

Council Decision (EU) 2019/614 of 9 April 2019 on the position to be taken on behalf of the European Union within the Joint Committee established under the Agreement between the European Union and Japan for an Economic Partnership, as regards the adoption of the Rules of Procedure of the Joint Committee, the Rules of Procedure of a Panel, the Code of Conduct for Arbitrators and the Mediation Procedure

COUNCIL DECISION (EU) 2019/614

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first subparagraph of Article 207(4), in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Agreement between the European Union and Japan for an Economic Partnership⁽¹⁾ ('the Agreement') was approved on behalf of the Union on 20 December 2018 and entered into force on 1 February 2019.
- (2) The Agreement establishes a Joint Committee to ensure that the Agreement operates properly and effectively and provides that the Joint Committee is to adopt its own rules of procedure, the Rules of Procedure of a Panel, the Code of Conduct for Arbitrators and the Mediation Procedure.
- (3) It is appropriate to establish the position to be taken on the Union's behalf in the Joint Committee, as the envisaged decision of the Joint Committee will be binding on the Union.
- (4) The position of the Union within the Joint Committee should therefore be based on the attached draft Decision,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf in the first meeting of the Joint Committee established under the Agreement between the European Union and Japan for an Economic Partnership with regard to the adoption of the rules of procedure of the Joint Committee, the Rules of Procedure of a Panel, the Code of Conduct for Arbitrators and the Mediation Procedure shall be based on the draft decision of the Joint Committee, including its annexes, as attached to this Decision.

Changes to legislation: There are currently no known outstanding effects
for the Council Decision (EU) 2019/614. (See end of Document for details)

Article 2

This Decision shall enter into force on the date of its adoption.

Done at Luxembourg, 9 April 2019.

For the Council

The President

G. CIAMBA

ANNEX I

RULES OF PROCEDURE OF THE JOINT COMMITTEE UNDER THE AGREEMENT BETWEEN THE EUROPEAN UNION AND JAPAN FOR AN ECONOMIC PARTNERSHIP

Article 1

Composition and Chair

1 The Joint Committee that is established by the first paragraph of Article 22.1 of the Agreement between the European Union and Japan for an Economic Partnership (hereinafter referred to as ‘the Agreement’) will perform its duties as provided in Article 22.1 of the Agreement and will take responsibility for the general implementation and operation of the Agreement.

2 The Joint Committee will be composed of representatives of the European Union and Japan and, in accordance with paragraph 3 of Article 22.1 of the Agreement, will be co-chaired by the Member of the European Commission responsible for Trade and the Minister for Foreign Affairs of Japan.

3 The co-chairs may be represented by their respective delegates as provided in paragraph 3 of Article 22.1 of the Agreement. Any subsequent references in these Rules of Procedure to co-chairs of the Joint Committee will be understood to include their delegates.

4 The co-chairs may be accompanied by officials. The lists of the officials attending the meeting for each Party will be exchanged through the Contact Points prior to the meeting.

5 The co-chairs may decide by mutual consent to invite observers or independent experts on an ad hoc basis.

Article 2

Contact Points

1 The Contact Points designated pursuant to paragraph 1 of Article 22.6 of the Agreement (hereinafter referred to as ‘the Contact Points’) coordinate the preparation and organisation of the meetings of the Joint Committee.

2 All exchange of correspondence and communications between the Parties relating to the work of the Joint Committee and its meetings will be carried out through the Contact Points in accordance with sub-paragraph 2(c) of Article 22.6 of the Agreement.

3 The Contact Points will be in charge of coordinating the preparations of the provisional agenda, draft decisions and draft recommendations of the Joint Committee, as well as the correspondence and communication between the Joint Committee and the specialised committees, working groups and other bodies established under the Agreement.

Changes to legislation: There are currently no known outstanding effects for the Council Decision (EU) 2019/614. (See end of Document for details)

Article 3

Agenda

1 A provisional agenda for each meeting will be drawn up jointly by the Contact Points and forwarded, together with the relevant documents, to the participants of the Joint Committee no later than 15 calendar days before the date of the meeting.

2 Either Party may propose items for the agenda no later than 21 calendar days before the date of the meeting.

3 The Parties may, by mutual consent, reduce the time periods referred to in paragraphs 1 and 2 to take account of the requirements of a particular case.

4 The agenda will be adopted by the Joint Committee at the beginning of its meeting. Items other than those appearing on the provisional agenda may be placed on the agenda if the Parties so decide.

Article 4

Working Language

Unless otherwise decided by the Parties, all the correspondence and communication between the Parties relating to the work of the Joint Committee, as well as the preparation of and deliberations on decisions and recommendations will be carried out in English.

Article 5

Decisions and recommendations

1 Decisions and recommendations of the Joint Committee, in accordance with Article 22.2 of the Agreement, will be taken by consensus. They may be adopted by written procedure through an exchange of notes between the Co-Chairs of the Committee.

2 All decisions and recommendations of the Joint Committee will be assigned a serial number, the date of adoption and a title referring to their subject matter.

Article 6

Joint Minutes

1 The draft joint minutes will include, as a general rule, the final agenda and a summary of the discussions under each agenda point.

2 Draft joint minutes of each meeting will be drawn up by the Contact Points, as soon as possible but no later than 60 days from the date of the meeting.

3 The draft joint minutes will be approved in writing by the Parties as soon as possible but no later than 70 days from the date of the meeting. Once approved, two copies of the minutes will be signed by the Contact Points and each Party will receive one original copy of these documents. The Parties may decide that signing and exchanging electronic copies satisfies this requirement.

Changes to legislation: There are currently no known outstanding effects for the Council Decision (EU) 2019/614. (See end of Document for details)

Article 7

Publicity and Confidentiality

1 Unless otherwise specified by the Agreement or decided by the Parties, the meetings of the Joint Committee will not be open to the public.

2 When a Party submits information considered as confidential or protected from disclosure under its laws and regulations to the Joint Committee or to any specialised committee, working group or other body established under the Agreement, the other Party will treat that information as confidential as provided in Article 1.6 of the Agreement.

3 Each Party may make public in any appropriate medium the agenda finalised between the Parties before the meeting of the Joint Committee, the approved joint minutes drawn up in accordance with Article 6, subject to the application of paragraph 2 above. Each Party will ensure that the decisions, recommendations and interpretations adopted by the Joint Committee are made public.

Article 8

Expenses

Each Party will meet any expenses it incurs as a result of the meetings of the Joint Committee. Expenses in relation to the organisation of the meetings will be borne by the Party that hosts the meeting. In case a meeting takes place outside the European Union or Japan, the Parties will decide by mutual consent on the responsibilities for the expenses incurred in the organisation of the meeting.

ANNEX II

RULES OF PROCEDURE OF A PANEL

In panel procedures under Section C of Chapter 21 (Dispute Settlement) of the Agreement, the following rules apply:

I. Definitions

1. In these Rules of Procedure:

- (a) ‘administrative staff’, in respect of an arbitrator, means persons under the direction and control of the arbitrator, other than assistants;
- (b) ‘adviser’ means a person retained by a Party to advise or assist that Party for the purposes of the panel procedure, other than representatives of that Party;
- (c) ‘Agreement’ means the Agreement between the European Union and Japan for an Economic Partnership;
- (d) ‘arbitrator’ means a member of a panel;
- (e) ‘assistant’ means a person who, under the terms of appointment of an arbitrator, conducts research or provides assistance to that arbitrator;