

In relation to the “Consultation on the Initiative for access of third countries to the EU’s Public Procurement Market”, we, Japan Business Council in Europe (JBCE), support the European Commission’s intention to advocate an ambitious opening of international public procurement markets and also to commit itself to granting market access to its public procurement market. We are convinced that the openness of the EU’s public procurement market enhances the competition on the market and promotes greater productivity and innovation.

We understand the European Commission’s objective of achieving further liberalisation in international public procurement market and thus ensuring level playing field for industry. From this viewpoint, we expect the European Commission to conduct thorough impact assessment in a transparent manner.

From our perspective, the most important point is that the EU undertakes an in depth analysis and lays out clear criteria of what constitutes a “Protectionist Third Country”. This analysis should include the following points, but should not be limited to:

- a country’s participation to WTO Government Procurement Agreement (GPA);
- its history of violation/non-violation of such GPAs;
- and also the status and actions taken by a trade partner within on-going of FTA/EIA negotiations with the EU.

Through establishing clear criteria for the scope of possible measures and carefully designing such measures in a way to avoid possible abuse by individual authorities, we believe that these measures would contribute to the objective of the European Commission.

We believe that any policy proposal should be based on such a proper analysis and should be proportionate to the effect it may cause. Without formal analysis, at the present moment, we would rather prefer a non-legislative approach as proposed in Option 2 in the consultation paper. We are afraid that legislative actions, “Policy Option 3”, might be counter-productive and create unnecessary distortion on the market.

Even in the case the European Commission should take legislative measures, we strongly request that the European Commission at first, develops clear criteria for the scope and conditions as mentioned above. On this basis, we recommend that any measures should contain adequate mechanism to restrict discretion of authorities in determining whether a third country market is closed or not. Otherwise, it would undermine the EU’s intention and objectives if trading partners consider that the EU is discretely closing its procurement market and consequently, such measures would lead to chain protectionist measures around the world. Furthermore, we would also like to emphasis the importance of ensuring the legal stability and predictability for business in the EU. For example, it would severely decrease the legal stability if the decisions made by authorities in the Member States are overtaken by the European Commission’s different interpretation of the law.

We recognise that the EU and Japan are now in the process of negotiation of a deep and comprehensive Free Trade Agreement (FTA) or economic partnership agreement (EPA). We expect this issue to be addressed in this process in a transparent way, and we, as the representative organisation of Japanese companies operating in Europe, are ready to contribute to the discussion for achieving better business environment for industry.

**About JBCE (Japan Business Council in Europe)**

JBCE is the European organization representing companies of Japanese parentage operating in Europe.

The mission of JBCE is to contribute to European Public Policy. JBCE membership currently consists of more than 60 multinational companies and covers a wide range of industry sectors, including air-conditioning, automotive, chemicals, consumer electronics, engineering, industrial machinery, information and communication technology, medical equipment, photo and imaging equipment.

The JBCE takes an active role in enhancing the understanding of Japanese companies and their business in Europe and in putting forward the views of its members on legislative issues currently under debate and on the public policy issues which will shape the years to come.