

PUBLIC COMMENT

PARTICIPATION OF JAPAN IN THE TRANS-PACIFIC PARTNERSHIP TRADE AGREEMENT

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US-JAPAN BUSINESS COUNCIL

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The U.S.-Japan Business Council (USJBC) is submitting this Public Comment in response to the Federal Register **Notice of May 7, 2013**, regarding “**Request for Comments on Negotiating Objectives with Respect to Japan’s Participation in the Proposed Trans-Pacific Partnership Trade Agreement.**”

The U.S.-Japan Business Council (USJBC) is a Washington, D.C.-based affiliate of the U.S. Chamber of Commerce whose mission is to support U.S. business interests in Japan and promote stronger economic ties between the United States and Japan. The Chamber is the world’s largest business federation, representing the interests of more than three million businesses of all sizes, sectors and regions, as well as state and local chambers and industry associations. Its International Affairs division includes more than 50 regional policy experts and 25 country- and region-specific business councils and initiatives. The U.S. Chamber also works closely with 116 American Chambers of Commerce abroad.

The USJBC is comprised of major U.S. companies doing business in or with Japan by exporting goods and services in fields such as the aerospace, agribusiness, chemical, consumer product, energy, financial services, health care (pharmaceuticals and medical devices), information and communications technology, insurance, materials, and travel and tourism industries. USJBC companies collectively account for a substantial share of U.S. exports to Japan and generate many billions of dollars in revenue and profit annually from their businesses in Japan. USJBC members are committed to doing business in Japan, and to working to improve the economic relationship between the United States and Japan.

Accordingly, the USJBC welcomes the successful conclusion of consultations on Japan’s entry into the Trans-Pacific Partnership (TPP) negotiations and strongly supports Japan’s participation in a high standard TPP agreement on the terms agreed to by the U.S. and Japanese governments on April 12, 2013. The USJBC commends USTR for negotiating such comprehensive and far-reaching terms of entry for Japan.

JAPAN’S ENTRY ENHANCES TPP AND CREATES HISTORIC OPPORTUNITY FOR U.S.-JAPAN RELATIONS

As the world’s third largest economy and a vital economic and security partner of the United States, Japan’s participation in the TPP negotiations will: (1) increase the commercial and strategic significance of the TPP for the United States and other participants; (2) provide an historic opportunity to improve the U.S. trade relationship and economic cooperation with Japan;

and (3) help revitalize the Japanese economy. U.S. workers and companies doing business in and with Japan will benefit substantially from Japan's inclusion.

Enhanced Commercial Impact of TPP

With Japan, TPP becomes a much more commercially meaningful agreement for the United States and the other TPP members. TPP will now include two of the three largest economies, and the second largest economy in Asia. Japan's GDP of \$5.8 trillion exceeds the \$5.6 trillion in combined GDP of all TPP members excluding the United States. Combined with the magnitude of Japan's trade (\$1.7 trillion in exports and imports in 2012) the 12 members of the TPP now represent 40% of global GDP and one-third of all world trade. U.S. goods exports to Japan (\$70 billion in 2012) are more than double those to the next highest non-NAFTA TPP partner (Australia, \$31.7 billion).

Unique and Historic Opportunity to Improve U.S. Trade and Economic Relations with Japan

Japan is one of only five current TPP members with which the United States does not have an FTA, so Japan's entry into the TPP provides a unique and historic opportunity to improve the U.S. trade and economic relationship with Japan.

The United States has a big, complex and increasingly cooperative economic relationship with Japan. Japan is the fourth largest overall trading partner of the United States, with over \$217 billion in two-way goods trade in 2012, and is fourth among U.S. export markets with U.S. goods and services exports to Japan of \$117 billion in 2012. Japan ranks very high as a source of revenue, profits, and collaboration for many U.S. companies which have stayed committed to the market. Indeed, for many USJBC members, Japan is the largest and most profitable market outside of the United States.

Despite this extensive relationship, there are still significant issues in doing business in Japan. It is no longer accurate to say the Japanese market is "closed," but there are still high tariffs on agricultural items, and a range of non-tariff measures that continue to make doing business in Japan more costly and unpredictable than it should be. In particular, poor transparency, excessively restrictive and unpredictable regulation, arbitrary and capricious use of regulatory discretion, low levels of foreign involvement in government procurement in some sectors, a lack of due process in some competition policy proceedings, and resistance to some forms of foreign direct investment are significant issues for American companies in Japan.

TPP is the most advanced, comprehensive and highest standard agreement ever pursued by the United States. Combined with the parallel bilateral measures and negotiations agreed to by the U.S. and Japanese governments, Japan's entry thus provides the best opportunity ever for the United States to eliminate such long-standing tariff and non-tariff barriers to trade in agricultural and manufactured goods, services and investment through a binding, Congressionally-ratified trade agreement.

This in turn will directly benefit U.S. companies, workers and the economy overall. Simply put, expanded trade – both exports and imports – and investment with Japan means jobs for U.S. workers in a wide range of industries. For manufacturing and agricultural exporters, expanded production for Japan-bound items will increase revenues and profits. Ultimately, higher sales

and earnings translate into added jobs. U.S. service companies with substantial operations in Japan must hire locally in order to provide competitive service. However, success in Japan is critical to overall company success and the ability to maintain employment levels in many high-value, high-wage industries such as IT and financial services. Solidifying the U.S.-Japan economic relationship through TPP will also ensure continued high levels of Japanese investment in the United States, which will create more jobs for U.S. workers in the years ahead.

Enhanced U.S.-Japan Cooperation and Leadership in the Asia-Pacific

Japan's addition to TPP will also allow the United States and Japan – close allies with shared values and strong economic and cultural ties – to work together to develop a high-standard trade and economic architecture in the rapidly growing and integrating Asia-Pacific region. Japan's participation in TPP will allow the agreement to serve as an important counterweight to regional initiatives such as the Regional Cooperative Economic Partnership (RCEP) that exclude the United States.

Building on the KORUS FTA and other high-standard bilateral agreements throughout the region, the United States and Japan can cooperate through TPP to establish region-wide product and safety standards, regulatory frameworks, transparency standards and enhanced supply chains, tackling business environment issues in a way that would benefit the competitiveness of U.S. and Japanese companies competing in the region. Such cooperation should be a natural next step for the United States and Japan, whose security alliance already serves as the cornerstone of peace and stability in the Asia-Pacific region.

Japan Has Changed and is Still Changing - The Abe Opportunity to Revitalize the Economy

Despite some challenges referenced above, it should be recognized that today's Japan is not the same as the Japan of the trade friction days. Since the mid-1990s the Japanese government has initiated a wide-ranging series of measures aimed at promoting regulatory reform in Japan's economy, society, and government. These structural reforms have succeeded in opening the country up to more trade and investment. Japan is a much better place for U.S. companies to do business than it was 20 years ago. U.S. investment in Japan, while still low given the size and sophistication of the Japanese market, has had a significant impact on the U.S. and Japanese economies, as Japanese investment in the United State has on the U.S. economy. There have also been an increasing number of strategic joint ventures and alliances formed between U.S. and Japanese companies.

All of these factors have positively impacted on the U.S. and Japanese economies and certainly created hundreds of thousands of American jobs. Expanding this critical economic relationship further will provide even greater rewards for the American people and the U.S. economy. This is why the major economic reform program initiated by Prime Minister Shinzo Abe, dubbed Abenomics, to revitalize the Japanese economy and kick start long-term economic growth is so important to the United States, in addition to Japan.

Abenomics is a three arrow strategy consisting of: 1) bold monetary policy; 2) large and targeted fiscal policy; and 3) growth strategy. The first two arrows, bold monetary policy and large and targeted fiscal policy, are being implemented now. At the same time, the government is preparing to execute its "third arrow" growth strategy – essential for ensuring that the short-term

gains from monetary easing and fiscal stimulus are sustained. Japan's participation in the TPP negotiations is a key part of the third arrow growth strategy, as this will help achieve a major goal of opening the economy further to trade and investment.

Japan's self-prescribed economic program aligns well with the ambitious vision articulated by the like-minded TPP countries. Japan's domestic agenda sets out numerous structural reforms that will substantially improve various aspects of the business environment to encourage foreign direct investment as well as liberalize the Japanese market in a bid to expand two-way trade between Japan and its partners. In this regard, the Japanese government is actively engaging its trading partners and other key stakeholders in the international community to explain Japan's Abenomics strategy.

Sustained economic growth in Japan resulting from structural reforms under Abenomics/TPP will position the United States at the forefront to share in Japan's renewed dynamism by providing even more opportunities for U.S. industry to increase exports to and investment in Japan. More U.S. investment will lead to more U.S. exports to Japan, which creates jobs here. Additionally, a stronger Japanese economy will allow more Japanese companies to invest in the United States, creating even more jobs for Americans. In 2011 approximately 655,000 jobs in the United States were a direct result of Japanese investment across various sectors including wholesale trade, manufacturing, finance and insurance. The TPP.

PRIORITY BILATERAL AREAS AND ISSUES

Manufactured Goods Trade

Japan is the fourth largest export market for U.S. manufactured goods, with total U.S. manufacturing exports to Japan measuring \$58 billion in 2012. Leading items include exports of aerospace goods (planes and components, satellites), pharmaceuticals and chemicals, medical devices and diagnostic technology, information and communications equipment. For many U.S. companies in these industries, Japan remains the largest market outside of the United States.

Japan's tariffs on industrial goods are very low (5.3% on a simple average basis and 2.1% on a weighted average basis in 2012 according to the WTO, compared to 3.5% and 2.1% for the United States). Elimination of tariffs on industrial goods is important but is not the top priority for the United States vis-à-vis Japan in TPP market access negotiations. There are, however, varying degrees of non-tariff measures, particularly regulations, technical standards, customs procedures and other measures that inhibit companies from exporting industrial products to Japan easily or efficiently.

While many of these issues will be covered in the TPP negotiations, USTR deserves much credit for focusing so intently on the removal of non-tariff measures and gaining an additional commitment from Japan to address this in bilateral consultations that are parallel with the TPP. Based on the USJBC's experience, Japanese companies increasingly share the view that Japan has highly restrictive regulations, needs better regulatory transparency, and needs to move to international standards and practices in many areas in order to keep Japanese companies competitive. In short, this is the best opportunity ever to eliminate these barriers through a binding, Congressionally-ratified agreement and bilateral consultations that will benefit the U.S. and Japanese economies, companies, and workers.

The USJBC understands the sensitivities of the automotive trade issues between the United States and Japan. In this regard, the USJBC thinks the automotive provisions agreed to by the U.S. and Japanese governments in the U.S.-Japan consultations and outlined in the documents released April 12, 2013 provide a strong basis for improving bilateral trade in autos.

Pharmaceuticals and Medical Devices

For the pharmaceutical and medical device industries, the benefits of Japan's entry into TPP are substantial, if indirect in some aspects. Overall, the U.S. industry will benefit from higher growth in Japan that results from a more open and dynamic economy, increased trade and investment, and broader regulatory changes brought about through TPP and the parallel bilateral negotiations on non-tariff measures. Tariffs on medical devices and drugs are already generally low, but eliminating them should still be a primary objective of TPP in this sector, both in Japan and all TPP countries. Eliminating tariffs on medicines and medical devices over time will lead to significant improvement in patient access, primarily by lowering the cost of medicines and devices to consumers.

Because the U.S. and Japan both have relatively robust transparency and strong IP protection for medical products, U.S.-Japan collaboration in the TPP negotiations should ultimately help reduce non-tariff measures that hinder U.S. and Japanese pharmaceutical, medical device and diagnostic product exports to other TPP countries. Some TPP partners have pricing systems, including Health Technology Assessment, that do not have sufficient transparency and stakeholder participation. Japan's entry into TPP thus bolsters the U.S. negotiating position in the transparency and IP chapters by virtue of having another major country with an innovation-based industry and systems that provide good transparency of the pricing rule reform process and protection of intellectual property, including longer periods for data protection.

Stronger IP protection and transparency will also support U.S. and Japanese exports and investment in TPP countries, particularly those in which intellectual property protection could be strengthened and state-owned enterprises are still common. U.S. companies will also benefit from efforts by the U.S. and Japan to join together to persuade these other countries to improve transparency and IP protection. The benefits of TPP will eventually extend beyond the current participants as other nations and markets sign on to the higher standards of the agreement in order to gain access to the TPP market.

In that many of the most important bilateral U.S.-Japan issues pertaining to pricing and product approval for pharmaceuticals and medical devices will not be covered specifically in the TPP negotiations, the USJBC urges USTR to pursue U.S. industry objectives to the fullest extent possible in the parallel bilateral negotiations, as well as the Economic Harmonization Initiative. Collaboration and alignment on these issues between the U.S. and Japanese industries is extensive, and continued progress through government-to-government consultations will enhance mutually beneficial innovation and further growth in both economies.

Agricultural Trade

Japan is already the second largest non-NAFTA market for U.S. agricultural exports. Nevertheless, Japan's entry into TPP presents an historic opportunity to negotiate new access opportunities, address some long-standing non-tariff trade barriers (sanitary & phytosanitary

issues and the like) and further expand food and agriculture trade with one of the world's largest economies. Indeed, Japan maintains high tariff peaks on products such as wheat, corn, beef, pork, and others, and the prospect of working with Japan through the TPP to liberalize Japan's agricultural market is a major appeal of having Japan in the TPP for the United States.

The USJBC strongly supports the TPP objective that the TPP agreement must be comprehensive, covering all sectors and all products. The USJBC believes Japan's entry into TPP should be fully consistent with this principle and result in commercially meaningful liberalization, which means that all tariffs should be phased to zero and quotas eliminated over the negotiated implementation period among all countries. Any exclusions or access restrictions allowed to Japan – or the United States or other partners – in the TPP negotiations will lead to demands for further exclusions or access restrictions in other products or sectors from TPP negotiating members, potentially leading to a cascading effect that could undermine the goal of a comprehensive and high-standard agreement.

The USJBC is well aware of the sensitivity of agricultural liberalization in Japan, but also that agricultural reform is an important part of the Abe government's effort to boost productivity and efficiency in Japan's domestic economy. A broad consensus is emerging in Japan that wide-ranging agricultural reform to enhance competitiveness is necessary to sustain the agriculture sector, regardless of whether Japan is part of TPP.

With this in mind, there is an opportunity to manage Japan's entry into TPP in ways that are consistent with the TPP principles of a comprehensive agreement and elimination of tariffs and Japan's reform goals and political sensitivities. In particular, flexibility in terms of timing of tariff and quota elimination on Japanese agricultural imports could be negotiated so that there could be longer phase-ins for a few of the most sensitive areas. This gives time for Japan to undertake agricultural reforms that will increase scale, productivity and efficiency while cushioning the impact on farmers via direct payments.

As important as tariff elimination is, the most significant barriers to agricultural imports into Japan stem from non-science-based regulatory standards. Japan's entry into TPP provides a prime opportunity to introduce an enforceable, science-based regulatory framework that goes beyond the WTO Sanitary and Phytosanitary (SPS) Agreement. These "WTO-plus" commitments are obligations that go beyond the WTO SPS Agreement on issues like risk assessment, risk management, transparency, border checks/laboratory testing and facilitating trade through regulatory coherence measures. TPP must require enforceable standards based on sound science that are in line with international standards for food and agricultural products.

When food producers are required to meet a different set of arbitrary standards for each country, trade in food can stop outright, or trade frictions can delay transportation, affect quality, or create unnecessary costs, all of which raise food prices and undermine food security. The TPP must achieve regulatory coherence to facilitate market access and align regulatory decision-making processes with science-based internationally recognized standards, including those found in the CODEX Alimentarius and World Organization for Animal Health (OIE). If global food supply chains are to operate efficiently, regulatory harmonization and/or coherence is critical.

Lastly, when disagreements on application of standards and regulations arise, the TPP negotiators should propose a rapid response mechanism (RRM), an unbiased, timely, and transparent means for resolving disagreements quickly, so that commercial activity can resume with limited disruption. An RRM is critical to prevent trade disruptions, particularly in perishable and time sensitive shipments of agricultural products, by establishing a deliberate, consultative oversight process within TPP that works to manage and resolve SPS and technical barriers to trade disputes to limit trade frictions in a timely manner. This would help to eliminate the often ineffective and protracted government-led bilateral process or working through the WTO to resolve these disputes, and include a substantive role for business to help resolve the issue.

Services Trade

Japan is the second-largest non-NAFTA market for exports of U.S. services and third overall including Canada. Exports from U.S. service providers ranging from travel and tourism to telecom, insurance and finance have risen significantly since 2000, reaching \$47 billion in 2012. The United States runs a sizable surplus (\$20 billion in 2011) on its services trade with Japan, with U.S. receipts for travel, licensing fees, and professional services all significant.

Many U.S. financial services firms are highly successful in Japan. While this requires employment of a significant number of workers in Japan, the success of U.S. financial firms in Japan supports overall company earnings, thus helping maintain high levels of high-value, high-wage employment in the United States.

Given their relative competitiveness, U.S. service companies can potentially generate much higher levels of export sales or operating revenue in Japan with additional changes in the market. In particular, U.S. services interests will be enhanced significantly through the TPP and the parallel bilateral consultations with regard to regulatory, transparency and competition issues that drive up costs or restrict business expansion.

For example, the USJBC has for years called for a level competitive playing field between the state-owned Japan Post financial entities and private sector companies, including via Joint Statements supported by Japanese industry. However, neutralizing the negative impact of state-owned enterprises on market competition was low on the previous Japanese government's priority list due largely to the special interests of its coalition partner. The arrival of the Abe government signals a different approach and it is clear the government is working hard under Abenomics to address level playing field issues between SOEs and private companies, based on domestic considerations, and consistent with the steps being called for by domestic business groups such as Keidanren and Keizai Doyukai. Indeed, getting postal reform right is critical to the success of Mr. Abe's three arrow strategy. Only by ensuring a level playing field with Japan Post, can Japan create a vibrant financial sector able to safely, nimbly, and efficiently allocate capital in a manner needed to support sustained economic growth. The USJBC is optimistic that Japan will begin to move toward a level playing field in the market place as a matter of domestic policy under Prime Minister Abe's leadership.

Investment

There are many factors that make Japan an attractive place to invest, including the size and

wealth of the economy and people, a sound and generally transparent legal system that includes solid protection of legal rights for investors, and a sophisticated science and technology base. However, despite these positive attributes and various investment promotion measures implemented by the Government of Japan over the years, Japanese inward foreign investment remains by far the lowest as a percentage of GDP (4.0%) among all OECD countries.

The combination of Japan's entry into TPP and bilateral parallel negotiations on investment provide a significant opportunity to increase U.S. investment in Japan. This in turn will help U.S. trade with Japan, as U.S. government and other data have long established the close link between U.S. investment and higher exports.

The Abe government's decision to commit Japan to participation in TPP in and of itself is an important signal to foreign companies that Japan is truly "open for business." The Abe government, as part of its economic reform program to promote growth, also plans to introduce new measures to promote foreign investment by making Japan the easiest country in the world in which to do business. All of this is positive, and deserves serious attention and support in the context of TPP and the bilateral consultations.

However, key to increasing FDI in Japan is to increase the volume of in-bound Merger & Acquisition activity. While TPP does not extend to M&A measures per se, the USJBC commends both governments for specifying this area as part of the parallel bilateral negotiations. Creating new opportunities for in-bound M&A activity in Japan is difficult to address due to deeply engrained corporate practices. There are signs that some of these practices are changing, albeit gradually. The parallel negotiations are an opportunity to address laws, regulations and policies that can facilitate and accelerate that change. Ideally, Japan's entry into TPP will trigger both new interest among U.S. and other foreign investors about opportunities in Japan, as well as changes in corporate attitudes and practices about strategic deals that result in "win-win" transactions with U.S. partners.

Japan is also a major investor in the United States, ranking behind only the U.K. and the Netherlands. Japanese companies collectively account for more than 655,000 jobs in the United States – including 286,000 in manufacturing industries – provide billions of dollars in annual tax revenue to the U.S. Treasury and various states, and contribute significantly to the communities in which they operate. At a time when Japanese companies have many opportunities to invest abroad, bringing Japan into the TPP will help cement their interest in continued investments in the United States.

Currency

With Japan's entry into TPP, there is increasing discussion in the United States about the need for a chapter in TPP to address currency manipulation. The USJBC has long-maintained that market fundamentals should determine exchange rates, and opposes direct intervention in currency markets to achieve desired exchange rate levels. The USJBC understands that Japan has, in the past, resorted to direct intervention in currency markets to weaken the yen, most notably in the 2000-2004 period of yen appreciation, and stated its opposition to this practice. This is different from what is occurring now in Japanese economic policy.

As part of Prime Minister Abe's "three arrow" economic strategy, the Bank of Japan is undertaking an expansionary monetary policy, and the Bank of Japan (BOJ) and the government are coordinating closely to end Japan's chronic deflation. The central bank is aiming for 2 percent inflation within two years through an aggressive asset buying plan similar to what the Federal Reserve, Bank of England, and European Central Bank have done in recent years to increase liquidity in order to boost domestic demand and investment. BOJ Governor Kuroda has been forthright about this in meetings of the G20 and G7, and financial and economic policymakers from these economies, as well as the IMF, have endorsed the policy on grounds that it is not explicit exchange rate targeting.

That said, it will be incumbent on Japan to follow through with its third arrow growth strategy policies in order to continue to show the international community that expansionary monetary policy is still in fact a viable component of their overall economic revitalization strategy.

Past U.S. bilateral and regional trade agreements have not addressed currency issues, and doing so in the TPP would be complicated by disagreement about whether monetary policies such as those undertaken recently by the Federal Reserve and the Bank of Japan represent exchange rate manipulation. Other major impediments include the absence of an objective measurement of undervaluation, and consensus on any enforcement mechanisms. The USJBC is not aware of any specific proposed text to address these or other challenges relating to currency matters in the TPP, and it is unclear whether a trade agreement can do so in an effective and reasonable fashion. In short, there is concern that introducing at this stage of the TPP negotiations a new, complex issue about which there is no consensus among experts or current TPP partners regarding what can or should be done will greatly complicate the process, making it much more difficult, if not impossible, to conclude negotiations by the deadline set by the President and other TPP leaders.

AREAS OF JAPANESE ALIGNMENT WITH THE UNITED STATES IN TPP

Japan's entry into TPP will enhance the U.S. negotiating position given shared interests and high standards in critical areas such as intellectual property protection, regulatory coherence, competition policy, transparency, financial services, government procurement, investment and supply chain operations. Japan also has comparable standards and rules on labor and environment issues, so poses no risk to U.S. interests in these areas.

Intellectual Property Protection

Like the United States, Japan ranks high on global lists of innovative economies, and it has high standards and a strong regime to help protect intellectual property rights of Japanese inventors and companies. Globally, Japan actively promotes intellectual property rights and is helping to strengthen the current measures in place around the world. For instance, Japan proposed, led negotiations, and was the first party to the Anti-Counterfeiting Trade Agreement (ACTA). Japan and the United States are committed to working collaboratively to address IP issues in other multilateral agreements and fora such as the WTO TRIPS Council, World Intellectual Property Organization (WIPO), APEC, OECD, and G-8.

This common purpose and collaborative relationship should carry over into the TPP negotiations and parallel bilateral negotiations. In general, given Japan's high standards and shared interests

in strong IP protection, the United States should have a strong ally on some of the critical IP issues under negotiation in the TPP, including patent and copyright issues that pose some challenges for U.S. negotiators vis-à-vis other TPP partners.

Specifically, the USJBC and U.S. industry expect support for strong IP protection for pharmaceuticals from Japan. Patients in every TPP country benefit from the innovation made possible by the biopharmaceutical industry's investment in research and development. This investment is, in turn, made possible by intellectual property protection. One cannot exist without the other. Japan understands this, and its voice is needed now to protect the emergence of the next generation of life-saving innovation. The USJBC and U.S. industry are concerned that several TPP countries are seeking to lower intellectual property protection for innovative pharmaceutical products significantly below that provided in the U.S.-Korea Free Trade Agreement. Accordingly, the USJBC urges the U.S. to table and agree upon IP protections that are similar to those provided in the KORUS and U.S. law. Such strong protections are critical and, while present in Japan, are missing or lacking in several TPP countries and are necessary to ensure an outcome that will encourage the continuation of the research and development necessary to discover and promote breakthrough medicines. Japan's support for these crucial provisions in future negotiating sessions will greatly help the U.S. position.

Regulatory Coherence

The Government of Japan has made substantial progress in reforming its regulatory environment to promote internal and external regulatory coherence. As a country with a strong foundation in the rule of law, Japanese regulatory regimes for the most part adhere to high standards that are in harmony with international best practices.

The negotiations to be conducted in parallel to TPP negotiations provide an optimal venue for the U.S. and Japan to work to achieve tangible and enforceable outcomes in transparency, public comment procedures, and standards. Japan has made regulatory coherence a priority in its previous Economic Partnership (EPA) and Free Trade Agreements, suggesting that as a member of TPP negotiations, Japan will align with the U.S. on this issue.

Competition Policy

Japan continues to be an international leader in the area of competition policy, as evidenced by its leading role in such institutions as the International Competition Network and active cooperation with competition policy authorities around the globe with respect to cross-border antimonopoly enforcement and competition policy-related rulemaking and policy formation.

At the same time, there are steps that Japan can take to further its contribution to the TPP, particularly additional measures to enhance due process in competition policy-related administrative proceedings, as well as government procurement. To this end, the Japan Fair Trade Commission is in the process of evaluating whether to reintroduce legislation that will amend the Antimonopoly Law.

Through bilateral consultations regarding Japan's participation in the TPP, Japan has agreed to address level playing field issues in the context of the TPP negotiations. The SOE disciplines in

the TPP will be vital to address these issues in Japan and their application to Japan Post, given its size and important role in the economy, will set an important precedent throughout the Asia-Pacific region. Accordingly, it is essential that the level playing field issues with regard to Japan Post be clearly resolved.

It is the USJBC's position that regardless of the direction the Government of Japan decides to take on postal reform, Japan has a duty to abide by its bilateral commitments and WTO obligations to provide U.S. and other foreign companies a level playing field in their competition with Japan Post.

Financial Services and Investment

As Japanese financial services institutions expand operations in Asia, they have growing interests, similar to those of U.S. institutions, in ensuring TPP achieves high standard rules for trade in financial services, as well as full transparency of financial regulatory processes. In this regard, Japan's entry will support U.S. negotiating objectives in the Financial Services chapter.

An important part of the Financial Services chapter will be treatment of the Japan Post financial institutions (Japan Post Insurance and Japan Post Bank), specifically that measures that will lead to the establishment of equivalent conditions of competition between the Japan Post entities and private competitors be identified. A related issue is how negotiators address insurance businesses operated by cooperatives (kyosai). These insurance cooperatives enjoy business, tax and regulatory advantages over private insurance suppliers, reflecting the fact that a number of kyosai are not regulated by the FSA. The USJBC requests that the kyosai issue be given similar consideration in the TPP process. It is critical to the interests of U.S. institutions that specific measures establishing equal competitive conditions are achieved in the TPP.

Japanese companies are major investors overseas, and Japan's outbound FDI exceeds inbound FDI by a ratio of 4:1. The Government of Japan thus has concluded a number of investment treaties (BITs) and includes investment provisions in many of its FTAs as a way to provide legal protections for Japanese companies investing overseas. In this regard, the United States and Japan have common interests in high standards of protection of legal rights for investors in TPP, including investor-state dispute settlement (ISDS) provisions.

Transparency

As indicated above, there are still some problems with regard to transparency in Japan's regulatory and governmental decision-making processes. That said, there have been significant improvements in recent years and Japan has high standards relative to some other TPP partners. For example, Japanese government procedure requires among other things that all laws and regulations are published in the Government Gazette and are easily available for public comment; the Cabinet Office and Ministries evaluate their policies before and after implementation; and that these results are published.¹

Due to relatively robust government transparency and a sound legal system, official corruption is rare in Japan, which is ranked ahead of the U.S. at 17th in Transparency International's

¹ Government Policy Evaluations Act and the Basic Guidelines for Implementing Policy Evaluation

Corruption Perceptions Index in 2012. Further promoting transparency is a policy priority for the Japanese government, and building on previous bilateral agreements to improve opportunities for stakeholder input and increase access to ministry-appointed advisory councils, the TPP provides opportunity to enhance regional cooperation in this area as well.²

Government Procurement

Japan spends approximately 13 per cent of its GDP on government procurement, making Japan a very important market for U.S. businesses. Japan is party to the WTO Agreement on Government Procurement which sets out rules for ensuring non-discrimination between foreign and domestic products or services. However, Japan has established further voluntary measures for government procurement that go well beyond the WTO agreement. Japan's policy is designed to ensure impartiality and equality of opportunity. Through programs run by the Ministry of Foreign Affairs (MOFA), Japan actively promotes foreign companies applying for public works contracts. To this end, MOFA has published an English language guide to Accessing the Government Procurement Market of Japan.

Japan has made progress in improving some procurement procedures in recent years, but much more can be done to expand opportunities for U.S. and other foreign firms, particularly in procurements involving information and communications technology. Measures such as the introduction of more multiple-year equipment purchases, more flexible licensed production programs, and elimination, where possible, of single-source government procurement contracts would contribute substantially to meeting TPP's standards in this important area.

Japan already includes provisions on government procurement in some of its free trade agreements. Given that Japanese companies seek expanded opportunities to participate in government procurement markets around the world, Japan should be a strong ally for the United States in seeking high standards for procurement in the TPP.

Supply Chain

Given the expansion of Japanese supply chains throughout the Asia-Pacific, there is a substantial upside for Japan to make any reforms in this area that may be required as part of the TPP. Such measures would enhance the efficiency and competitiveness of Japanese companies even further, thus boosting trade and the domestic economy. Given that the U.S. and Japanese supply chains are increasingly interdependent, it makes sense for the two countries to work together to overcome any issues that could hamper the smooth flow of trade through the supply chain.

Japan is working to enhance supply chain efficiency. For example, Japan has implemented the Authorized Economic Operator (AEO) program, a World Customs Organization initiative, which simplifies customs procedures and reduces customs intervention. In late 2011 Japan committed to working closely with the U.S. in supply chain security and facilitating the efficient flow of goods. Japan also works with other countries bilaterally, and through a number of other multilateral institutions such as APEC and WTO to enhance supply chain efficiency.

² Office of the United States Trade Representative, Non-Tariff Measures: U.S. Consultations with Japan

Labor and Environment

As a nation with a strong commitment and infrastructure dedicated to the rule of law, as well as high standards for environmental and worker protection, Japan will have little difficulty meeting TPP's standards in these areas. Indeed, Japan shares a common interest with the United States in maintaining environmental and worker protections, and this will carry over to support for the U.S. position in the TPP negotiations.

JAPAN'S ABILITY TO PARTICIPATE SUCCESSFULLY IN TPP

Commitment to Ambitious Timetable

Bringing an economy as large and complex as Japan's into a complex negotiation at this late stage will no doubt have some impact, but it is not possible to tell before Japan officially enters the process. Japan is well aware of one of the key TPP conditions for entry of new members, namely that it not slow down negotiations. Indeed, one of the primary reasons the Abe government moved so quickly to commit to join TPP – surprising many Japan watchers who thought the Prime Minister would wait until after the July 2013 Upper House – is that Japan wants to be involved in writing the rules. With this in mind, the Abe administration has instructed its negotiators to conclude the TPP agreement in 2013. The Government of Japan also committed to this in its bilateral consultations with the United States and other TPP partners, and this was reaffirmed by the TPP trade ministers on April 20, 2013.

TPP will provide domestic challenges for Japan, just as it is for the United States and other partners in terms of some things they will have to change and/or compromise on. However, under Prime Minister Abe, Japan is showing encouraging signs that it can move quickly on policy development and implementation. After just a few months in office, the Abe Administration has begun to implement a range of key policies in its economic revitalization strategy. Given that TPP is a key part of this strategy, it is likely that the Abe government will apply the same focus and priority in moving on TPP.

Comprehensive Coverage

For Japan, the most sensitive items are agricultural products. It is true that Japan's main agricultural lobbying organization opposes Japan's entry into TPP, and there are a significant number of members from the ruling Liberal Democratic Party that have stipulated in party documents that Japan must be granted exemptions on rice, wheat, dairy, beef/pork and sugar to garner their support for entry. However, these same legislators have given Prime Minister Abe the leeway to negotiate TPP in Japan's "national interest."

As a matter of broad policy, the Government of Japan is committed to pursuing high-level comprehensive economic partnerships. The Basic Policy on Economic Partnerships adopted in 2010, for example, underscores Japan's policy of subjecting "all goods to negotiations for trade liberalization" in trade agreements. Through its commitment to TPP, the Abe government is doing more to open Japan to trade and investment than any government in the modern era. Specifically, the Abe government confirmed in a joint statement with the White House on February 22, 2013, that should Japan participate in the TPP negotiations, all goods would be on the negotiating table, and that it would indeed join the other participants in aiming for a

comprehensive, high-standard agreement.³ This principle was reinforced further in: (1) Prime Minister Abe's March 15, 2013, formal statement expressing Japan's interest in participating in the TPP negotiations; (2) the April 12, 2013, documents outlining the agreement between the United States and Japan on Japan's terms of entry; and (3) the April 20 statement from the 11 current TPP partners welcoming Japan's entry into the negotiations.

All of these are signs that the Abe government is very serious about Japan's commitment to TPP. More encouragingly, the government is actively pursuing a strategy to reform Japan's agricultural system so that Japan may participate in TPP and other trade agreements requiring agricultural trade liberalization.

Organizing for Success

Significantly, the Abe government is also organizing Japan's TPP negotiating team in a completely different and much more strategic and systematic way than in previous negotiations. Most notably, the prime minister has designated Minister of State for Economic and Fiscal Policy Akira Amari as the overall coordinator for TPP for the government, and he will command a 100-person team of officials/bureaucrats from relevant ministries to manage Japan's negotiations, 70 of whom will focus on negotiations with the 11 partners, 30 on the domestic measures and consultations. Minister Amari will be supported by such highly capable leaders as Senior Vice Minister Yasutoshi Nishimura.

This organizational structure will allow the political leaders and Cabinet to make decisions determined to be in Japan's best overall national interests without having certain special interest groups veto liberalization. This had occurred under past governments due to the traditional vertically segmented policymaking regime (*tatewari gyosei*) and relatively weak Cabinet allowing the various ministries and agencies to maintain control of policy making in areas under their supervision.

CONCLUSION

As the U.S. Government and Congress address Japan's entry into the 21st Century TPP negotiations, it is essential that this not be done with a "20th Century" mindset of Japan as a closed, opaque market hostile to foreign companies. Japan has changed significantly in recent years and is a much less difficult place to do business.

The level of collaboration and cooperation between the U.S. and Japanese governments and businesses is at a high level and will improve further with Japan and the United States both in the TPP. The combination of the Abe government's economic policies and Japan's participation in TPP will lead to even more fundamental changes in coming years.

In short, this is a unique and historic opportunity to strengthen and expand the U.S.-Japan economic relationship and cooperation in ways that contribute to economic growth and job creation in both economies as bilateral and regional trade and investment increase.

³ Joint Statement by the United States and Japan, February 22, 2013.