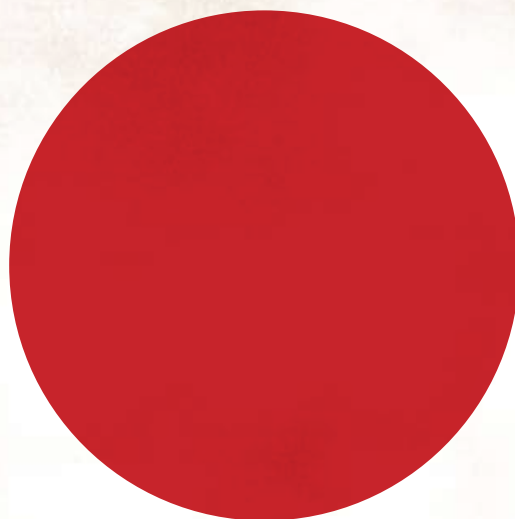




Australian Government

Department of Foreign Affairs and Trade



Australia–Japan FTA Negotiations

Problems doing business in Japan?

As you may be aware, Australia and Japan have recently commenced negotiations towards a free trade agreement (FTA) that covers, among other areas, services and investment. The purpose of the FTA is to reduce barriers to business between Australia and Japan.

The Department of Foreign Affairs and Trade is responsible for leading the negotiations. The Australian FTA negotiating team is extremely interested in obtaining your input on the barriers to doing business in Japan. We need to hear from business about any difficulties facing Australian companies entering and operating in the Japanese market. The information you provide will shape the requests Australia puts to Japan over the coming rounds of negotiations. The aim is to improve the business opportunities available now and in the future for Australian services providers as well as investors in this important market.

We would therefore greatly appreciate your responses to the following questions. Not all of these questions may apply to your business, but where they are relevant, we would appreciate as much detail in your responses as possible.

Please send your responses to Michael Mann in the Japan FTA Task Force at the Department of Foreign Affairs and Trade (at michael.mann@dfat.gov.au) at your earliest convenience, or give Michael a call on (02) 6261 2593 if you prefer.

About you

- a) Do you supply, or have you at any time considered or attempted supplying, a service to the Japanese market? If so, in what area? If you have considered or attempted, were the reasons for not going ahead related to regulatory arrangements in Japan?
- b) Have you established, or have you at any time considered or attempted establishing, a commercial presence (for example, an office, branch or subsidiary) in Japan? Or does your business occur through fly-in, fly-out?

Have you ever encountered, or are you currently encountering, any of the following barriers?

1. Commercial presence

Is it a requirement for you to establish an office, branch or subsidiary in Japan in order to conduct business? If so, does this constitute a barrier to you doing business in Japan?

2. Business scope

Are there any sectors in Japan that are not open to foreign companies? Do you face any equity restrictions on your business in Japan (for example, in establishing a new business or in acquiring an interest in an existing business)? If so, do any of these constitute a barrier to you doing business in Japan?

3. Approvals

Are there any sectors that require prior governmental approval or notification in order to conduct business in Japan? If so, does this constitute a barrier to you doing business in Japan?

4. Qualifications

Does Japan recognise your or your employees' qualifications? If not, does this constitute a barrier to you doing business in Japan?

5. Registration

Are there any registration requirements in order to conduct business in Japan? If so, does this constitute a barrier to you doing business in Japan?

6. Licensing

Are you required to obtain any kind of licence in order to conduct business in Japan? Are the number of licences that are issued limited? Are the criteria used in assessing a licence application unreasonable? Does it take much longer than expected to obtain a licence? Do any of these constitute a barrier to you doing business in Japan?

7. Personnel

Are there any restrictions on the entry and stay of managers, professionals and experts required by your business to operate in Japan (for example, experience or residency requirements for employees)? Are applications for visas time-consuming or complicated? Do any of these constitute a barrier to you doing business in Japan?

8. Equipment

Are there any restrictions on the entry and exit of equipment/tools required by your business in Japan? If so, does this constitute a barrier to you doing business in Japan?

9. Transfers of profits

Do you face impediments in transferring funds from Japan? If so, does this constitute a barrier to you doing business in Japan?

10. Performance requirements

In the course of doing business in Japan, have you ever encountered any requirements or incentives to:

- a) export a given level or percentage of services; or
- b) achieve a given level or percentage of domestic content; or
- c) purchase, use or accord a preference to goods produced in Japan, or to purchase goods from Japanese producers; or
- d) transfer a particular technology, a production process or other proprietary knowledge to a person in Japan?

11. Competition policy settings

Has your business experienced anti-competitive conduct in Japan or suffered economic damage as the result of a government-owned business competitor receiving government support simply by virtue of it being government-owned? If so, does this constitute a barrier to you doing business in Japan?

12. National treatment

Are there any areas in which you feel your business faces restrictions that do not apply to Japanese companies? If so, does this constitute a barrier to you doing business in Japan?

13. Transparency

Do you feel that you have adequate access to information necessary for the conduct of business in Japan? If not, does this constitute a barrier to you doing business in Japan?

14. Administrative and regulatory complexity

Has your business experienced overly complex administrative and regulatory procedures, or inconsistent application of rules or regulations? If so, does this constitute a barrier to you doing business in Japan? Any details would be appreciated.

15. Other

Are there any other restrictions that you face in doing business in Japan (for example, differences in standards/codes (for example, building codes) or concerns about IP protection)? To what extent do these constitute barriers to you doing business in Japan?

Please send your responses to Michael Mann in the Japan FTA Task Force at the Department of Foreign Affairs and Trade (at michael.mann@dfat.gov.au) at your earliest convenience, or give Michael a call on (02) 6261 2593 if you prefer.

Thank you very much for your assistance.

Japan FTA Task Force

Department of Foreign Affairs and Trade