

Ms Cecilia Malmström  
Commissioner for Trade  
European Commission  
Rue de la Loi 200  
1049 - Brussels  
BELGIUM

Brussels, 12 December 2016

Subject : **ESF Call for conclusion of an ambitious EU-Japan FTA**

Dear Commissioner Malmström,

The European Union is a strong exporter of services to Japan (€25.4 Billion in 2014) with a surplus of €10.3 Billion, contributing to a net surplus of €8.4 Billion to the EU economy. Export of services represents 32.4% of the total exports to Japan in terms of balance of payment. Furthermore, when we look at the evolution of the services value added of exports in Japan between 1995 and 2011 (see [TiVA Japan Profile](#)), one can see that foreign services experienced an 8.9% growth compare to 3.3% for the domestic services. EU services businesses highly contributed to that growth, but the share of foreign services in Japan total exports remains relatively low (5.4%) compare to the level in the EU (19.2%), which shows that much progress remains to be made in Japan to allow our companies to be competitive in that country.

Trade in services is a very strong element in the competitiveness of the European economy, and we hope that an ambitious package for services related aspects in the EU-Japan Free Trade Agreement will further enhance it by opening sector specific markets and providing legal certainty to traders and investors through binding rules and commitments.

ESF has vigorously supported the on-going bilateral trade negotiations between the European Union and Japan since their inception in November 2012. We are confident that the talks are now reaching an end-game phase.

We therefore would like to urge you and your team to move forward the negotiations in a constructive manner and make all efforts necessary to successfully conclude as soon as possible an ambitious and balanced EU Japan FTA.

We support the focus by the negotiators on key issues such as all types of tariffs and non-tariff measures, but would like to remind the crucial importance of services in terms of trade (27.4% of total trade) as well as in terms of investment and public procurement.

On services sectors, we are still looking for some progress in financial services, in postal services and some significant improvement in maritime transport, in particular on empty containers and feeder services. On a more horizontal matter but with importance for the whole cross border trade in

services and beyond, we would like to reiterate the call we made recently in the framework of the Trade in Services Agreement negotiations on the crucial issue of cross border data flows. Digitally enabled services through flow of data across borders has become the life blood of all trade, including between EU and Japan. Since TiSA has been put on hold in the recent weeks, we believe that the negotiations between EU and Japan are the right framework to develop the EU position on this matter. Japan and the EU have strong data privacy regimes and this should be an opportunity to set the rules between two like-minded most developed countries' block to ban forced data localisation requirements.

On investment, while the EU is by far the largest investor in the world, the EU continues to run a strong deficit of FDI with Japan of more than €80 Billion in 2013, demonstrating clear difficulties for our businesses to access the Japanese market due to various trade, bureaucratic and other kind of barriers that we hope the agreement will be able to tackle. In this sense, constructive language in domestic regulation is essential. Inspiration from the relevant chapter of the on-going Trade in Services Agreement will certainly help for better understanding of the licensing and regulatory processes in Japan. We continue to argue for a state of the art protection of the investments, reconciling the protection of the legitimate public policy objectives and the protection of recognised foreign investors rights.

On public procurement, ESF supports solid chapter and commitments going beyond the current GPA commitments from Japan, to allow European services businesses to better access Japan's public procurement market. The agreement should cover a large number of central and sub-central level entities as well as a larger number of public entities like hospitals, schools and universities.

In the current challenging political circumstances surrounding trade related issues, we call on the EU and Japan to deliver a strong positive signal that trade policy is indeed the way towards the creation of more jobs and economic opportunity in both markets.

I would like to thank you for taking our views into account, and ESF Office remains at your disposal for any further information.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'T. Harris', with a long horizontal stroke above it.

Sir Thomas Harris  
ESF Chairman

Cc: Mr. Mauro Petriccione, Deputy Director General, DG Trade & Chief Negotiator for EU-Japan FTA

## LIST OF ESF MEMBERS SUPPORTING THIS POSITION

- Accountancy Europe
- Ageas Insurance
- Architects' Council of Europe –ACE
- BDO
- British Telecom Plc
- Bundesverband der Freien Berufe - BFB
- Bureau International des Producteurs et Intermédiaires d'Assurances – BIPAR
- BUSINESSEUROPE
- BUSINESSEUROPE WTO Working Group
- Deutsche Bank AG
- Deutsche Post DHL
- Deutsche Telekom AG
- DI – Confederation of Danish Industries
- Digital Europe
- EK - Confederation of Finnish Industries
- Ernst & Young
- EuroCommerce
- European Banking Federation - EBF
- European Community Shipowners' Associations – ECSA
- European Express Association – EEA
- European Federation of Engineering and Consultancy Associations – EFCA
- European Savings Banks Group – ESBG
- European Satellite Operators Association - ESOA
- European Telecommunications Network Operators - ETNO
- European University Association - EUA
- Fédération de l'Industrie Européenne de la Construction – FIEC
- Foreign Trade Association – FTA
- HSBC Holdings Plc.
- IBM Europe, Middle East & Africa
- Inmarsat
- Insurance Europe
- Irish Business and Employers' Confederation - IBEC
- Law Society of England & Wales
- Le Groupe La Poste
- Microsoft Corporation Europe
- Mouvement des Entreprises Françaises - MEDEF
- Oracle Europe, Middle East & Africa
- Orange
- PostEurop
- Prudential Plc.
- SELDIA – European Direct Selling Association
- Svenskt Näringsliv (Confederation of Swedish Enterprise)
- Tata Consulting Services - TCS
- Telenor Group
- TheCityUK
- Thomson-Reuters
- Zurich Financial Services