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The New Politics of Trade: EU-Japan

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The New Politics of Trade: EU-Japan

Unlike the European Union's (EU) negotiations with the US and Canada, the Japan-EU Economic Partnership Agreement (EPA) negotiations have encountered few critics from civil society organisations (CSO) and therefore became an 'exceptional' case for the EU. There are four reasons. The first is that the main focus of the EPA is still on 'old' issues such as tariff reduction of motorcars, electronics and agricultural products. The second is the relative lack of innovative proposals compared to the American and Canadian case. The third is Japan's lack of ability and competitiveness to export its regulations, making Japan's attitude relatively defensive. Finally, the modest scale of Japan-EU trade compared to transatlantic trade. These four reasons made the level of contestation relatively low, but this has not led to an acceleration of concluding the EPA. Uncertainty caused by Trump and the Brexit referendum have made Japan's trade policy complicated and unpredictable.

Keywords: European Union (European Communities); EPA (economic partnership agreement); Japan

1. Introduction

Following the deadlock of the World Trade Organization's (WTO) multilateral rounds, the US, the European Union (EU) and the other industrialised countries including Japan raced toward negotiating bilateral trade agreements. Based on decisions of the Council of Foreign Ministers, the European Commission has negotiated Free Trade Agreement/Economic Partnership Agreements (FTA/EPA) with countries and regions outside Europe. While the European Commission pursues its ambitious aim to write the rules of global trade, the negotiations with the US over the Transatlantic Trade and

Investment Partnership (TTIP, Dominguez this volume) and Canada over the Comprehensive Economic Trade Agreement (CETA, Hübner, Balik and Deman this volume) have faced criticism from civil society organisations (CSO). Compared to these contested cases, the EPA negotiations with Japan have encountered few critics.¹ Why and to what extent has the Japanese case become an ‘exception’ to the EU’s debated role in regulating markets?

Japan’s relations with the EC/EU and its member states were first investigated by Gilson (Gilson 2000) whose findings were later confirmed by Keck (Keck, et.al. 2013). These studies highlighted how the trade conflicts of the past (Tanaka 1998, 225; Rothacher 1983, 259) had transformed into cooperative mutual understanding between Global partners (Suzuki 2015b; Hook et.al. 2007). Despite having been a challenge to European foreign trade, Japan fails to appear in discussions of the historical process that has seen the EU emerge as a global trade power (Meunier, Nicolaïdis 2011, 275-295). Laursen has demonstrated how the ASEAN, in which Japan has crucial interests but is not a full member, has provided a distant model compared to the EU (Laursen 2010). On the contrary Smith described EU-Asian relations as a “microcosm of global trade governance (Smith 2013, 387-389),” emphasising the commonness between the two regions. Yet, why have CSOs not contested the EU-Japan EPA as a hostile market regulation affecting employment, environment and consumer protection like they did the TTIP and the CETA?

This article argues that, while sharing some common issues and agenda with the TTIP and the CETA, the Japanese case failed to catch the attentions of CSOs both in Europe and Japan. There are four reasons for this. The first is that the EPA is still tackling ‘old’ issues, such as tariff reduction of cars, electronics and agricultural products. Opposition and hesitation to the EPA have emerged amongst Japanese

producers and pressure groups, but in the absence of CSOs, particularly consumers.

Related to the first reason, the second is the relative lack of new cutting-edge proposals compared to both the TTIP and the CETA. The third reason rests on Japan's inability to export its regulations. Except for the Prime Minister's strong leadership, the Ministries, producer groups and politicians representing specific interests lack ability and will to do so. Finally, the fourth is the relatively small scale of Japan-EU trade compared to the TTIP. These four issues coalesce to make the level of the EPA's contestation lower than that of either the TTIP or the CETA. This, though, did not automatically assure that a quick agreement will be reached between the EU and Japan. The Trump presidency abandoned the Trans-Pacific Strategic Economic Partnership Agreement (or the Trans-Pacific Partnership, TPP), making Japan's choice unpredictable. Japan can still reach agreement with the EU, which would demonstrate its commitment for defining future global trade rules. The UK's Brexit referendum of June 2016 has, however, also made Japan's trade policy more difficult and complicated, because Japanese companies have primarily operated their European factories in the UK (Suzuki 2015a, 2014a, 2014b) and have been heavily dependent upon British membership.

2. Shifting from trade conflicts to a multilateral approach

Japan's flood of exports – first into the US from the early 1950s and then in the late 1960s and early 70s into the European Economic Community (EEC) - ignited trade conflict between this tri-polar of major trade policy actors, which continued throughout the 1980s. Washington and Brussels claimed that Japan's strategy abused free trade rules (Suzuki 2014a, 53), and that Japanese exports caused serious unemployment. Japan retorted that such claims and protectionist methods were a violation of the free trade rules of the General Agreement on Tariffs and Trade (GATT). The conflict was

partially solved when Japanese multinationals began opening factories in America and Europe (Suzuki 2014a, 53-55; Suzuki 2015a), thereby reducing imports from Japan and encouraging employment. This, then, contributed to a reduction in the trade deficit of both the EC and its member states with Japan. Ultimately these conflicts faded away. American and European exports to Japan have gradually increased, and, even more importantly, the Japanese economy entered recession in the early 1990s due to the end of the bubble-economy and the reduction in its exports. As the former Japanese Ambassador Takayuki Kimura has argued, “the trade conflict was not solved, but disappeared without being structurally solved (Suzuki 2014c, 154).”

The decisive turning point of the trade conflict was the end of the cold war in 1991. The Japan-EC Joint Declaration was announced on 18 July in The Hague, shortly after the Japan-US Joint Declaration. The Declaration called for wider mutual cooperation – not only in economics and free trade, but also in peace keeping, prosperity and stability around the world (Waldenberger 2013, 4).

The rapprochement bore fruit before long and the WTO was launched in 1995. Japan and the EU welcomed the new multilateral organisation and pursued further liberalisation of global trade. Compared to its predecessor, the WTO enforced its institutional framework and conflict mediating system (the Dispute Settlement Board). Particularly prominent was the case of motorcars and their components in the US , which was causing problems with the Clinton administration. The issue was not discussed through the usual bilateral negotiations but was overcome by the WTO panel. It was the European Commission who supported Japan’s action and favoured the multilateral WTO approach (Tanaka 1998, 236-237). This mutual cooperation between Japan and the EU, which focused on promoting rule-based liberalisation of global trade,

continues up to the present. Although lacking binding agreements, the Japan-EU Action Plan of 2001 was a child of the Declaration of 1991.²

However, believing that the WTO had not served in favour of American national interests, the Bush administration chose to depart from the multilateral approach in 2001. Bush adopted a bilateral approach outside the framework of the WTO Doha Round in order to agree upon active bilateral FTAs. This approach was seen as more rapid and effective than waiting for the slow progress of the Round. Accordingly, Japan and the EU were obliged to swiftly follow the American precedent. If not, both feared that the lack FTA/EPAs would damage their industries' access to the markets. Asian Pacific and Latin American countries became one of the main focuses of Japan and Europe.

3. The first stage of Japan's EPAs: Asian Pacific and Latin American countries

It has been understood that EU's (reluctant) shift from a multilateral approach under the WTO and to a bilateral FTA strategy was caused by three factors (Woolcock 2010, 396-398).³ The first was the Doha Round's lack of progress. The second was the shift of other major WTO members toward active FTA strategies. For example, China adopted a new trade policy in 2000 and approached the ASEAN. China was closely followed up and countered by Japan and India. Finally, and most crucially, was the Bush administration. Under the Trade Promotion Authority of 2001 they pursued active FTA negotiations with Central America, Thailand, Korea and the Southern Africa Customs Union (SACU). These three fuses sparked a global trend, which saw countries pursuing bilateral FTA/EPAs outside the WTO Round.

From a Japanese perspective, however, it was the EU which made the earlier shift towards the bilateral FTA/EPA approach than Japan. The Japan External Trade

Organization (JETRO) interprets Japan's gradual steps toward FTA/EPAs as having been propelled by two issues: the deadlock of the Doha Round and developing countries' shift towards liberalising trade.⁴ Urata points out that a sense of "exclusion fear" pushed East Asian countries toward FTA negotiations (Urata 2009). Japan's gradual and reluctant shift toward FTA/EPAs was evident in its negotiations with the Latin American countries. More precisely, the EU shifted towards the bilateral approach earlier than Japan in its relations with the Latin American countries. In contrast Japan responded gradually and engaged in bilateral relations with the Asian Pacific countries earlier than the EU. These choices forced Japan into a difficult position of passive reaction. Japan was the last to sit down and negotiate with Mexico and Chile. The US and EU had led the way. This led Japan to make compromises in agriculture at a level never witnessed in its earlier history (Suzuki 2015c).

For Japan, the highest priority in trade negotiations has been the Asian-Pacific countries. Japanese motorcar and electronic multinationals run plants – which distribute goods domestically and export to Japan – in countries such as Thailand, Indonesia, and the Philippines. Asian countries have been indispensable to Japanese industry as both supply chain and outlet market. Such facts partly explain why Japan has provided a certain amount of Official Development Assistance (ODA) to these countries since the 1960s, a tendency that has not changed. The first country with which Japan signed an EPA was Singapore. This entered into force in November 2002. Since then Japan has entered into the first stage of pursuing bilateral FTA/EPAs, negotiating with most of the Asian Pacific countries (Urata 2009). These EPAs have steadily come into force since the July 2006 agreement with Malaysia. In November 2007 Japan initiated an EPA with Thailand, followed in July 2008 by another with Indonesia and Brunei, in December with the Philippines and the ASEAN, in October 2009 with Vietnam, in August 2011

with India, and finally in July 2014 with Australia. The only exceptions are Korea and China.⁵ This was spurred by a strategy that looked to conclude “as many [neighbouring Asian countries] as possible” and “in the order of negotiable.”

(Table 1. Japan-ASEAN trade (2006))

In contrast to the EPAs with the Asian Pacific countries, Japan began its negotiations with Latin American countries later than the US and the EU. The EU agreed the Partnership Agreement with Mexico in 1997, which entered into force in 2000.⁶ It signed the Association Agreement with Chile in 2002 and the Agreement finally entered into force in March 2005. Japan started negotiations with these countries later and in a more passive manner. Japan’s EPAs with Mexico, Chile, and Peru began as an attempt to catch up with the US and the EU. The aim of these negotiations was to avoid reduced market access for Japanese multinationals, especially motorcars. The Japan-Mexico EPA was enacted in April 2005. This was followed by the Japan-Chile EPA in September 2007, and lastly by the Japan-Peru EPA of March 2012.

The Japan-Mexico EPA intended to reduce tariffs of industrial and agricultural products, to promote trade of services and investment, and to open public procurement for Japanese multinationals in Mexico.⁷ Mexico has been crucial for Japanese multinationals in the motorcar industry, since plants located in Mexico produce and sell domestically and also export to the North American market. For Japan it was crucial that tariffs on motorcars, electrical products and their components were abolished. In the agricultural sphere, Mexico gained preferential quotas in Japan for pork, beef, chicken, oranges and orange juice.⁸

The Mexican case became a crucial forerunner to later negotiations with Chile and Peru. This was a compromise that Japan had hardly made with the US and the EC/EU during their history of trade conflicts. Up to this point, Japan had enjoyed a period of *not* being targeted by the US, unlike the EEC/EC and its Common Agriculture Policy (CAP) during the GATT Rounds. Japan had adopted a tactic of liberalising very specific items within the agricultural sector. Yet, when the tensions of trade conflicts had grown higher, Japan had made compromises of lowering its tariffs on beef and orange for the US in the 1980s, and on Scottish whiskey and spirits for the EC/EU in the 1990s. Other items, rice being prominent among them, had barely appeared on the agenda in negotiations. These compromises in agriculture were used symbolically and highlight the peak of trade conflicts, which eventually died down and were forgotten.

The EPA with Chile was similar in content and tone to that between Japan and Mexico. Chile had already agreed upon FTAs with more than 40 countries and regions including the US, the EU, Korea, and China. The EPA allowed for Chile's tariff-free exports to Japan to increase from 30% to 90%.⁹ Chile's exports to Japan are mostly natural resources such as copper and molybdenum steel. What was remarkable, however, was that Japanese import tariffs on salmon, pork, wine and wood were also reduced. Chilean wine has rapidly become a popular product in Japanese supermarkets.

The most recent trade agreement with Peru went even further than the Japan-Chile EPA. The following decade has seen both countries abolish tariffs on all products.¹⁰ This includes Peru's exports of pork, chicken, asparagus, corn, eel and wood. In turn Japan has seen increased access not only of motorcar, motorcycle and electrical products, but also of sweet potatoe, apple, pear, persimmon, green tee, and alcohol (*sake*). This was a strikingly novel decision. Previously Japan had shown little interest in promoting exports of agricultural products. Such efforts would, in turn, lead

to opening the Japanese agriculture market to imports. These unique compromises in the agricultural sector have offered the EU the chance to expand their export of agriculture products towards Japan. Wine and cheese are known to be priority items.¹¹

4. The second stage: EPA negotiations with the EU and the US

4-1. The Japan-EU negotiations

The early stages of the Japan-EU EPA negotiation started in May 2011. Japan-EU trade occupied 35.7% of the global total in 2013.¹² The EPA is expected to promote not only economic growth and employment but also to help the parties jointly set the rules of global trade. Japan requested a reduction of the EU's tariffs on motorcars (11%) and electronic products (14%). In return the EU asked Japan to reduce tariffs and abolish non-tariff barriers (NTB) for motorcars, chemical products, electronic products, processed food, food security regulations, medical equipment and medicine, and to open public procurement.¹³ The following sections will focus on the three most contested issues, agriculture, public procurement of railway infrastructure and the *kei*-car category as an NTB.

The EU-Japan EPA could be characterised by its emphasis on 'old' issues of reducing tariffs and its lack of innovative and ambitious proposals such as the TTIP and the CETA. This led to the relative lack of opposition to the EPA amongst CSOs in both Europe and Japan, but this has not meant an early conclusion of the negotiations. The negotiation has faced serious opposition by Japanese pressure groups and politicians representing specific sectorial interests. Ministries are also divided in whether they support or oppose the EPA. However, the firm support of the Japanese Prime Minister's leadership that is seeking to boost Japanese economy – which would secure a successful 2020 Tokyo Olympic Games – has been key.

How has the Japanese case become 'exceptional' among the EU's FTA/EPAs? After succeeding in her EPA negotiations with neighbouring Asian Pacific countries, the second stage of Japan's FTA negotiations began when Japan concluded its EPA negotiations with neighbouring Asian Pacific countries and decided to enter into negotiations with its global partners – the US and the EU.¹⁴ Japan's trade policy has now entered into an 'active' and challenging second stage, in which both the chances and risks run higher. Since Japanese multinationals have been operating factories in the US and the EU member states for more than three decades, to what extent could Japan profit from an FTA/EPA with the EU? Japanese motorcars produced in these establishments are consumed by Europeans in greater number than those that are being exported from factories in Japan. Rather than an "expectation deficit" for both Japan and the EU (Tsuruoka 2008, 107-126), it seems doubtful whether both sides have any expectations at all. This is evident when practical issues such as Europe's abolition of tariffs on Japanese motorcars, Japan's abandoning of NTBs on motorcars, and opening public procurement are in question. What is more evident is a participation deficit of CSOs in both Europe and Japan, while contestation among producers' pressure groups and politicians have heated up in Japan, where they are debating the regulation of imports of agricultural products, railway carriages and small-sized family cars made in Europe.

Japan's negotiation with the EU goes back to May 2011 under the Democratic Party of Japan (DPJ, from 26 March 2016 onwards the Democratic Party, DP) coalition government under Prime Minister Naoto Kan. Before starting the EPA negotiations, Japan and the EU agreed to launch a scoping exercise at the Japan-EU Summit on 28 May 2011. The 11 March *tsunami* and nuclear disaster, which occurred shortly before

the decision, played a role in prompting EU member states to help Japan economically. The scoping exercise was concluded in July 2012 and led the European Commission to propose that the Council of Foreign Ministers authorise negotiations. The Council agreed in Madrid the following November and adopted the mandate.

(Table 2. Japan's trade with the EU)

In December 2012, the Liberal Democratic Party (LDP) won the election by securing a majority alongside with the *Komei* Party. The DPJ's centre-left administration initiated the TPP and the Japan-EU trade negotiations, and was now succeeded by a right-wing Shinzo Abe's coalition. Abe proposed a policy centred upon allowing inflation and nurturing a booming economy – this has come to be termed Abenomics. Stock prices recovered to the levels before the global financial shock of 2008 and Japanese Yen was devaluated. Both factors allowed Japanese industry to increase its exports. In terms of trade policy, Abe allied himself to the DPJ's policy of pursuing EPAs and has, in fact, enhanced it by improving the performance of the Japanese economy. The first phase of the Japan-EU EPA negotiations took place in Brussels in April 2013, followed by the second in Tokyo in June, the third and fourth were also in Brussels during October 2013 and January 2014, and the fifth during March/April in Tokyo.

4-2. Sensible issues and the TPP: agriculture

The trade policy of post-war Japan focused on the US, and this trend has continued. Japan's deeply embedded American bias is not only a consequence of economic relations and interdependence but also orientates around her security alliance with the US. Therefore Japanese trade relations have been and will be decided through the prism

of US-Japanese relations. However, the TPP negotiations, which began in 2006, are not solely carried out between Japan and the US. It was originally launched by Singapore, New Zealand, Chile and Brunei. The US only joined in March 2010, followed by Japan – even later – in July 2013. The list of 12 countries that took part at the end of the negotiations also included Australia, Peru, Malaysia, Vietnam, Canada, and Mexico. Together, these countries account for 38% of the world's annual GDP.¹⁵

How new is the TPP when compared to the former trade agreements, and might it affect the Japan-EU negotiations? The first thing to point out is that Japan's participation in the TPP was not a mere follow up to its EPAs with Asian Pacific countries. In fact it had a fundamentally new dimension – different to these earlier cases. First and for most, the US has become a direct negotiating partner within the Asia-Pacific region during the Obama administration, since it was a country that also saw that its vital interests lie in the region. Secondly, the TPP was more wide reaching than previous agreements: the issues covered aside from trade and tariff reduction include investment, NTBs, public procurement, intellectual property rights, the environment, and labour issues.¹⁶ Chances to expand Japan's export market are inevitably interrelated with the liberalisation of Japanese imports, investment, and the regulations of various service sectors.

The Abe administration has been pressed to conclude and implement the TPP and the EPA by Japanese multinationals and the business lobbying group *Keidanren*. In the EU agriculture is a divisive issue that is difficult to put on the table (Roederer-Rynning and Schimmelfennig 2012, 951-968). Japan faces a similar problem. The extent to which the centralised power of the agricultural producers' group – JA (*nokyo*) – could be reduced rests on the question of liberalising Japanese imports.¹⁷ The EPAs with Latin American countries, which have succeeded in liberalising the protected

Japanese market, indicate that Japan could conclude similar agreements with the EU. These issues revolve around certain products: wine, beef, pork and dairy products. Chocolate and pasta were subsequently added to EU's list because the TPP included tariff deductions for these items. These compromises are not only due to Japanese bureaucracy favouring path dependency, but also reflect the nature of trade agreements, which allow any other countries/regions to obtain the same contents as agreed earlier. The strongest opposition, as has been the case elsewhere, comes from the Ministry of Agriculture, Forestry and Fisheries (MAFF) and JA.

While Japan-US bilateral negotiations have focused on motorcars, the Japanese government – namely MAFF – keenly manoeuvred to protect the agricultural sector. The five “sacred items,” which are rice, wheat, beef/pork, dairy products and sugarcane, were excluded from the TPP's initial aim of abolishing tariffs on *all* items until 2015. MAFF announced that 4.5 trillion Yen of Japanese agricultural production would be lost if tariffs were immediately abolished.¹⁸ The reasons lying behind the protection of these five items are sensible political and social structures (Rothacher 2013, 240-254). Dismantling these “sacred” five had seemed a mission-impossible until Mexico, Chile and Peru succeeded in liberalising the pork market. Thus, other items such as wine, dairy products and chicken could have a fair chance of following a similar trend. This is not only the case in negotiations with the US and the TPP countries but also with the EU. The Japan-EU negotiations succeeded in reducing tariffs on pork in December 2016. However, this went further in January 2017 when the EU requested the 100% abolition of cheese tariffs,¹⁹ which marks a further retreat for Japan than the TPP negotiations.²⁰ The EU's possible elimination of tariffs for Japanese motorcars and Japan's abandoning of cheese tariffs have become the final points of negotiation.

In response to Japan's request that the EU abolish tariffs on Japanese motorcars and electronics, the European Commission has demanded the reduction of Japanese tariffs on agricultural imports. The EU's closest ally on this matter is Japanese Prime Minister Abe. He sought to reinforce Japanese competitiveness by raising agriculture as one of the strategic and innovative targets of Abenomics.²¹ A crucial aim was to further promote Japanese exports by lowering import tariffs and to demonstrate Japan's ability to write the rules of global trade. Decades ago liberalisation of imports could have faced unified and determined opposition from the agriculture sector and politicians representing those interest groups. Although these groups still voice opposition, they have decreased in volume, which was a tendency formerly witnessed in Japan's EPA negotiations with Mexico, Chile and Peru, and, although with limits, also in the TPP. MAFF is in favour of reforming JA and supports Prime Minister Abe's reforms. MAFF departs from its support for Abenomics and opposes, however, the liberalisation of imports. MAFF claims that JA's reform requires a breathing-space and therefore import liberalisation must be strictly limited or postponed as far as possible. While Abe is seeking for a reform based on the pressures of trade liberalisation, MAFF is claiming success without these changes.

Despite being persuaded by MAFF that its organisation structure, pricing policy and distribution system are all outdated and far from cost-effective, JA firmly refuses to reform itself and opposes the liberalisation of imports. A minority of JA leaders and young farmers are, however, calling for reform and supporting Abe's leadership and the expansion of Japanese agricultural exports (Yamashita 2016, 322-352). These reformists are inspired by a new generation of Japanese agriculture economists (Yamashita 2011) but are isolated. Consumers' inputs, which should logically support cheaper food prices that come with increased imports, are almost totally absent in the

picture, showing a sharp contrast to those of the EU. The reformists are, however, supported by *Keidanren* and major supermarket franchises that are encouraging young farmers to bypass JA and become their direct business partners.

Politicians of both the LDP and the DP are divided on the issue. Those from rural constituencies depend on JA members' votes and therefore support JA's claims. Those politicians that are specialised in the agricultural sector and have strong links with both JA and MAFF stand on a more complex platform, because MAFF is in favour of reforming JA and supporting Prime Minister Abe's reforms (Yomiuri Shinbun Economy 265-278, 280-281) and therefore disagrees with JA. They act as a bridge between Abe, MAFF and JA, by attempting to mediate between reformists and the majority of JA members. Both reformist politicians and MAFF share the trauma induced by the disastrous failure of domestic compensations made after the GATT Uruguay Round. Six trillion Yen of compensation funding made little difference either by increasing output or reducing costs of Japanese agriculture. "Never repeat the same mistake" became the shared motto of those politicians and MAFF (Yomiuri Shinbun Economy 77-78). Butter shortage in run up to Christmas has become a recurring problem in Japan. This case is suggestive of how the EU's free exports of dairy products could help to avoid such administrative failures in Japan. The absence of consumer criticism is primarily caused by the myth that Japanese agricultural products are of higher quality and safer, and that the high food price in Japan is the necessary cost of saving the farmers. This is a product of JA's propaganda (Yamashita 2017, 51-52). In reality it is saving JA but not the aging farmers whose income are dropping (OECD 2017, 103-105).

4-3. Public procurement of railway infrastructure and the kei-car category as NTB

Motorcars, railway infrastructure and high-technology goods have remained on the top of Japan's list of exports. Why, then, has Japan's attitude been relatively defensive in the TPP and the Japan-EU EPA negotiations in these sectors? As seen in the previous section, one obvious cause was agriculture where import liberalisation was still difficult. The other problem rests within the sectors themselves, which is hindering the expansion of exports – the central aim of Abenomics. Japan, unlike the US and the EU, has abolished tariffs on motorcars and now must negotiate NTBs in order to provide further market access for foreign manufacturers. The distinctive Japanese *kei-car* category came into question. The public procurement of railway carriages is another revealing case where lack of transparency has been criticised by the European Commission. The absence of CSO's input in these issues is common to the agricultural case and consumers have not exercised their voice. Japanese trade unions – moderate and restrained in their approach – have voiced their concern over any potential loss of employment. This has coincided with the European Trade Union Confederation's (ETUC) reluctance to support the EPA.

The domestic Japanese railway industry supplies nearly 100% of internal demand. The European Commission – under pressure from the 'European' champions Alstom, Siemens and Bombardier – has criticised the Japanese railway operators and argued that there was a lack of transparency in the procedures involved in purchasing contracts, which, therefore, unfairly excludes European firms. Public procurement has been one of the most significant issues, alongside agriculture, for the EU.²² Since March 2014 Japan, the European Commission and both parties' railway industries have been holding mutual consultations biannually in Brussels and Tokyo. The Ministry of Land, Infrastructure, Transport and Tourism (MLIT) has countered the EU's arguments that

Japan has imported railway related components and is, in fact, operating a trade deficit with the EU, and that there are ongoing efforts to open public procurement.²³ Japanese optimism suggests that they believe the Japan-EU EPA will be successfully concluded.²⁴

In discussions over NTBs, both the US and the EU have questioned the Japanese categorisation of *kei*-cars. The *kei* is the grouping of the smallest sized motorcars with engines up to 660cc. This class has enjoyed significantly lower tax burden – making them popular among Japanese consumers purchasing second cars for family use. Contrary to the Japan Automobile Manufacturers Association (JAMA) and MLIT's insistence on preserving the current category, the European Commission and the European Automobile Manufacturers' Association (ACEA) have continuously claimed that the *kei* category is an NTB. European producers could and would not develop such models, since they do not meet European nor American safety standards. Despite European companies being highly competitive in motorcars with small and ecological engines of around 1000cc, the *kei* diminishes these manufacturers' chances in the Japanese small car sales market. Japanese trade unions wish to preserve the *kei* in order to secure employment in Japan. Such voices hinder Prime Minister Abe's will to conclude an ambitious agreement that would allow Japanese multinational to compete on equal footing with the Koreans who have FTAs with both the US and the EU (Elsig and Dupont 2012). Japanese trade unions have not, however, countered the TPP nor the Japan-EU EPA in a consistent manner.²⁵ The unions, the *Rengou*, are more focused on improving domestic working conditions and family welfare issues.²⁶ Japanese unions are structured on companies and lack horizontal unity within sectors. Furthermore, *Rengou* suffer from their own ideological diversity, with members from the centre-left to left.

Owing to the strong bias of producers' superiority and weak consumers' representation in Japanese decision-making (OECD 2006, 182-183, 202), *kei*-users' call to keep the category have not affected the EPA negotiations. The lack of contestation therefore gives the European Commission an advantage in the negotiations when criticising the *kei* as an NTB. Compared to the EU, Japan lacks ability to export regulations and standards (Damro 2012). Thus, the *kei*-cars do not have the slightest possibility of being exported to the EU or the US. Japan finds itself unexpectedly defensive on this issue.

4-4. The TPP, the TTIP and Brexit combined; has the agreement been delayed due to uncertainty and path dependency?

Japan's geo-political standing – as a country with scarce raw materials and limited food supplies – mean that, in the longer term, Japan is expected to actively pursue further liberalisation of trade and capital. Could short- or middle-term events, however, re-focus Japanese policy and interrupt or discourage the Japan-EU EPA negotiations? Two recent events must be taken into account, the US Presidential election of November 2016 and Britain's decision to leave the EU in the 'Brexit' referendum of June 2016.

The media – both in Japan and the US – have focused on Donald Trump's misleading statements during his election campaigns, which have threatened to undermine the Japan-US alliance. Yet, Japan's primary concern was that both Trump and Hilary Clinton were against ratifying the TPP. American trade unions were opposed to the TPP. Thus, Clinton, as the Democrat's candidate, necessarily respected such voices. Japan saw these as signs that the TPP would not enter into force under the Obama administration. Furthermore, in Bratislava on 23 September, the EU also abandoned the possibility of the TTIP reaching a conclusion during the Obama presidency.²⁷ This had added to Japan's hesitancy in concluding their agreement with

the EU first. These patterns reveal Japan's path dependency – demonstrating their mirroring of the United States: when American does not move, Japan follows suit (Gilson 2016, 1-16). If there is no deal with America, then it follows that there will be no deal with the EU. This was the case of the Japan-EC Joint Declaration of 1991. History could simply repeat itself unless ambitious and innovative efforts are made. If the Japan-EU EPA is concluded and ratified before the TPP, it would mark a historical watershed. This would signal a departure from Japan's "America first" approach that predominated throughout the post-war era. It would, however, be dangerous for Japan to conclude a deal with the Europeans when the exact terms of the deal with the US and the TPP countries have recently been put into question.. Although the Trump administration abandoned the TPP, the fact remains that the US is a larger trade partner than the EU for Japan.

The second issue, Brexit, is also a real concern for the Japanese government. The Japanese motorcar industry operates plants in the UK: Nissan-Renault in Sunderland, Toyota in Burnaston, and Honda in Swindon. Japan has relied heavily on the UK government's support. Japanese green-field plants were first accommodated in Europe under Margret Thatcher and provided Japan's gateway into the EC/EU market (Suzuki 2015a, 2014a, 2014b). If the UK government pursue a policy of 'hard-Brexit,' Japanese motorcars face an 11% customs duty if exporting to the EU market. In consequence, investment in the British plants would be reduced or withdrawn. Indeed, companies may choose to re-locate – both plants and jobs – to the continent.²⁸ The Abe administration launched a Brexit task force on 27 July 2016 in order to monitor the proceedings.²⁹ Before the exact terms of Brexit are made clear, it is a risk for Japan to agree on any concrete terms in the Japan-EU EPA. This could diminish Japanese industry's gains from any agreement and might solely be to the advantage of the EU and

member states on the continent. Ironically this could be the reason why the EU and member states seem to be keen to rapidly conclude negotiations. Japanese negotiators have testified that their EU counterparts have shown strong desire to demonstrate achievement in trade relations.³⁰ It might be argued that the EU hopes to use a fixed Japan-EU agreement as a bargaining chip and demonstration of strength in Brexit negotiations with the UK government.

Considering these two potential barriers, what are the odds for the successful completion of Japan-EU EPA negotiations? The Abe administration is focused on boosting the Japanese economy in preparation for the 2020 Tokyo Olympic Games. The cabinet announced its policy on 27 November 2015.³¹ This has left the government with few alternatives to the successful realisation of both the TPP, although without the US, and the Japan-EU EPA. METI has echoed the view of the administration and promoted both the TPP and the Japan-EU EPA.³² METI has emphasised the role of globally competitive multinationals and the importance of creating chances for small- and middle-sized firms, which would facilitate grass-roots growth – thereby boosting the Japanese economy. *Keidanren* is in complete harmony with METI.³³ The Abe administration has, however, also put emphasis on attracting foreign tourists to Japan and immersing them in Japanese food and culture in 2020.³⁴ As such, MAFF and JA will find it difficult to insist upon their traditional protectionist measures while simultaneously being urged to make new efforts to liberalise imports and to export Japanese agricultural products. Therefore Japan is committed to the completion of the Japan-EU EPA. It is only hesitant about the timing of the agreement's signing, due to the uncertainties caused by both the new US President and Brexit.³⁵

5. Conclusions

Unlike the negotiations between the EU and the US over the TTIP (Dominguez this

volume) and Canada over the CETA (Hübner, Balik and Deman this volume), the EPA negotiations with Japan have encountered few critics from CSOs. Why has the Japanese case become an 'exception' to the EU's FTA/EPAs? This article concludes that the Japan-EU EPA failed to catch the attention of CSOs due to four key reasons. The first is that the main focus of the EPA is still on 'old' issues such as tariff reduction of motorcars, electronics and agricultural products. In the absence of CSOs, in particular Japanese consumers' representation, producers under the JAMA and JA and politicians who speak for those sectors have dominated the debate. This has hindered Prime Minister Abe's intention to boost the Japanese economy and Japan's ability to play a leading role in writing global trade rules. The second reason, related to the first, is the relative lack of innovative proposals compared to those found in the TTIP and the CETA. Japanese trade unions have been cautious when supporting the EPA with employment issues in mind. Yet they have been mute compared to their European counterparts. The third is Japan's lack of competitiveness and inability to export its regulations. MLIT and MAFF are reluctant to reform the market regulations and to liberalise imports. The distinctive Japanese category of *kei*-cars has not flourished in the US or the EU. Although its competitiveness in the motorcar sector remains, Japan has negotiated with the European Commission in a defensive manner. Finally, the scale of EU-Japan trade compared to the TTIP is modest and therefore fails to attract the interests of CSOs in Europe. These four issues have made the level of contestation relatively low, particularly when compared with the TTIP and the CETA negotiations. The uncertainty caused by the Trump administration's abandonment of the TPP and by the UK's Brexit referendum of June 2016 have complicated Japan's trade policy, making it unpredictable than ever. Japan could still reach an agreement with the EU and forcefully assert its commitment to define future global trade rules, especially since the

TPP is doomed.

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Table 1. Japan's trade with the ASEAN

Japan's export to the ASEAN (8.34 tril. Yen, 2008)		Japan's import from ASEAN (8.99 tril. Yen, 2006)	
Electronic	29%	Mineral fuels	28.8%
Machinery	21.6%	Electronics	18%
Vehicles	9%	Machinery	10.3%
Steel	7.4%	Wood	4.4%
Precision machinery	4.1%	Ore	3.9%
Plastic	3.8%	Rubber	3.3%
Steel products	3.8%	Marine products	2.6%
Organic chemical	2.2%	Plastic	2.3%
Pearl/jewelry	2%	Precision machinery	2.1%
Copper	1.6%	Footwear	0.6%
Others	15.3%	Others	22.8%

Source: <http://www.mofa.go.jp/mofaj/gaiko/fta/j_asean/pdfs/jasean_gaiyou.pdf>

Accessed on 26 Feb. 2014 and modified by author.

Table 2. Japan's trade with the EU

Japan's export to EU (7 tril. Yen, 2013)		Japan's import from EU (7.6 tril. Yen, 2013)	
Chemical products	11.3%	Food	14.5%
Material	7.3%	Mineral fuels	1.3%
Machinery	26.3%	Chemical products	33%
Electronics	20%	Material	6.8%
Transportation	20.2%	Machinery	10.3%
Others	14.7%	Electronics	8.6%
		Transportation	14.3%
		Others	14.2%

Source: < <http://www.mofa.go.jp/mofaj/files/000013819.pdf> > Accessed on 26 Feb.

2015 and modified by author.

¹ Questionnaire answered by the BEUC, the European Consumer Organisation, on 23 May 2017. The BEUC confirms that, while they have kept close watch on the Japan-EU EPA negotiations, they do not have a position yet. The BEUC will only define it after careful analysis of the final agreement and its implications for EU consumers. Their position will depend on whether or not the final agreement will maintain the existing levels of consumer protection, do not prevent them from being enhanced in the future and deliver tangible benefits to consumers.

² The Action Plan covered the years up to 2010, and the Japan-EU EPA (or SPA/FTA according to the EU Delegation in Tokyo) are a follow-up, this time as a binding agreement.

³ In the recent update of the 7th edition (2015), Woolcock points out the expansion of the European Commission's competence in dealing trade negotiations.

⁴ <<http://www.jetro.go.jp/theme/wto-fta/basic/>> Accessed on 26 Feb. 2015.

⁵ Although no agreement has been reached, FTA among the three countries are currently negotiated.

⁶ <<http://ec.europa.eu/cgi-bin/etal.pl>> Accessed on 26 Feb. 2015.

⁷ <http://www.mofa.go.jp/mofaj/area/mexico/keizai_goui.html> Accessed on 2 Oct. 2014.

⁸ <http://www.mofa.go.jp/mofaj/area/mexico/keizai_noukou.html> Accessed on 26 Feb. 2015.

⁹ <http://www.mofa.go.jp/mofaj/gaiko/fta/j_chile/index.html> Accessed on 2 Oct. 2014.

¹⁰ <http://www.mofa.go.jp/mofaj/gaiko/fta/j_peru/index.html> Accessed on 2 Oct. 2014.

¹¹ *Jiji Tsushin*, 23 Sep. 2016, accessed on 3 Oct. 2016.

<<http://www.jiji.com/jc/article?k=2016092300590&g=tha>>

¹² IMF, Direction of Trade Statistics, August 2014;

<http://www.mofa.go.jp/mofaj/gaiko/page6_000042.html> Accessed on 2 Oct. 2014.

¹³ *Ibid.*

¹⁴ <http://www.mofa.go.jp/mofaj/gaiko/page6_000042.html> Accessed on 2 Oct. 2014.

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- ¹⁵ IMF, World Economic Outlook Database, April 2013;
<<http://www.mofa.go.jp/mofaj/gaiko/tp/index.html>> Accessed on 3 Oct. 2014.
- ¹⁶ Ibid.
- ¹⁷ It could also be understood the other way around: the declining agriculture sector, represented by JA, was revitalised due to the emergence of a foreign threat – the TPP.
- ¹⁸ *Nihhon Keizai Shinbun*, 9 Nov. 2010.
- ¹⁹ *Nikkan kogyo shinbun*, 13 Dec. 2016; *Mainich shinbun*, 17 Dec. 2016.
- ²⁰ *Nihon nogyou shinbun*, 3 Dec. 2016.
- ²¹ < <http://www.kantei.go.jp/jp/headline/seichosenryaku/sanbonnoya.html> > Accessed on 6 June 2017.
- ²² *JORSA (Japan Overseas Railway System Association)*, No.3, 4 March 2016, pp.23-25.
- ²³ Ibid. In October 2014 Japan and the EU agreed upon mutual expansion of market access.
JARI, Rolling Stock Industries, Vol.479, July 2016, pp.57-63.
- ²⁴ Ibid.
- ²⁵ *Rengou* made a joint announcement with the ETUC in December 2015, requesting that the EPA achieves the highest standard of mutually respecting rights. Among the six issues they raised, *Rengou* stresses that public procurement should follow social and ecologically responsive guidelines, and that irresponsible abolishing of NTBs (of motorcar safety, food and processed food safety, medical equipment and medicine) are not desirable.
<<https://www.jtuc-rengo.or.jp/activity/kokusai/keizairenkei/epa.html>> Accessed on 9 Jan. 2017.
- ²⁶ <<http://www.jtuc-rengo.or.jp/kokusai/index.html>> <<http://www.jtuc-rengo.or.jp/kokusai/takokusekikigyou/index.html>> Accessed on 6 Sep. 2016.
- ²⁷ *Jiji Tsushin*, 24 Sep. 2016, accessed on 3 Oct. 2016.
<<http://headlines.yahoo.co.jp/hl?a=20160924-00000010-jij-eurp>>

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- ²⁸ Nissan's decision will not be taken at its headquarters in Yokohama but in France, which is the headquarters of their parent company, the French constructor Renault. On 29 September 2016 their Chairman and CEO Carlos Ghosn announced that, while he intends to maintain investment for Sunderland, the UK government should reimburse any of Nissan's losses that might be caused by future custom duties once the UK leaves the EU. Ghosn emphasises that he would make a decision on investment within the next three months because he could not wait until Brexit negotiations are concluded. *Jiji Tsushin*, 30 Sep. 2016, accessed on 3 Oct. 2016. <<http://headlines.yahoo.co.jp/hl?a=20160930-00000006-jij-eurp>>
- ²⁹ <http://www.kantei.go.jp/jp/singi/euridatsu_taskforce/pdf/dai1_gijisidai.pdf> Accessed on 6 Sep. 2016.
- ³⁰ European Commission's EU Trade Commissioner Cecilia Malmström sent a memorandum to Japanese Minister of Economy, Trade and Industry Hiroshige Seko, which emphasised that all efforts should be made for breakthrough of concluding the EPA. *Jiji Tsushin*, 29 Sep. 2016, accessed on 3 Oct. 2016. <<http://headlines.yahoo.co.jp/hl?a=20160929-00000079-jij-eurp>>
- ³¹ "Basic Policy for Promoting Measures related to Preparations for and Management of the Olympic and Paralympic Games in Tokyo in 2020," approved by the Cabinet on 27 Nov. 2015, accessed on 6 Sep. 2016.
<http://www.kantei.go.jp/jp/topics/2016/2020olym_paralym/20160311olym_kihonhoshin_en.pdf>
- ³² <http://www.meti.go.jp/policy/trade_policy/epa/epa/eu/index.html> Accessed on 6 Sep. 2016.
- ³³ <<http://www.keidanren.or.jp/policy/index12.html#eu>> Accessed on 6 Sep. 2016.
- ³⁴ <<http://www.visitjapan.jp/ja/>> <<http://www.mlit.go.jp/kankocho/>> Accessed on 5 Oct. 2016.
- ³⁵ Japan and the EU has reached agreed upon the EPA on 5 July 2017 and signed the agreement on the next day in Brussels.