<sup>2</sup>**

The contractor is obliged to provide a methodology, specifying how the assignment will be carried out. The methodology will consider the distribution of the tasks/areas amongst the different members of the legal team (including the number of working days to be assigned to each expert), the methods for the gathering of information, the prioritisation<sup>3</sup> of the chapters to be reviewed and the resources to be used.

Regarding translation, the contractor shall provide a methodology on how the translation service will be organised and carried out, the resources to be deployed as well as an indicative approach to efficiently and effectively manage and translate a substantial, but as yet, unknown volume of legal information.

The methodology will also identify any risks not considered in these TORs. The methodology shall not exceed 5 pages.

## **3. Description of the action: objectives, outputs and activities**

### **3.1 PI Objective this Action intends to contribute:**

Objective 3: To improve conditions for accessing partner country markets.

### **3.2 What is the Overall Objective of the action?**

To increase, for EU business, the regulatory certainty, transparency and predictability of the business environment in Japan in those policy areas covered by the EU-Japan EPA.

### **3.3 What is/are the Specific Objective(s) of the action?**

To contribute to the successful and smooth preparation and implementation of the EU-Japan EPA including Japan's timely adherence to the commitments it has subscribed to in the EPA.

### **3.4 What are the outputs of the action?**

The action will produce the following key deliverables:

#### **1. EU-Japan EPA Implementation Roadmap Report:**

A comprehensive legal review of the EU-Japan EPA and Japan's corresponding domestic legislation/administrative regulations.

- The legal review will identify those Japanese laws **(i) currently in place that will need to be amended** as well as **(ii) new domestic legislation, administrative regulations and/or related implementing measures and regulations** (including Acts, Enforcement Decrees, Regulations, Guidelines or otherwise) which the GoJ, including relevant implementing agencies, will have to adopt and implement in order to comply and effectively enforce the EPA.

---

<sup>2</sup> Please specify whether the contractor is required to submit a methodology explaining how the assignment will be carried out.

<sup>3</sup> i.e. which chapters of the EPA will demand the greatest legislative effort from GoJ in order for the latter to fully comply with the provisions set out in the EPA.

- An exhaustive list of all the current and new legislation/administrative regulations, etc. will be provided by chapter, as per the EU-Japan EPA.
- The following information will be set out:
  - Contents, in terms of substance, of the change needed to comply with the EPA provisions;
  - How these changes will need to be introduced (e.g. via legislative amendment in Parliament, executive decree, etc.);
  - Identify the respective government agency/regulatory body that will be responsible for implementing these changes;
  - Where the GoJ is as regards these changes and the timeline foreseen to make these changes;
  - Brief analysis of implications, for Japan, of the legislation (and/or related implementing measures) and regulations identified.
- The above information will also be presented in table format.
- In the Report, the contractor will also identify instances where an unclear or ambiguous formulation of certain provisions in the EPA may give rise to different interpretations on how commitments should be implemented and pose challenges to their effective implementation. With regard to these instances, the contractor will present a legal opinion on possible alternatives for an effective implementation of the provisions in question.

## **2. Translation Service:**

- Translation of pieces of current legislation, administrative measures, their amendments, as well as new legislation and administrative measures, regulations, decrees, guidelines, etc., relevant for implementation of the EPA. Such legislations/measures, etc., may have been identified in the Implementation Roadmap Report, but there may also be measures not included in the Implementation Roadmap Report that may need to be translated after the submission of the Implementation Roadmap Report.
- Laws may not need to be translated in their entirety; as such, some preliminary analysis and discussion with the EU will be required to determine what exactly should be subject to translation.

### **3.5 What are the planned activities that will produce the outputs and therefore contribute to the specific objectives and to the overall objective?**

- A1. Data and intelligence gathering (desk top and meetings), to the legal review.
- A2. Translation of relevant modified/new domestic legislation, administrative regulations, etc.
- A3. Report drafting, including consultation of the EU on the draft.

## **4. EXPERTS PROFILE OR EXPERTISE**

### **4.1 Implementation Roadmap Report**

For the success of this assignment, the contractor must assemble a **legal team** with:

- Extensive knowledge of free trade agreements, in particular the EU-Japan EPA;
- Extensive knowledge of Japan's legislative and regulatory environment as well as the modus operandi of relevant government institutions and regulatory bodies;
- Specific knowledge of Japan's domestic economy, including knowledge of market barriers faced by European economic operators in different sectors of the economy;
- Excellent English drafting skills;
- All team members shall be senior **legal** experts;
- Collectively, the team shall have expertise in the following areas and in particular as regards Japan:
  - Public Procurement
  - Services
  - Investments
  - Customs and trade facilitation
  - Intellectual Property
  - Sanitary and Phytosanitary issues
  - Technical Barriers to Trade

One of the members of the legal team shall be appointed as "Team Leader" and will be the principal point of contact between the EU and the other members of the legal team, in order to ensure an efficient and structured working methodology.

Experts with relevant sectoral trade expertise, such as automotive, pharmaceuticals, agriculture, etc., in Japan would be welcome.

The legal team shall be composed of a maximum of 4 experts. The value added of each member of the legal team must be set out in the methodology to be provided as part of the offer.

A minimum of 150 working days shall be required by the legal team to implement the action.

#### **4.2. Translation of legislation, administrative measures etc., relating to the EU-Japan EPA**

For the success of this assignment, the contractor must assemble a legal translation team (or subcontractor) meeting the following requirements:

- Extensive experience in legal translation from Japanese into English.
- Extensive experience in the translation of international agreements.
- Extensive experience in the translation of trade-related texts.

A minimum of 30% of the total budget shall be reserved for translation. The use of this budget will be subject to prior discussions with the EU Delegation and agreement on the legislation/measures to be translated.

## 5. ORGANISATION OF THE ASSIGNMENT

### 5.1 Main organiser / contact point for the contractor.

Pablo Iglesias Rumbo, Programme Manager, EU Delegation to Japan.

### 5.2 Timeframe of the assignment: indicative start date and end date and/or duration.

The action has a total duration of 14 months, starting in March 2018. In particular:

#### - Implementation Roadmap Report:

- ✓ The legal review will take place in Tokio from March 2018 until September 2018 (a total of 7 months)..
- ✓ The Implementation Roadmap Report shall be delivered in the first 6 months of the project.
- ✓ Regular coordination with the EU at the Delegation in Tokyo on the progress of the legal review is foreseen.

#### - Translations of the amendments of current domestic legislation and new relevant legislation:

- ✓ It shall be delivered with the highest quality in the shortest time possible up until the end of the 14-month long project.
- ✓ It will consist of swiftly providing translations on the legislative and/or administrative texts produced by the Japanese competent authorities or business associations that are relevant for the effective implementation of the EU-Japan EPA. Both the EU DEL and the contractor may propose legislation, etc., to be translated.

The table below provides an indicative timeline for these two main activities:

<b>MONTH</b>	<b>ACTIVITY – LEGAL REVIEW</b>
Month 1 (March 2018)	Kick-Off meeting
Months 1-4 (March-June 2018)	Legal review to the extent relevant for the Implementation Roadmap
Months 5 (July 2018)	Presentation of draft Implementation Roadmap Report
Month 6 (August 2018)	Finalisation of the Implementation Roadmap Report
Month 7 (September 2018)	Submission of the final Implementation Roadmap Report

<b>MONTH</b>	<b>ACTIVITY – TRANSLATIONS</b>
Month 1-14 (March 2018-April 2019)	Translations in full or part of current or new legislations, administrative measures, decrees, etc.

5.3 Are there any specific existing arrangements e.g. office space provided by a partner country.  
n/a.

5.4 Location of the assignment.  
Japan.

5.5 Logistical support.  
n/a.

5.6 Event organisation if applicable.  
n/a.

5.7 Feedback<sup>4</sup>.  
n/a.

## 6. ADMINISTRATIVE INFORMATION

6.1 Interviews if necessary indicating for which experts/position.  
n/a.

6.2 Authorized items to foresee under 'Reimbursables'.  
n/a.

6.3 Reporting requirements including report language(s), submission timeframes, number of report(s) copies.

In addition to the Outputs requested in Section 2, the following reports on the overall implementation of the project shall be provided:

Name of report	Content	Time of submission
Draft Final Report	Maximum 6 pages on the achievements, challenges encountered and recommendations.	Following the conclusion of the activities outlined above.
Final Report	Maximum 6 pages on the achievements, challenges encountered and recommendations including comments from the EU Delegation. A final invoice and the financial report accompanied by the expenditure verification report.	Within 2 weeks of receiving comments on the draft final report from the Project Manager identified in the contract.

---

<sup>4</sup> To be specified the type of feedback that the contractor will be required to collect from the participants to the activity.

