
BARRIERS TO EU SERVICES EXPORTS TO JAPAN

ANALYSIS OF SERVICE TRADE BARRIERS IN JAPAN | NOVEMBER 2010

INFORMED DECISIONS



COPENHAGEN ECONOMICS

| COLOPHON

Author: Eva Rytter Sunesen and Martin Hvidt Thelle

Client: European Commission, DG Trade

Date: November 2010

Contact: SANKT ANNÆ PLADS 13, 2nd FLOOR | DK-1250 COPENHAGEN
PHONE: +45 2333 1810 | WWW.COPENHAGENECONOMICS.COM

TABLE OF CONTENTS

Preface	4
Chapter 1 Trade and investment in services between the EU and Japan	5
1.1. Japan is losing importance as a destination for EU services	5
1.2. The EU has not gained market share in Japan	6
1.3. The EU has certain competitive strengths in the Japanese market	7
1.4. Japan has become an important destination for EU outward FDI	8
1.5. Barriers in Japanese service sectors	9
Chapter 2 The wholesale and retail trade sector	12
2.1. Openness in the Japanese wholesale and retail trade sector	12
2.2. NTMs in the Japanese wholesale and retail trade sector	13
Chapter 3 The sea transport service sector	21
3.1. Major concerns in the sea transport service sector	21
3.2. The EU export of sea transport services to Japan	21
3.3. NTMs in the Japanese sea transport service sector	24
3.4. Reducing Japanese NTMs in the sea transport service sector	27
Chapter 4 The business service sector	31
4.1. The EU export of business services to Japan	31
4.2. Regulatory restrictiveness in the business service sector	36
4.3. NTMs in the Japanese business service sector	38
4.4. Reducing Japanese NTMs in the business service sector	45
Chapter 5 The postal and courier service sector	48
5.1. Major concerns in the postal and courier service sector	48
5.2. The EU exports to Japan in postal services	48
5.3. NTMs in the Japanese postal service sector	50
5.4. Reducing Japanese NTMs to insurance and financial services	56

| PREFACE

This report entitled "*Barriers to EU services exports to Japan*" has been prepared for the European Commission, DG Trade, by Copenhagen Economics A/S under the framework contract (TRADE/07/A2).

Copenhagen, November 2010
Martin H. Thelle (Project Manager)

Disclaimer:

This report was commissioned by DG Trade (European Commission) and prepared by Copenhagen Economics.
The views and opinions expressed in this report are not necessarily shared by the European Commission.

Chapter 1 | TRADE AND INVESTMENT IN SERVICES BETWEEN THE EU AND JAPAN

The purpose of this study is to provide an overview of the barriers to trade and investment in services between the EU and Japan, and - to the extent possible - to quantify the potential for reducing such barriers. We base our analysis on the existing literature on barriers to the Japanese service sectors.

The report complements an earlier study undertaken by Copenhagen Economics “*Assessment of barriers to trade and investment between the EU and Japan*”, which provided a general overview of the trade potential of reducing barriers to EU-Japan trade in goods and services. The previous Japan study provided in depth analyses of Japanese barriers to trade in five goods sectors (pharmaceuticals, medical devices, processed foods, motor vehicles, and transport equipment) and two service sectors (financial services and communication services).

On the basis of their economic importance, four additional service sectors have been selected for close review:

- Sea transport services
- Retail and distribution services
- Business services
- Postal services

This report provides an overview of trade and investments in services between the EU and Japan, and we identify barriers to EU exports in the selected sectors and quantify trade potentials where possible. Chapter 2-5 provide detailed descriptions of Japanese barriers in the four service sectors. The analysis draws on indicators from the OECD Product Market Regulation (PMR) Database on a sectoral level. These PMR indicators measure the extent to which policy settings promote or inhibit competition in areas of the product market where competition is viable.

The use of these indicators is not without problems, however, and Pelkmans (2010) summarises some of the omissions, weaknesses and shortcomings of the indicators. The common theme for almost all these drawbacks is what has been called an “EU-neglect bias”. A weakness in the indicators is that they tend to portray the EU countries as more restrictive in goods and services markets, in comparison with other OECD countries, than they really are. This finding should be kept in mind when we interpret the indicators.

Throughout the study we focus mainly on barriers to cross-border trade and the commercial presence of EU companies in Japan although the two other modes of entry to the Japanese market are equally important (consumption abroad and movement of people).

1.1. JAPAN IS LOSING IMPORTANCE AS A DESTINATION FOR EU SERVICES

The growth of EU service exports to Japan is slower than EU service exports to other major economies, and Japan is therefore losing importance as a destination for EU service exports.

Japan has moved from being the second most important destination for EU service exports to being the fourth, overtaken by Russia and China, cf. Table 1.1.

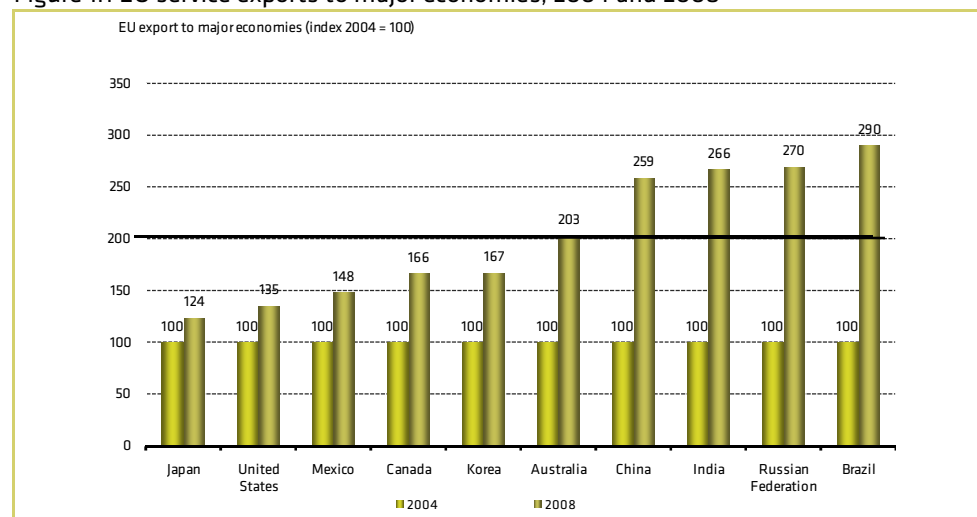
Table 1.1 Top 10 destinations for EU export of services

Rank	2004	2008
1	United States	United States
2	Japan	Russian Federation
3	Russian Federation	China
4	China	Japan
5	Canada	Australia
6	Australia	Canada
7	Korea	Brazil
8	Mexico	India
9	India	Korea
10	Brazil	Mexico

Source: OECD Extended Balance of Payments Services (updated EBOPS 2002).

EU service exports to Japan has increased by 24 percent during the period 2004-2008, which is significantly below the average increase in exports to other major economies equal to 103 percent, cf. Figure 1.1. The EU service exports to other emerging economies such as China, India, Russian Federation, and Brazil has almost tripled during the same period.

Figure 1.1 EU service exports to major economies, 2004 and 2008



Note: Data includes total EU cross-border service exports to major economies. The year 2004 is used as a benchmark and numbers therefore show the rate of growth in EU exports during the period 2004-2008.

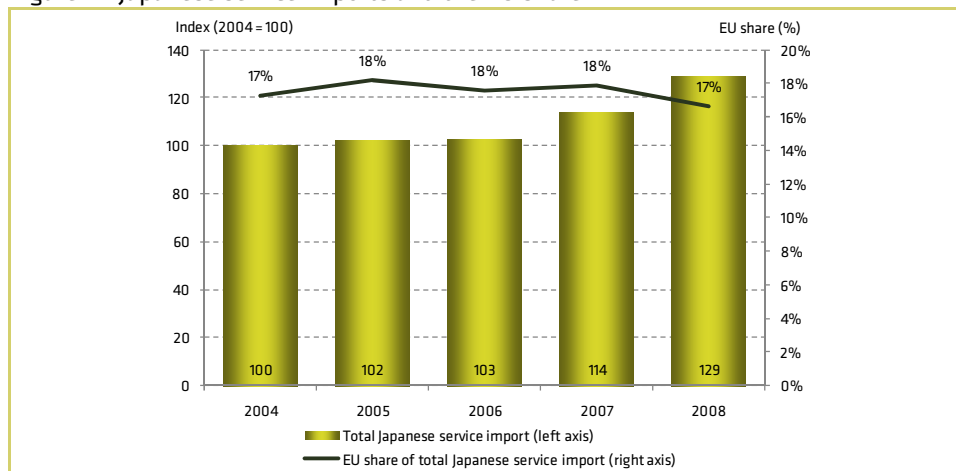
Source: OECD Extended Balance of Payments Services (updated EBOPS 2002).

1.2. THE EU HAS NOT GAINED MARKET SHARE IN JAPAN

Japan's total service imports has increased steadily during the period 2004 to 2008 giving rise to a total increase of 29 percent during the period, cf. Figure 1.2. The EU market share

has stayed relatively constant, and EU service exporters have maintained their market share of the Japanese market.

Figure 1.2 Japanese service imports and the EU share

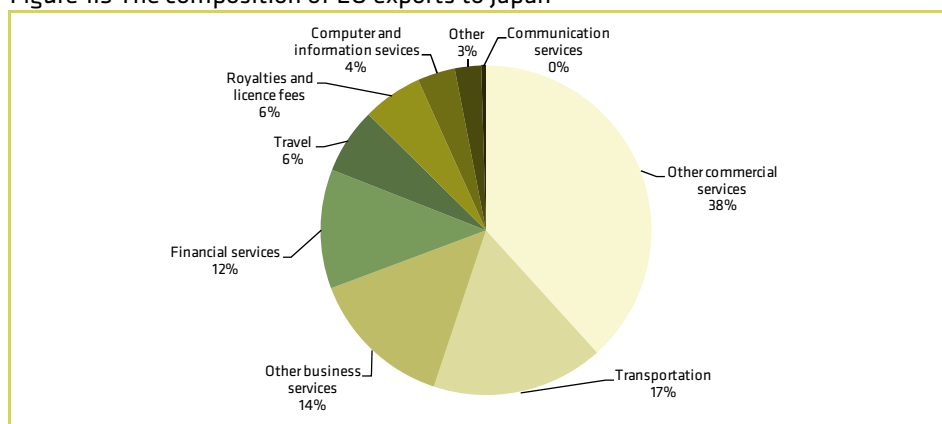


Source: OECD Extended Balance of Payments Services (updated EBOPS 2002).

1.3. THE EU HAS CERTAIN COMPETITIVE STRENGTHS IN THE JAPANESE MARKET

The transportation service sector is the largest EU service export sector in Japan accounting for 17 percent of EU service exports to Japan, cf. Figure 1.3. Other business services and financial services come in next. Due to their economic size, these sectors are particularly interesting for the EU. The group of other commercial services is the largest composite sector in EU exports to Japan and includes wholesale and retail trade.

Figure 1.3 The composition of EU exports to Japan

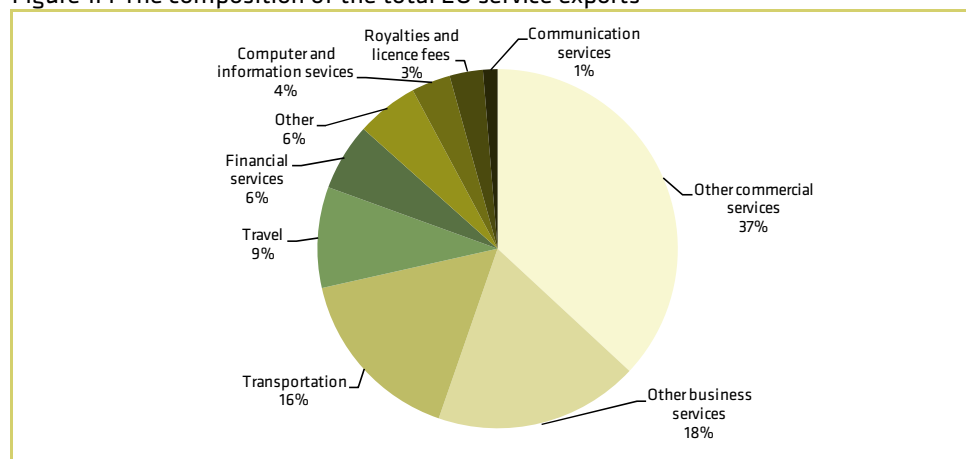


Note: Other commercial services include wholesale and retail trade. Other business services include merchant services and other trade-related services, operational leasing services, and miscellaneous business, professional and technical services. Other includes construction services, insurance services, and personal, cultural and recreational services. Data is from 2008.

Source: OECD Extended Balance of Payments Services (updated EBOPS 2002).

To some extent, the composition of EU cross-border service exports to Japan resembles the composition of EU total cross-border service exports but there are also notable differences. The share of exports to Japan in other business services is smaller than the world counterpart, whereas the share of EU export of financial services to Japan is larger than the share in world exports, cf. Figure 1.4. These findings suggest that there might be barriers to EU export of business services to Japan, which could be relevant to map out. Likewise, EU companies seem to have certain strongholds in financial services, and an in depth analysis of barriers to further exports in this sector would indicate how to withhold or even strengthen this position.

Figure 1.4 The composition of the total EU service exports



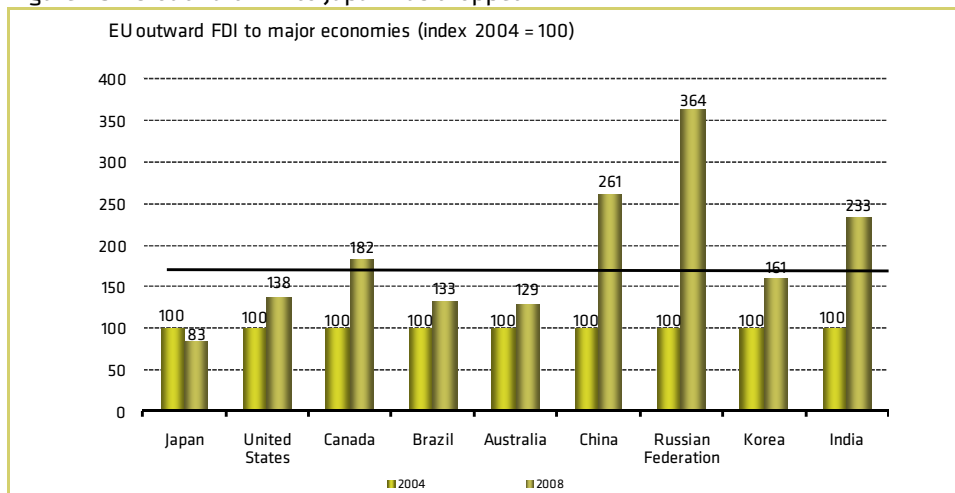
Note: Other commercial services include wholesale and retail trade. Other business services include merchant services and other trade-related services, operational leasing services, and miscellaneous business, professional and technical services. Other includes construction services, insurance services, and personal, cultural and recreational services. Data is from 2008.

Source: OECD Extended Balance of Payments Services (updated EBOPS 2002).

1.4. JAPAN HAS BECOME AN IMPORTANT DESTINATION FOR EU OUTWARD FDI

The EU stock of Foreign Direct Investment (FDI) in Japan has decreased during a period where EU FDI in other major economies has increased. From 2004 to 2008 the EU FDI stock decreased by 17 percent, whereas the average increase for the nine major economies depicted in Figure 1.5 was around 70 percent. It is mainly Russia, China, and India that have received large scale EU FDI during the period.

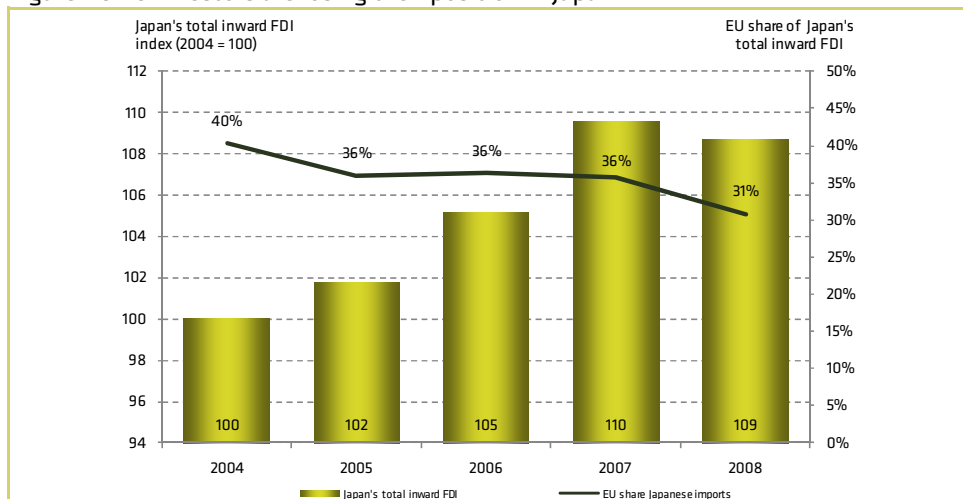
Figure 1.5 EU outward FDI to Japan has dropped



Note: Data is based on FDI positions in major partner countries.
 Source: OECD Extended Balance of Payments Services (updated EBOPS 2002).

At the same time we can see that the total Japanese inward FDI from the OECD countries has increased, cf. Figure 1.6. During the period 2004-2008 Japan's inward FDI increased by 31 percent after a small drop from 2007 to 2008. This means that EU investors are losing market share in Japan, and the EU share of Japanese inward FDI has dropped from 40 percent in 2004 to 31 percent in 2008.

Figure 1.6 EU investors are losing their position in Japan



Note: Data is based on FDI positions in major partner countries.
 Source: OECD Extended Balance of Payments Services (updated EBOPS 2002).

1.5. BARRIERS IN JAPANESE SERVICE SECTORS

Due to their economic potential and importance in EU exports to Japan, we have selected the following four service sectors for further analysis:

- Other commercial services that include **wholesale and retail trade** (see Chapter 2).
- Transportation services where **sea transport** turns out to be the largest sub-sector (see Chapter 3).
- Other business services where **miscellaneous business, professional and technical services** turn out to be the most important activities. Due to the high degree of diversity in the group of business services, we further zoom in on legal, accounting, management consulting, and public relations services as well as architectural, engineering, and other technical services.
- Communication services where **postal services** are of particular focus. There are two reasons for this. First, our previous study of Japanese barriers to EU exports in communication services already provided a detailed analysis of barriers to telecommunication services (the main part of communication services). Second, there are important issues in the postal services related to Japan Post, which reaches beyond postal services but also limit EU exports in other sectors such as financial and insurance services.

Our methodology to identify barriers

Based on information from the European Commission (2009), the European Business Council in Japan (2010), the World Trade Organisation (2009), and the US Department of State (2009), we have constructed an inventory of Non-Tariff Measures (NTMs) that are listed as barriers to the Japanese markets in these policy documents. Across all sectors, we have identified a total of 251 issues. The complete list of NTMs is presented in Appendix 1 (to follow).

The inventory is based on a four-step methodology that was developed with the purpose of identifying Japanese NTMs across sectors. Not all issues raised by business or policy makers would qualify as an NTM according to our definition. We have applied the following four steps in order to identify NTMs in Japan:

- **Impact:** We assess that the issue has an impact on trade
- **Problem:** There is a clearly identifiable problem underlying the NTM
- **Solvability:** There are reasons to believe that the NTM is solvable
- **Instrument:** We can identify instruments to remedy the damage created by the NTM

Later in the report we will refer to this as the IPSI database. Of the 251 issues identified, 227 are related to NTMs, while 24 issues are issues that do pose difficulties to European firms in Japan, but cannot be considered as NTM related.

The barriers to services trade can be classified in several dimensions:

- Affecting *entry* (the ability of service suppliers to establish physical outlets in an economy and supply services through those outlets) or *ongoing operations* (the operations of a services supplier after it has entered the market).

- *Non-discriminatory* (restricting domestic and foreign services suppliers equally) or *discriminatory* (restricting only foreign services suppliers).
- Affecting *prices of services* or *costs of service* providers.

In our NTM inventory, we have identified 88 issues in services. Most of these are barriers affecting *ongoing operations* in a *non-discriminatory* manner that affects the *costs of service* providers. However, several barriers also affect establishment and are, therefore, barriers to FDI.

Our methodology to quantify NTMs

Our approach to quantify NTMs in the Japanese service sectors is based on the methodology developed in Copenhagen Economics (2010). The method builds on gravity modelling of bilateral services trade, where the OECD (2007) FDI restrictiveness indexes are combined with a survey-based NTM index from Ecorys (2009) and theoretical work by Fillat, Francois & Woertz (2008). Since data is not available for the retail and distribution sector, we show the results for sea transport services, other business services, and insurance and financial services (under the postal service review). Not all NTMs can be removed, and the total costs of NTMs can be divided into an actionable and a non-actionable part, depending on whether the barriers are expected to be removable in trade negotiation between the EU and Japan. The actionable part includes both barriers that imply increased costs of trade, versus those that limit market access, generate rents, and protect domestic incumbents.

We define two scenarios for the elimination of NTMs in the Japanese service sectors:

1. We eliminate the trade cost portion of actionable NTMs in the Japanese service sector in question.
2. We eliminate the actionable part of Japanese NTMs in the sector in question.

Results from the estimates show that sector service barriers in Japan range from 2 to 24 percent additional costs of cross-border trade, cf. Table 1.2. Intuitively, the trade costs in business services of 6.5 percent inform us, that the Japanese barriers to trade in this sector add on average 6.5 percent more costs as a result of regulatory barriers that the exporter has to comply with.

Table 1.2 Cost estimates of NTMs in the Japanese service sectors

Service sector	Japan barriers against EU	Remaining barrier under Scenario 1	Remaining barrier under Scenario 2
Business services	6.5%	4.2%	2.8%
Sea transport	8.0%	6.6%	2.8%
Finance	7.8%	5.4%	3.5%
Insurance	2.5%	1.8%	1.3%

Note: The table shows percentage of trade cost equivalents of NTMs in services. Data for water transport and air transport did not allow for country specific estimates and are omitted.

Source: Francois gravity estimates. See Copenhagen Economics (2010) for further details.

Chapter 2 | THE WHOLESALE AND RETAIL TRADE SECTOR

Wholesale and retail trade of goods cover firms in the market who are operating as middle men between producers of goods and final consumers. Wholesale and retail services account for a significant part of economic activity in Japan, and in many economies the sector is second to manufacturing in its contribution to GDP.¹ Wholesale trade and retailing are supplied primarily through the commercial presence mode, but according to the WTO (2001) this pattern is changing due to the emergence of electronic commerce.

In this chapter we provide an overview of the barriers prevalent in the Japanese wholesale and retail trade sector. The focus here is on barriers to the sector as a whole and not on product-specific barriers to goods trade in the wholesale and retail trade sector. As described in Copenhagen Economics (2010), such product-specific standards could be caused for example by strict Japanese certification, testing and labelling requirements.

The most important barriers to wholesale and retail trade in Japan are entry barriers, since Japanese regulation makes it very difficult for new companies, both foreign and domestic, to enter into the retail sector. The strict Japanese regulation is designed in a way that prevents the development of large shopping malls outside the city centres. As explained in Grier (2001), the Japanese regulators have the explicit objective to protect small retailers. Such objectives are politically founded and it is therefore unlikely that deregulation of the Japanese retail sector could be negotiated in bilateral trade negotiations between the EU and Japan. However, it is possible to reduce the barriers to operation in the retail sector by enhancing the transparency and predictability of the Law on Large-scale Retail Store Location without compromising on the protection of the small retailers. This would also benefit Japanese retailers.

2.1. OPENNESS IN THE JAPANESE WHOLESALE AND RETAIL TRADE SECTOR

In the section we report two indices that have been used to measure the restrictiveness of regulation in the Japanese wholesale and retail trade sector. In the construction of these indices, data on regulations affecting trade in the wholesale and retail sector have been compiled, and each regulation has then (subjectively) been assigned scores based on how restrictive it is. Then the scores have been grouped into categories, each with an assigned (subjective) weight depending on its importance. The scores and weights used differ between different studies.

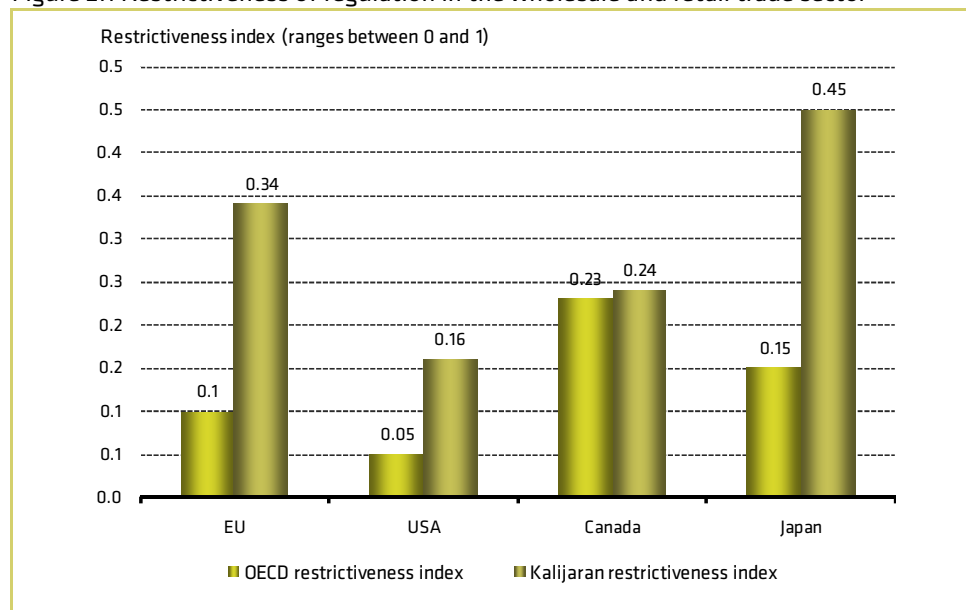
We use the indices constructed by the OECD (2003) and Kalijaran (2000). A drawback in both studies is that cross-border trade is not included, and the two indices should therefore only be used as indicators of the openness of the wholesale and retail trade sector – not as indicators of barriers to cross-border trade in the sector.

According to the OECD restrictiveness index, Japan has the second most heavily regulated wholesale and retail sector where Canada comes in as being the most restrictive, cf. Figure

¹ See Kommers (2008).

2.1. The Kalijaran restrictiveness index shows a story. Here, Japan is ranked as the most restrictive followed by the EU. The US turns out to be the least restrictive measured by both the indices.

Figure 2.1 Restrictiveness of regulation in the wholesale and retail trade sector



Note: The restrictiveness indices range between 1 (fully closed) to 0 (fully open). The OECD index includes commercial presence and temporary movement (between 1998 and 2000), while the Kalijaran index includes the same modes of entry, but includes also immigration and IPR (year 1999). The EU restrictiveness index is calculated as a weighted average of data for the individual Member States, where the weight is the country's share of total EU services imports in 2003.

Source: Kommers (2008).

According to Kommers (2008) the difference in the results may be due to the fact that different restrictions are measured and weighted differently. For example, Kalirajan (2000) includes restrictiveness of IPR regulations, which are relatively strict in most EU Member States. Additionally, the OECD (2003) only includes discrimination of foreign firms while Kalirajan (2000) includes also market access and domestic restrictions, i.e. restrictions that apply to both domestic and foreign firms. Such regulations, for example on shop opening hours, are generally more restrictive in Europe than in other countries (such as the US).

2.2. NTMS IN THE JAPANESE WHOLESALE AND RETAIL TRADE SECTOR

To get a more precise indication of the barriers affecting EU exports to Japan in the wholesale and retail trade sector we use the OECD measures of product market regulation developed in Conway and Nicoletti (2006). This indicator compares regulations that affect competitive pressures, including barriers to entry, public ownership, market structure, vertical integration, and price controls. The measure reflects differences in the regulation of wholesale and retail trade in OECD countries over the past three decades.

There seems to have been a significant reduction in the Japanese barriers caused by product market regulation in the wholesale and retail trade sector, cf. Figure 2.2. Compared to 1998, where the Japanese barriers were significantly higher than barriers in the EU, the US, and Canada, the Japanese level of restrictiveness is now on the same level as the other countries.

Figure 2.2 Development in barriers in wholesale and retail trade



Note: The index of product market regulation ranges from zero (least restrictive) to six (most restrictive). The data for the EU consist of a weighted average (by GDP) from the following countries: Austria, Belgium, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Luxembourg, Netherlands, Poland, Portugal, Slovak Republic, Slovenia, Spain, Sweden, and the UK.

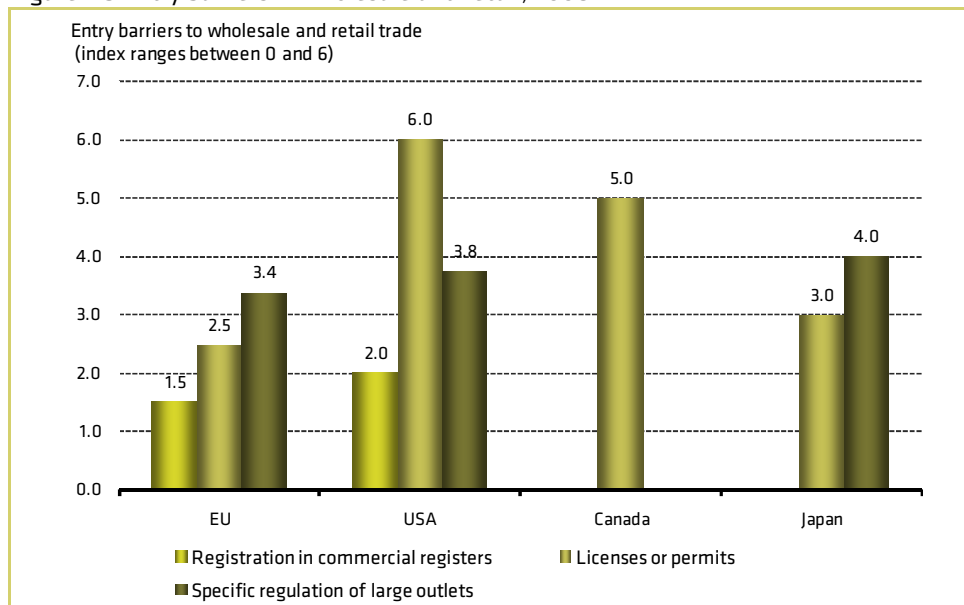
Source: Conway and Nicoletti (2006), downloadable from OECD.Stat.

As explained in Chapter 1, Japanese barriers to entry and operation can be non-discriminatory in the sense that they make entry of both Japanese and foreign companies difficult, or they can be discriminatory in the sense that they fall disproportionately on foreign companies. To the extent possible we will attempt to describe the listed barriers in these dimensions in what follows.

Entry barriers

Conway and Nicoletti (2006) have used the OECD measure of product market regulation to construct an index that reflect, how such regulation cause barriers to entry in the wholesale and retail trade sector. The index distinguishes between registration in commercial registers, licences or permits, and specific regulation of large outlets. The barriers to entering the Japanese market do not seem to be systematically higher than barriers in the EU, the US and Canada, cf. Figure 2.3.

Figure 2.3 Entry barriers in wholesale and retail, 2008



Note: The indicator ranges from 0 (least restrictive) to 6 (most restrictive). This indicator compares regulations that affect competitive pressures, including barriers to entry, public ownership, market structure, vertical integration, and price controls.

The data from the EU consists of a weighted average (by GDP) from the following countries: Austria, Belgium, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Luxembourg, Netherlands, Poland, Portugal, Slovak Republic, Slovenia, Spain, Sweden, and the UK.

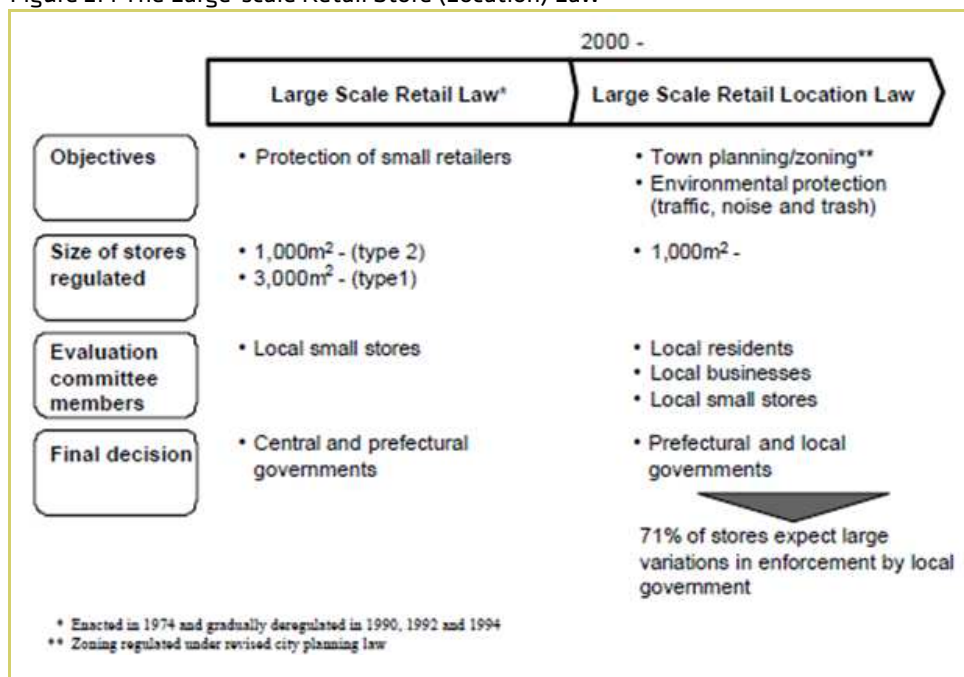
Source: Conway and Nicoletti (2006), downloadable from OECD.Stat.

Only in the case of regulation of large outlets does the Japanese regulation appear to be more restrictive. Below we will therefore describe some of the main building blocks in the regulation of large retail stores.

The Large-scale Retail Store (Location) Law

The Large-scale Retail Store (LSRS) Law controlled the establishment of stores in an effort to protect small retailers. In practice, the law gave considerable power to existing retailers in setting the conditions under which large stores could be opened. The law was replaced by the Large-scale Retail Store Location (LSRSL) Law in 2000. The objective of the new law was to protect the local living environment by engaging in active town planning (zoning) and by establishing screening criteria related to the environment (e.g. traffic, noise, and trash levels). There are notable differences between the two laws, cf. Figure 2.4.

Figure 2.4 The Large-scale Retail Store (Location) Law



Source: McKinsey (2000).

The LSRS Law shifted the responsibility for regulating large stores from the central government to the municipalities. The new law also changed the final decision making power for dispute resolution. Under LSRS Law, the final decision for appeals is made at the national level for stores over 3,000 m². Under the LSRS Law, the final decision making body will be prefectural and local governments for stores of more than 1,000 m².

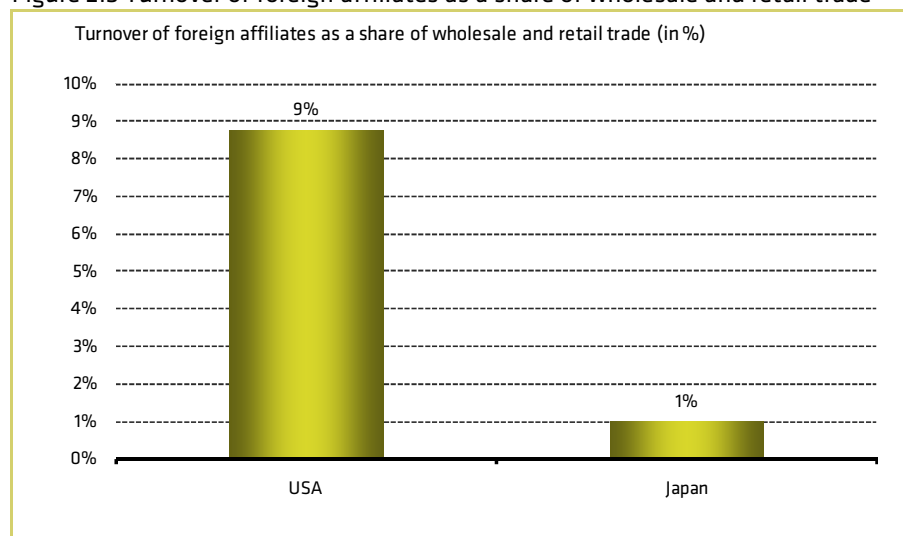
The new Law had the potential to enhance competition between local governments to attract large-scale retailers. However, as pointed out by McKinsey (2000), incentives for this competition are low in Japan for two reasons.

1. The local government in Japan relies very little on local tax revenues from firms and the economic incentive to attract large stores is therefore less relevant.
2. The prefectural-level decision making unit is large and includes representatives from incumbents companies who do not have an incentive to promotion competition and thereby erode their own market opportunities.

Another point of criticism raised by McKinsey (2000) is that instead of directly limiting large stores, as in the LSRS Law, the LSRS Law indirectly limits the entry of large stores through the use of subjective criteria for allowing new establishments. This means that an unconcealed entry barrier has simply been replaced by a trickier one. One consequence could be that foreign companies are put at a disadvantage compared to Japanese companies

who often have more local contacts and knowledge. This could be an explanation for the low level of turnover in foreign affiliates in Japan compared to the US, cf. Figure 2.5.

Figure 2.5 Turnover of foreign affiliates as a share of wholesale and retail trade



Note: In the original data, EU affiliates in an EU country is recorded as a foreign affiliate, and this data is therefore not useful in this context where the data needed is on non-EU foreign affiliates. No data for Canada.
Source: OECD (2005b), *Economic Globalisation Indicators*, OECD, Paris.

The approval procedure for establishing new companies also involves many steps where representatives in the local government can influence the decision, cf. Box 2.1. In addition, the Law might result in an uneven regional implementation since the interpretations of construction, safety, and environmental regulations may not be consistent across local governments.

Box 2.1 Procedures for approval of the establishment of new companies

The company wishing to establish a new branch/enlarge the existing company must:

1. Notify the local government of its plan
2. Hold a public hearing to explain its plan

Then, the local government reviews the plan taking into account the comments of the local residents and interest groups. The process usually lasts about four to eight months if the local government is satisfied with the plan. Otherwise the company must

3. Present its views
4. Submit a "voluntary co-ordination plan"

Source: OECD (2008).

In this way, the LSRL Law tends to increase incumbents' market power and price margins, which might push up retail prices. This could have the implications to discourage investments, limit employment growth and delay the modernisation process.²

² See Bertrand and Kramarz (2002), McGuckin et al. (2005), Nicolletti and Scarpetta (2003) as well as other references in OECD (2008).

City Planning Law

The City Planning Law was revised in 2006 in support of the government's efforts to revitalise central urban areas and to limit suburbanisation, stricter zoning regulations on facilities larger than 10,000m² were implemented. The Law includes regulation on construction that might act as a barrier to entry. As part of the building permit system, for example, companies have to undertake an environmental impact assessment in order to "maintain the local living environment". This requirement overlaps with the LSRS and complicates the application procedure for opening a large store in Japan. The implication is that the cost of application increases while at the same time uncertainty follows from the involvement of local representatives in the approval process.

Barriers to operation

Conway and Nicoletti (2006) have also used the OECD measure of product market regulation to construct an index that reflects, how such regulation cause barriers to operation in the wholesale and retail trade sector. The index distinguishes between protection of existing firms and regulation concerning opening hours. Unfortunately there is no data for Japan on the barriers caused by the regulation on opening hours. The barriers to operation caused by protection of existing firms are at the same level as the EU and the US, cf. Figure 2.6.

Figure 2.6 Barriers to operation in wholesale and retail in 2008



Note: The indicator ranges from 0 (least restrictive) to 6 (most restrictive). This indicator compares regulations that affect competitive pressures, including barriers to entry, public ownership, market structure, vertical integration, and price controls.

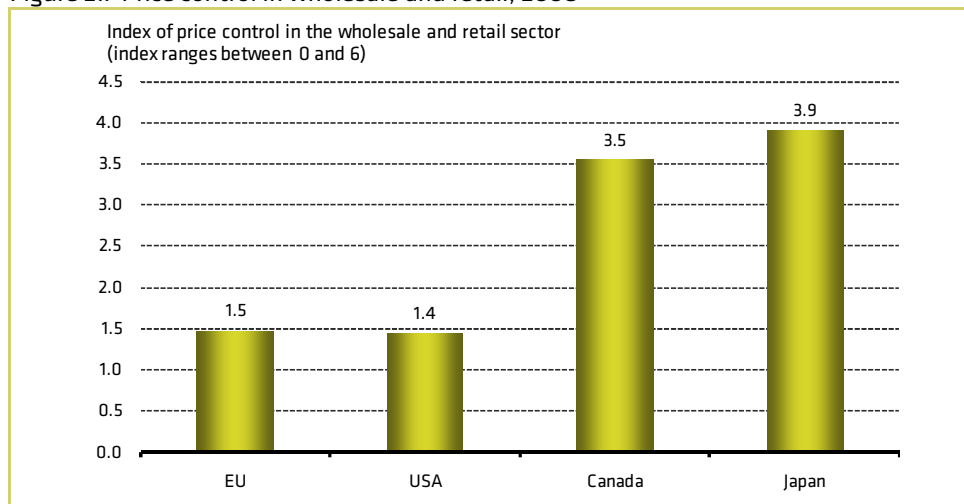
The data from the EU consists of a weighted average (by GDP) from the following countries: Austria, Belgium, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Luxembourg, Netherlands, Poland, Portugal, Slovak Republic, Slovenia, Spain, Sweden, and the UK.

Source: Conway and Nicoletti (2006), downloadable from OECD.Stat.

One factor that could contribute to the Japanese barriers of operation is the index price controls in the wholesale and retail sector developed by Conway and Nicoletti (2006) in the same manner as the other restrictiveness indices described above.

Japan is the country with the highest price control in the wholesale and retail sector, and the restrictiveness index is more than double the size of the EU, cf. Figure 2.7. This means that the Japanese wholesale and retail sector is regulated in a way that restricts the price formation in the sector, and that limits the companies' room for using prices to put pressure on their competitors.³

Figure 2.7 Price control in wholesale and retail, 2008



Note: The indicator ranges from 0 (least restrictive) to 6 (most restrictive). This indicator compares regulations that affect competitive pressures, including barriers to entry, public ownership, market structure, vertical integration, and price controls.

The data from the EU consists of a weighted average (by GDP) from the following countries: Austria, Belgium, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Luxembourg, Netherlands, Poland, Portugal, Slovak Republic, Slovenia, Spain, Sweden, and the UK.

Source: Conway and Nicoletti (2006), downloadable from OECD.Stat.

How can barriers be reduced?

Barriers in the Japanese wholesale and retail sector do not appear to be falling disproportionately on EU companies compared to other foreign companies, but there could be reasons to expect that the implication of the barriers caused by Japanese regulation may put foreign companies at a disadvantage relative to home companies. This is so because the LSRSL Law lacks transparency and opens up possibilities for stakeholders to influence the process of approving the establishment of new large stores.

Based on this, the OECD (2009) has encouraged the Japanese authorities to pursue further deregulation, in part by enhancing the transparency and predictability of the Large-scale Re-

³ OECD (2008).

tail Store Location. Furthermore, the OECD (2009) calls for reforms of the City Planning Law to ensure that the Law does not cause entry barriers for large stores. They argue that

Improving productivity of the retail sector requires a relaxation of large-store regulation, more transparency in its application and strong enforcement of the competition law by the Japan Fair Trade Commission.

Chapter 3 | THE SEA TRANSPORT SERVICE SECTOR

The sea transport service sector is of high importance to the Japanese economy by being the main import and export channel of goods in the whole country. In response to lean production and distribution systems, the trend towards outsourcing of logistics services is expected to continue. The sea transport service providers offer global firms many advantages, including reducing the need for capital investment, reducing working capital needs, and enabling penetration into new markets more quickly and with less capital.⁴ Efficient and competitive harbour facilities are therefore a crucial requirement in terms of optimising trade potentials and ensuring an attractive environment of significant value to the economy.

3.1. MAJOR CONCERNS IN THE SEA TRANSPORT SERVICE SECTOR

The main concerns in the Japanese sea transport service sector relate to high port costs and poor competition in port operations and stevedore services.

Increasing container traffic from/to China and comparatively moderate traffic growth of Japan have made the Japanese container market less attractive to shipping lines, and resulted in a shift in interest from Japanese ports to other ports such as Shanghai, Hong Kong, Kaohsiung, and Busan. Even Japanese shipping lines have relocated their operating headquarters outside Japan to the world container hubs in Hong Kong, China, and Singapore, for enabling companies' management to decide more effective market oriented strategies.⁵ Japan therefore risks becoming more dependent on the services and reliability of other countries for the handling of their own imports rather than on direct connections provided by its own ports.

Competition in port operations and stevedore services is in many cases hindered by restrictive approval procedures and requirements that limit the possibility of organisational changes and expansions to the service portfolio of the company.

3.2. THE EU EXPORT OF SEA TRANSPORT SERVICES TO JAPAN

Sea transport services involve the transportation of passengers and goods, charters, and related services, cf. Box 3.1.⁶ Activities in sea transport services are therefore highly dependent on Japan's general openness to trade on goods.

⁴ UNESCAP (2002), Commercial Development of Regional Ports as Logistics Centres, downloadable from http://www.unescap.org/ttdw/Publications/TFS_pubs/pub_2194/pub_2194_fulltext.pdf.

⁵ UNESCAP (2002), Development of Shipping and Ports in North-East Asia, downloadable from http://www.unescap.org/ttdw/Publications/TFS_pubs/pub_2354/pub_2354_fulltext.pdf.

⁶ Please note that figures do not include "cross trades" which are also an important component of shipping companies' revenues operating from Japan to third countries.

Box 3.1 OECD definition of export of sea transport services

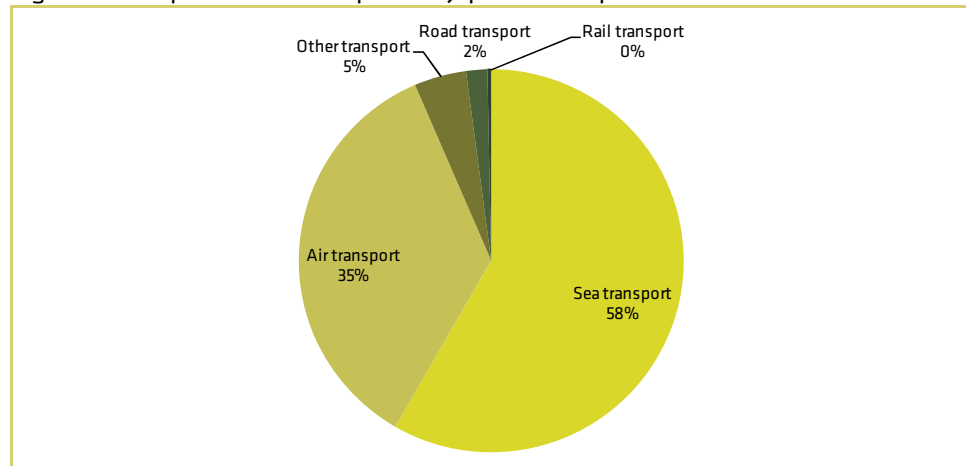
Sea transport services involve services that are performed by residents of one economy for those of another and that involve the carriage of passengers, the movement of goods (freight), rentals (charters) of carriers with crew, and related supporting and auxiliary services by sea.

Some related activities are excluded: freight insurance, which is included in insurance services; goods procured in ports by non-resident carriers and repairs of transportation equipment, which are included in goods; repairs of harbours, which are included in construction services; and rentals (charters) of carriers without crew, which are included in other business services.

Source: OECD (EBOPS 2002).

Within exports of transportation services, the export of sea transport services is a significant business accounting for 58 percent of the total EU exports in transport services in 2008, cf. Figure 3.1. In 2008, the EU export of sea transport services was thus worth €77 billion.

Figure 3.1 Composition of EU exports to Japan in transport services

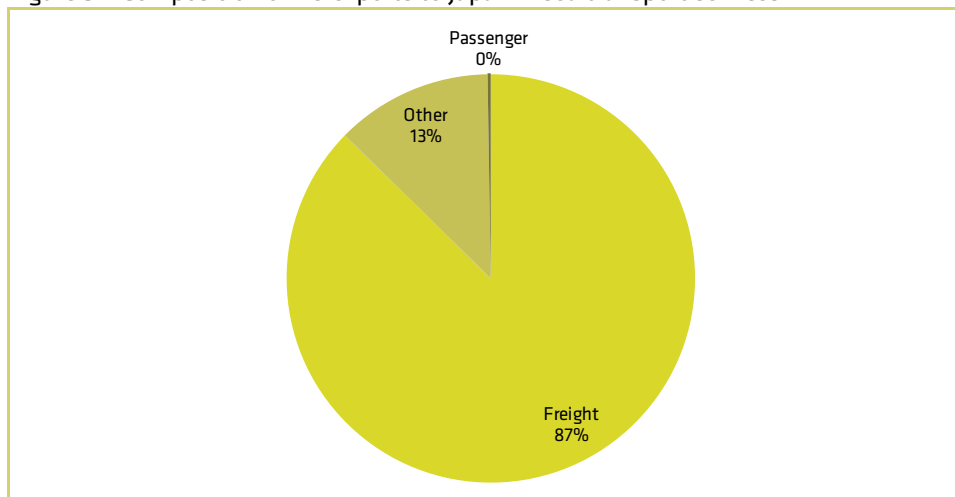


Note: Other transport contains: other transport, space transport, inland waterway transport, pipeline transport and electricity transmission, and other supporting and auxiliary transport services. Data is for 2008.

Source: OECD Extended Balance of Payments Services (updated EBOPS 2002).

Within the EU export of sea transport services to Japan freight transport services dominate the market and account for 87 percent of the business, while export of passenger sea transport services is close to zero, cf. Figure 3.2.

Figure 3.2 Composition of EU exports to Japan in sea transport services

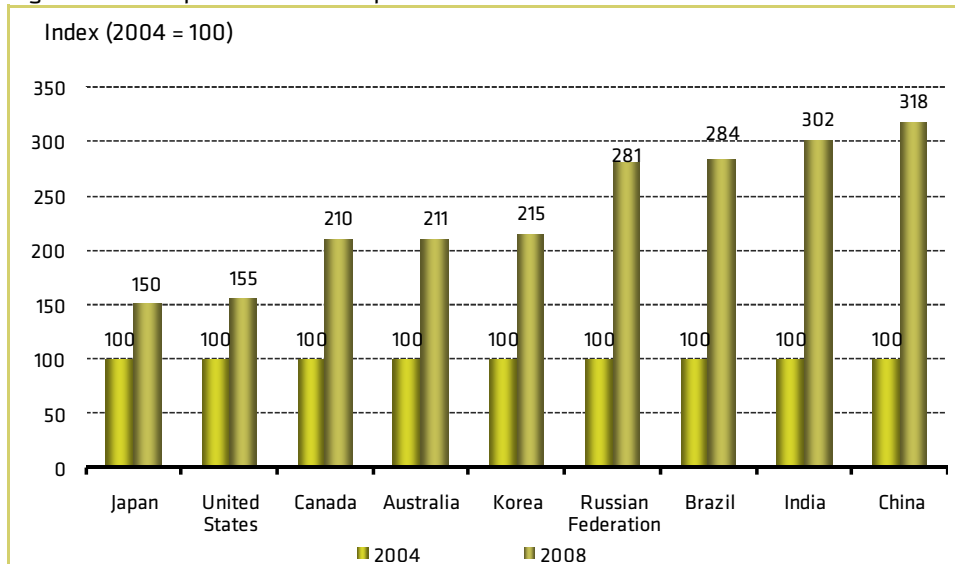


Note: Data is from 2008.

Source: OECD Extended Balance of Payments Services (updated EBOPS 2002).

The development in EU exports of sea transport services to Japan has not been impressive compared to the development in exports to a line-up of other major world economies, as illustrated in Figure 3.3.

Figure 3.3 EU exports in sea transport

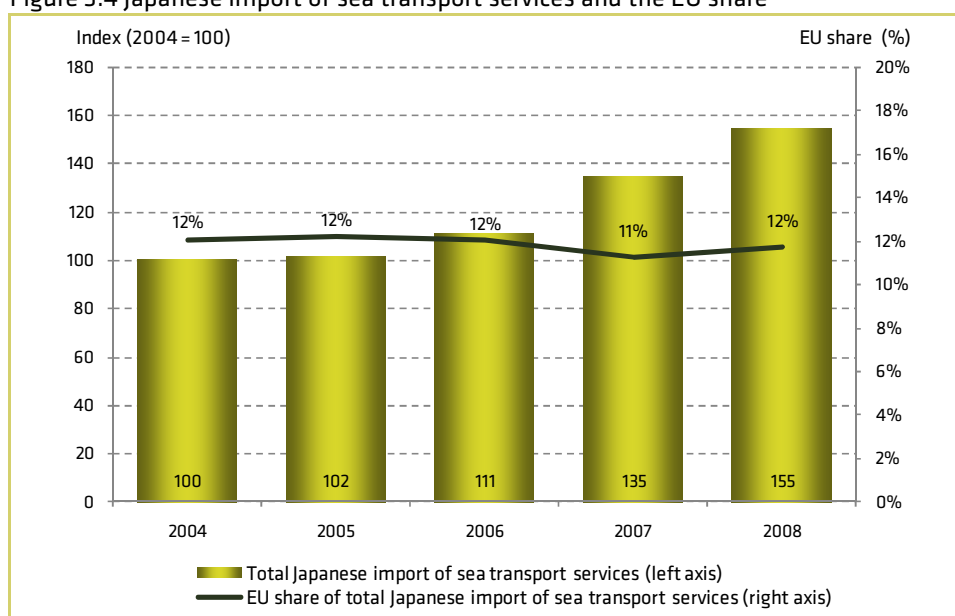


Source: OECD Extended Balance of Payments Services (updated EBOPS 2002).

With a 50 percent increase in EU exports to Japan in the period 2004-2008, Japan ranks lowest and well below an average of 136 percent increase in EU export of sea transport services compared to other the major economies.

Whether this relatively slow increase in EU exports of sea transport services to Japan reflects EU export issues or Japanese import issues is not clear when observing Figure 3.3. A clarification of this uncertainty calls for an observation of the development in total Japanese import of sea transport services in comparison with the Japanese imports from the EU. This comparison is illustrated in Figure 3.4.

Figure 3.4 Japanese import of sea transport services and the EU share



Source: OECD Extended Balance of Payments Services (updated EBOPS 2002).

While Japan's total import of sea transport services from the world has increased by 55 percent in the period 2004-2008, the EU share of the total imports to Japan has been stable throughout the period.

Since the EU market share has remained the same in the observed period, Japanese imports from the EU has increased proportionally with the Japanese imports from world. This indicates that the slow development in EU exports to Japan is rather a Japan specific than an EU specific issue.

3.3. NTMS IN THE JAPANESE SEA TRANSPORT SERVICE SECTOR

In this section, we first describe the *barriers to entering* the Japanese market for sea transport services. Barriers to entry are obstacles to establishing new companies in the Japanese market (e.g. licences and permits, restrictive start-up procedures, and high start-up costs), which in this respect protect incumbent firms from competition from newcomers. Barriers to entry therefore restrict competition in the sea transport service sector.

Second, we describe *the barriers to operating* in the Japanese market for sea transport services. Barriers to operation could involve regulatory transparency, regulation of conduct (e.g. form of business or distribution), price regulation, and conduct of public owned firms.

As explained in Chapter 1, Japanese barriers to entry and operation can be non-discriminatory in the sense that they make entry of both Japanese and foreign companies difficult, or they can be discriminatory in the sense that they fall disproportionately on foreign companies. Also, barriers can affect the price of sea transport services or the costs of sea transport service providers. To the extent possible we will attempt to describe the listed barriers in these dimensions.

Entry barriers

The sea transport sector in Japan is exposed to a number of barriers to entry, which hinder competition from foreign companies in regards to both shipment and harbour services. The combination of high harbour cost and restrictive rules, requirements and approval procedures for establishment in the Japanese market reduce the overall attractiveness of the market and could possibly cause the level of trade to be lower than the potential.

High harbour costs

High costs associated with the provision of shipping services and port operations are a major barrier to operation in the Japanese sea transport sector. A comparison of harbour service charges of South East Asian harbours carried out by the OECD (2008) places Tokyo on a the absolute top with pilotage charges not only far above the average but also far above the charges of the second most expensive harbour, cf. Table 3.1. Tugging charges in Tokyo are also high compared to the other Asian harbour, although the difference is less pronounced.

Table 3.1 Harbour service charges (in thousand yen)

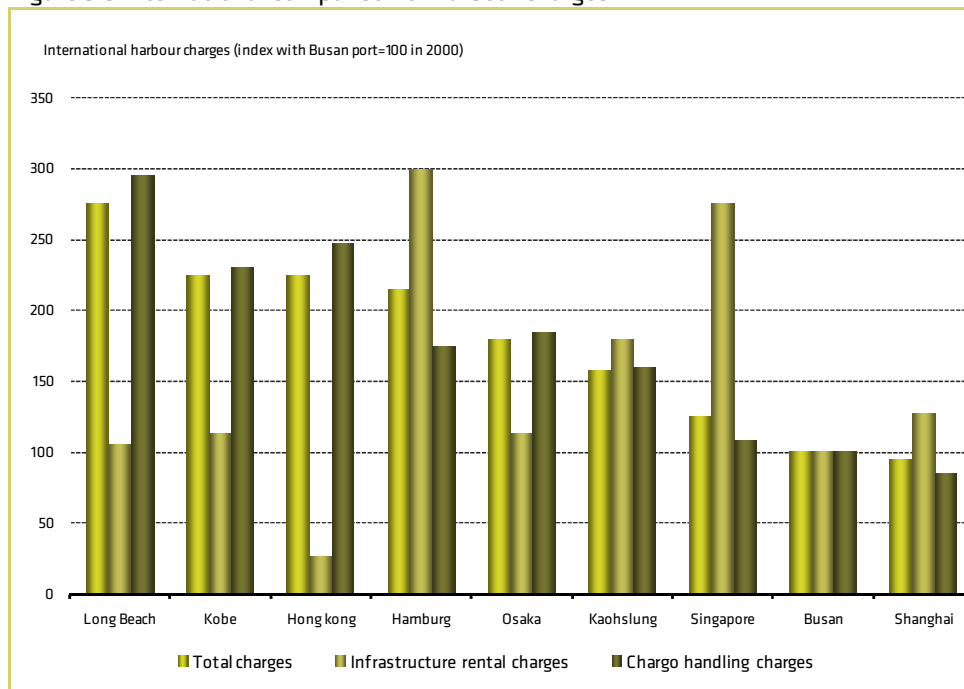
Charge type	Singapore	Hong Kong	Kaohsiung	Busan	Tokyo
Tugging charge	216	262	457	361	570
Pilotage charge	60	239	131	169	1044

Note: Data is based on charges for a container ship of 50 thousand tonnes and collected in 1999.

Source: OECD (2008).

This is confirmed in a study by Kim et al. (2000), where total charges (pilotage and tugging charges) are found to be high compared to other Asian harbours, cf. Figure 3.5. The study also finds that cargo handling charges are high whereas infrastructure handling charges are close to average.

Figure 3.5 International comparison of harbour charges



Note: The data is based on charges for ships with capacity of 4,000 TEU. Total charges include pilotage and tug-ging charges.

Source: OECD (2008).

Another study shows that the port tariff level of Osaka Port is around 20 to 60 percent higher than those of Kaohsiung Port and Busan Port.⁷ Particularly, shipping lines complain about the high level of terminal lease fees, and high pilotage, towage and stevedoring charges are also sources of high costs of the Japanese ports.

Restrictive rules, requirements, and approval procedures

It is not possible for a foreign company to set up their own terminal handling operations in Japan. The European Business Council (EBC) Shipping Committee has therefore urged the Government of Japan to allow foreign shipping companies to own their own handling facilities or, at the very least, to be allowed to run port operations in a competitive manner.

Furthermore, the Japanese trans-shipment rules do not allow foreign shipping lines to trans-ship their own overseas cargo or passengers on their own vessels within Japan. Such rules lower foreign shipping lines' interest in trans-shipment within Japanese ports and increase the usage of non-Japanese ports in Southeast Asia, e.g. in China and South Korea.

⁷ UNESCAP (2002b), Development of Shipping and Ports in North-East Asia, downloadable from http://www.unescap.org/ttdw/Publications/TFS_pubs/pub_2354/pub_2354_fulltext.pdf.

Barriers to operation

The barriers to operating in the Japanese sea transport service sector involve mainly administrative costs of changing operations and costly and complicated administrative border procedures. Below we will provide some details on these barriers.

Administrative costs of changing operations

Shipping lines wishing to make changes to their operations that might reduce employment or somehow affect working condition need to require prior approval by the Japan Harbour Transportation Association (JHTA). According to the EBC, the approval and prior consultation process lacks transparency and effectively prevents shipping lines from seeking alternative, competitive services on the waterfront. The Committee therefore urges the Government of Japan to promote competition by establishing a system through which shipping companies could change their operations without seeking prior approval from the JHTA for routine business matters. This is not only an issue for foreign companies wanting to enter the market of port services; it is also an issue to foreign companies who are already established in the market.

Administrative border procedures

Procedures for ship entering/leaving and CIQ (Customs, Immigration, and Quarantine) clearance are time-consuming and complicated.⁸ Documentations at the ports still remain at “paper” basis procedures. Shippers and consignees are required to fill in many different forms and input the same data repeatedly for respective competent authorities. According to the UNESCAP (2002b), progress has been made to tackle these problems by developing a single window system for all port related official documentations as a joint work of the three ministries (Ministry of Finance, Ministry of Economy Trade and Industry, and Ministry of Land, Infrastructure and Transport).

3.4. REDUCING JAPANESE NTMS IN THE SEA TRANSPORT SERVICE SECTOR

In this section we give an estimate of how much the costs of trading in the Japanese sea transport service sector can be reduced if barriers to trade are removed. It is important to underline that the barriers listed in this chapter cover only the main concerns in the sea transport service sector and that other barriers could also be relevant. It is therefore not evident that the removal of the listed barriers will be sufficient to eliminate all costs incurred by the NTMs. In the end of this section we also summarise some of the EU and US recommendations on how the Japanese Government may reduce barriers to trade in the sea transport service sector.

⁸ UNESCAP (2002b), Development of Shipping and Ports in North-East Asia, downloadable from http://www.unescap.org/ttdw/Publications/TFS_pubs/pub_2354/pub_2354_fulltext.pdf.

Two scenarios for NTM reduction

Copenhagen Economics (2010) has analysed the NTMs EU exporters face in the Japanese market.⁹ The study rests on a gravity model to quantify the impacts of NTMs in the service sectors. The total costs of NTMs can be divided into an actionable and a non-actionable part depending on the barriers likely to be removable in trade negotiation between the EU and the Japanese authorities, Box 3.2 .

Box 3.2 The applied definition of actionability

Realising that not all of the estimated trade costs can necessarily be reduced, Ecorys (2009) has assessed the so-called 'Actionability' of the NTMs in each sector. Actionability is defined as "the degree to which an NTM or regulatory divergence can potentially be reduced by 2018, given that the political will exists to address the divergence identified." According to their assessment, between 40 and 70 percent of the trade cost per sector is actionable, i.e. can be reduced through trade policy negotiations. This information has been aggregated by Ecorys into a sector level of actionability.

Source: Copenhagen Economics (2010).

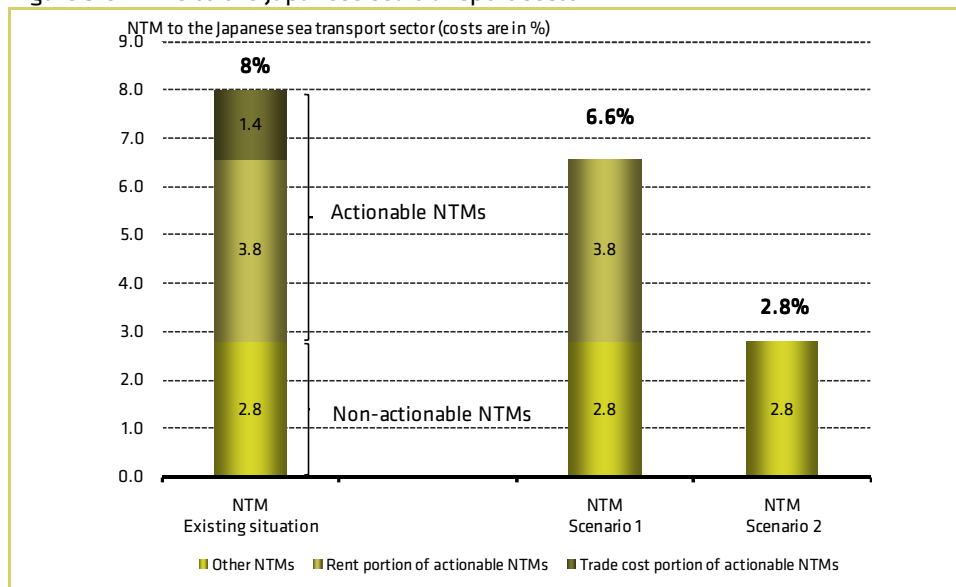
The actionable part includes both rents and trade costs, and we define two NTM reduction scenarios that take this into account:

1. We eliminate the trade cost portion of actionable NTMs in Japan
2. We eliminate the actionable part of Japanese NTMs

The two scenarios are depicted in Figure 3.6. From these estimates we find that the total Japanese NTMs in the sea transport sector, equal to a total cost of 8 percent, can be reduced to 6.6 percent under Scenario 1 where the trade cost portion of actionable NTMs are eliminated. Likewise, we find that the costs of NTMs are reduced to 2.8 percent if the actionable part of Japanese NTMs is removed.

⁹ Copenhagen Economics (2010) 'Assessment of barriers to trade and investment between the EU and Japan'

Figure 3.6 NTMs to the Japanese sea transport sector



Source: Copenhagen Economics (2010).

How can barriers be reduced?

A number of recommendations have been given by the European Commission (2009), the European Business Council in Japan (2010), the World Trade Organisation (2009), and the US Department of State (2009) to eliminate the barriers to trade in the Japanese sea transport sector.

The main issue in Japan concerning sea transport relates to port services. This is a long-standing problem which will be very difficult to resolve in trade negotiations between the EU and Japan as it has deep “socio-cultural roots”. The ECB (2010) urges the Japanese Government to ensure non-discriminatory access to port services as mentioned in the Maritime Model Schedule, a negotiating tool, agreed in the Friends of Maritime Group of the WTO/GATS, chaired by the Ministry of Land, Infrastructure, and Transport (MLIT).

As one action of improvement to reduce the cost barrier in the sea transport sector, the Japanese Government has promoted local Japanese ports in an initiative called ‘Asia Gateway’, which strives to enhance shipments between Japan and other Asian countries.¹⁰ The ports involved in this program are subjects to only small size vessel shipments and have managed to keep port costs on a competitive level. According to the EBC (2009), an expansion of this strategy to the larger ports would be a step towards a more competitive and attractive sea transport service market.

Also, the EBC (2009) has urged the Government of Japan to promote competition in the sea transport service sector by establishing a system through which shipping companies could

¹⁰ On more information about the Asia Gateway see <http://www.asiagatewaylogistics.com/home/index.html>.

change their operations without seeking prior approval from the JHTA for routine business matters. A similar recommendation has been made by the OECD (2009), who argues that:

‘In the harbour industry, strengthen competition by improving the “Prior Consultation” process and relaxing entry barriers, such as the requirement on employment’.

Furthermore the limitation on shipping companies’ rights to owe facilities stifles competition from foreign companies. In this respect, the EBC (2009) argues that regulation has to be loosened so that all shipping companies in the market compete under the same terms and conditions. In particular, the Committee suggests that:

‘The Government of Japan should allow foreign shipping companies to own their own handling facilities or, at the very least, be allowed to run port operations in a competitive manner’.

Regulation on the market for stevedore services appears to support the domination of local providers, and foreign shipping companies are often forced to enter long-term expensive contracts. This issue calls for decision makers to focus on a more competition-oriented regulation in the market. The US Department of State has formulated following recommendation to the Japanese Government:

‘Japanese laws and regulations could be reviewed to facilitate new entrants and greater competition in the stevedoring business’.

The EBC (2009) supports this view and suggests that the Japanese Government combat the issue by promoting competitive bidding for stevedore services through open tenders.

Barriers in the sea transport service sector are not directed against the EU or any other specific country or area but are general barriers to trade with foreign countries and general barriers in the sector. This also suggest that the reduction of the barriers listed in this section are not bilateral, i.e. that once the barriers are removed it is to the benefit of all suppliers in sea transport services – not only EU companies.

Chapter 4 | THE BUSINESS SERVICE SECTOR

Business services play an important role in the operation of modern economies. For example, *accountancy services* are important for management control of enterprises and the implementation of prudential and financial regulatory measures. *Legal services* underpin the effective relations and transactions between buyers and sellers. *Architectural and engineering services* are critical to the creation of modern physical structures and technological production processes.

Business activities are either produced “in-house” (for example, firms having their own accounting unit) or acquired from a third party (for example, by letting an independent firm organise the accounting). As more and more business services are being outsourced and our economies are becoming more and more integrated, international trade in business services are also growing. Policies and regulations established by governments that limit trade in business services can therefore have significant implications for the efficient supply of such services and the production of goods and services, and this seems to be the case in the Japanese economy.¹¹

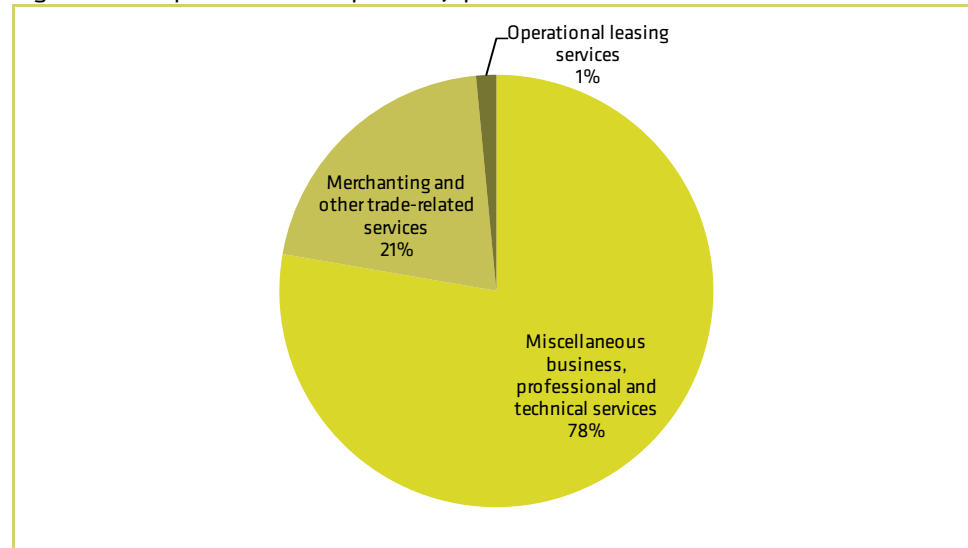
The major barriers to trade in business services relate to the on-going operation of business service firms in Japan. The barriers primarily take the form of restrictive rules, requirements, and procedures and have the effect of reducing the attractiveness of the Japanese market by limiting competition between local and foreign companies. Barriers are both of the type that discriminate against foreign suppliers and barriers that impact the whole market.

4.1. THE EU EXPORT OF BUSINESS SERVICES TO JAPAN

Within business services, professional and technical services appear to be dominating and stand for 78 percent of the total EU exports in business services to Japan, cf. Figure 4.1.

¹¹ See Nguyen-Hong (2000).

Figure 4.1 Comparison of EU exports to Japan in other business services



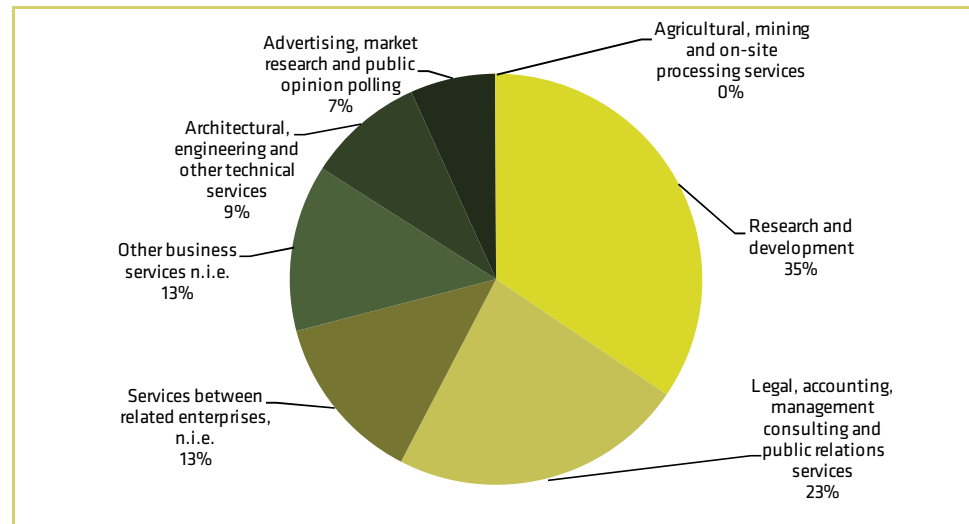
Note: Data is from 2008.

Source: OECD Extended Balance of Payments Services (updated EBOPS 2002).

Merchanting and other trade-related services account for 21 percent and finally operational leasing services stand for the last 1 percent.

To be more specific, we split up exports in miscellaneous business, professional and technical services into research and development; legal, accounting, management consulting, and public relations services; services between related enterprises; other business services; architectural, engineering, and other technical services; advertising, market research, and public opinion polling; and agricultural, mining, and on-site processing services.

Figure 4.2 Composition of EU exports to Japan in miscellaneous business, professional, and technical services



Source: OECD Extended Balance of Payments Services (updated EBOPS 2002).

There is generally little information available on the barriers affecting EU exports in many of these sub-sectors, and we will therefore focus on the sectors where some information is available. Therefore, within EU export of professional and technical services to Japan, this study will focus on legal, accounting, management consulting, and public relations services, and architectural, engineering, and other technical services which together stands for 32 percent. A more detailed description of these services is provided in Box 4.1.

Box 4.1 Definition of export of the two focus areas

Legal, accounting, management consulting, and public relation services cover the provision (by/for residents for/by non-residents) of legal advice, representation, and documentation; auditing, bookkeeping, and tax consultant services; and management consulting related to the provision of advice, guidance, or operational assistance to business. This classification is further subdivided into the following item

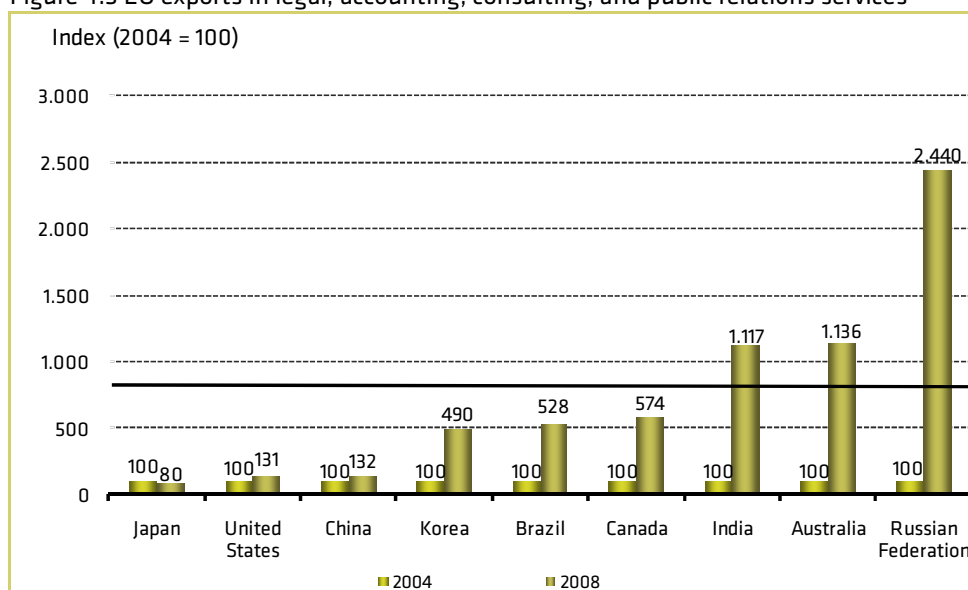
- a) Legal services which cover legal advisory and representation services in any law, judicial and statutory procedures; drafting services of legal documentation and instruments; certification consultancy; auctioning services; escrow and settlement services
- b) Accounting, auditing, bookkeeping and tax consultancy services which cover the recording of commercial transactions for businesses and others; examination services of accounting records and financial statements; business tax planning and consulting and preparation of tax documents.
- c) Business and management consultancy, public relations services which cover advisory, guidance and operational assistance services provided to businesses for business policy and strategy and the overall planning, structuring and control of an organisation; it includes management auditing; financial management, market management, human resources, production management and project management consultancy, and advisory, guidance and operational services related to improving the image of the clients and their relations with the general public and other institutions.

Architectural, engineering and other technical services cover resident/non-resident transactions related to architectural design of urban and other development projects; planning and project design and supervision of dams, bridges, airports, turnkey projects, etc.; surveying, cartography, product testing and certification, and technical inspection services.

Source: OECD Extended Balance of Payments Services (updated EBOPS 2002).

The development in EU exports in legal, accounting, management consulting, and public relations services to Japan has not been impressive compared to the development in exports to other major world economies, cf. Figure 4.3.

Figure 4.3 EU exports in legal, accounting, consulting, and public relations services

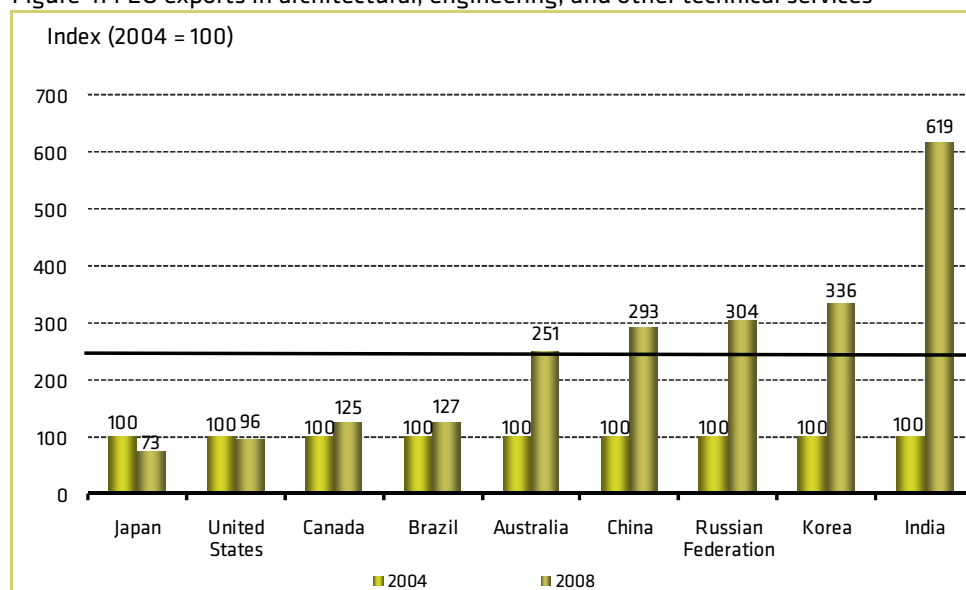


Source: OECD Extended Balance of Payments Services (updated EBOPS 2002).

With a 20 percent decline in EU exports to Japan in these services over the period 2004-2008, Japan ranks lowest and as the only country with a decline in such imports among the major economies. EU exports in the sector grew four-fold to Korea, Brazil, and Canada.

The development in EU exports in architectural, engineering and other technical services to Japan has also not been impressive compared in international comparison, cf. Figure 4.4. EU exports to Japan declined by 27 percent between 2004 and 2008, while exports to many other markets grew rapidly. With a 27 percent decline in EU exports to Japan in the period 2004-2008, Japan ranks lowest and with the US it is one of only two countries among the major economies with a decline in imports of EU architectural, engineering, and other technical services.

Figure 4.4 EU exports in architectural, engineering, and other technical services

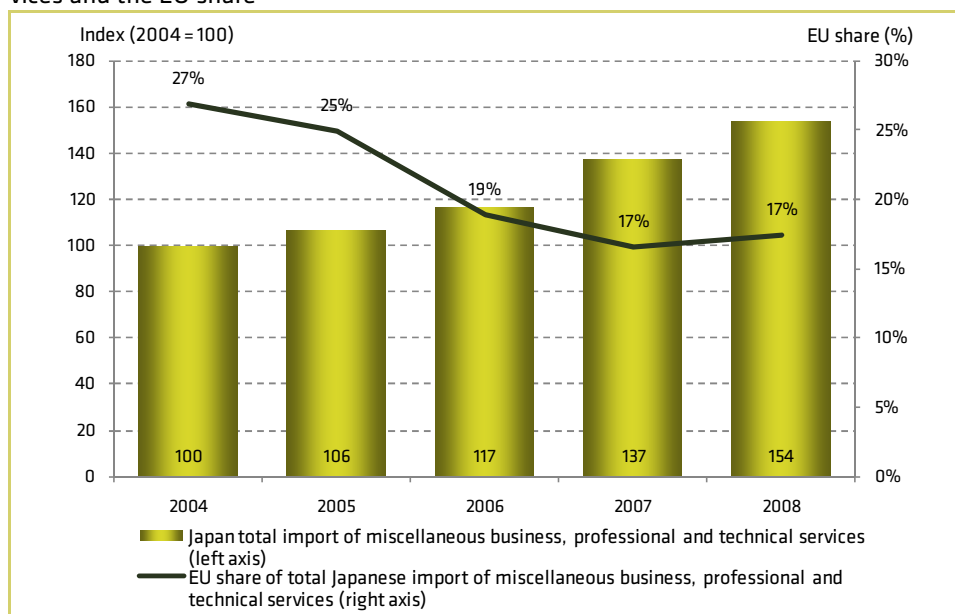


Source: OECD Extended Balance of Payments Services (updated EBOPS 2002).

Whether this decline in EU exports of legal, accounting, management consulting, and public relations services, and of architectural, engineering, and other technical services to Japan reflects EU exports issues or Japanese import issues is not clear by observing Figure 4.3 and Figure 4.4. A clarification of this uncertainty calls for an observation of the development in the total Japanese import of these services in comparison with the Japanese imports from the EU. This comparison is illustrated in Figure 4.5.

While Japan's total import of miscellaneous business, and professional and technical services from the world has increased by 54 percent in the period 2004-2008, the EU market share has been falling throughout the period. This indicates that the slow development in EU exports to Japan in these services is an EU specific rather than a Japan specific issue.

Figure 4.5 Japanese import of miscellaneous business, professional and technical services and the EU share



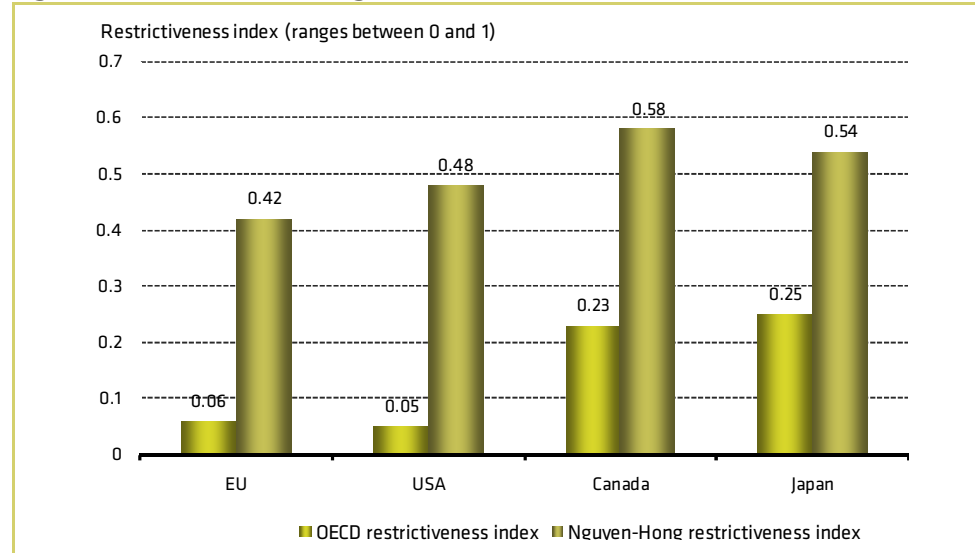
Source: OECD Extended Balance of Payments Services (updated EBOPS 2002).

4.2. REGULATORY RESTRICTIVENESS IN THE BUSINESS SERVICE SECTOR

In this section we report two indices that have been used to measure the restrictiveness of regulation in the Japanese business service sector. In the construction of these indices, data on regulations affecting trade in the business service sector has been compiled, and each regulation has then (subjectively) been assigned scores based on how restrictive they are. Then the scores have been grouped into categories, each with an assigned (subjective) weight depending on its importance. The scores and weights used differ between different studies.

The restrictiveness of regulation in the Japanese service sector has been measured both by the OECD and by Nguyen-Hong, and the two restrictiveness indices are depicted in Figure 4.6. Based on the OECD restrictiveness index we find that the Japanese business service sector is more heavily regulated than the EU, the US, and the Canadian business service sector. Comparing the Nguyen-Hong restrictiveness index, we find that regulation in the Canadian business service sector is slightly more restrictive than the Japanese regulation in the business service sector. The level of restrictiveness in the EU and the US business service sectors appears to be on the same level and both turn out to be very open markets.

Figure 4.6 Restrictiveness of regulations in business services



Note: The restrictiveness indices range between 1 (fully closed) to 0 (fully open). The two indices include legal, accounting, architecture, and engineering services. The OECD index includes commercial presence and temporary movement, while the Nguyen-Hong index includes all four modes of business service supply. The EU restrictiveness index is calculated as a weighted average of data for the individual Member States, where the weight is the country's share of total EU services imports in 2003. The OECD restrictiveness index is based on the level of openness between 1998 and 2000, and the Nguyen-Hong restrictiveness index is based on the level of openness between 1996 and 1999.

Source: Kommers (2008).

The level of the Nguyen-Hong restrictiveness index is markedly higher than the OECD index and there are smaller differences between the four major economies. The indices are measuring slightly different restrictions, so we should not expect similar results. One difference is that the Nguyen-Hong index includes domestic restrictions (i.e. restrictions that apply to both foreign and domestic suppliers in the same way, and non-trade restrictions, such as restrictions on immigration), whereas the OECD index includes only commercial presence and temporary movement.

The effects of restrictions on business services have received great attention.¹² Past studies of regulations in various professions have tended to find that regulations lead to higher prices for services. Some evidence also indicates that the removal of restrictions can lower service prices. One argument for the heavy regulation in the Japanese business service sector could be that such restrictions improve the quality of the services provided. However, previous research has found that the effects of restrictions on improving service quality tend to be ambiguous.

¹² The discussion in this paragraph is a summary of the literature review in Nguyen-Hong (2000).

4.3. NTMS IN THE JAPANESE BUSINESS SERVICE SECTOR

To get a more precise indication of the barriers that affect EU exports to Japan in the business service sector we use the OECD measures of product market regulation developed in Conway and Nicoletti (2006). This indicator compares regulations that affect competitive pressures, including barriers to entry, public ownership, market structure, vertical integration, and price controls. The measure reflects differences in the regulation of business services in the OECD countries over the past three decades.

We supplement the indicators of regulatory restrictiveness with barriers listed by the European Commission (2009), the European Business Council in Japan (2010), the World Trade Organisation (2009), and the US Department of State (2009) in four services: legal, accountancy, engineering, and architecture services.

We first describe the *barriers to entering* the Japanese business service sector. Barriers to entry are obstacles to establishing new companies in the Japanese market (such as licenses and permits, restrictive start-up procedures and high-start-up costs), which in this respect protect incumbent firms from competition from newcomers. Barriers to entry therefore restrict competition in the business service sector.

Second, we describe *the barriers to operating* in the Japanese business service sector. Such barriers to operation could involve inconsistent taxation rules, lack of regulatory transparency, regulation of conduct (e.g. advertising, form of business, or distribution), price regulation, or conduct of public owned firms.

As explained in Chapter 1, Japanese barriers to entry and operation can be non-discriminatory in the sense that they make entry of both Japanese and foreign companies difficult, or they can be discriminatory in the sense that they fall disproportionately on foreign companies. Also, barriers can affect the price of business services or the costs of business service providers. To the extent possible we will attempt to describe the listed barriers in these dimensions.

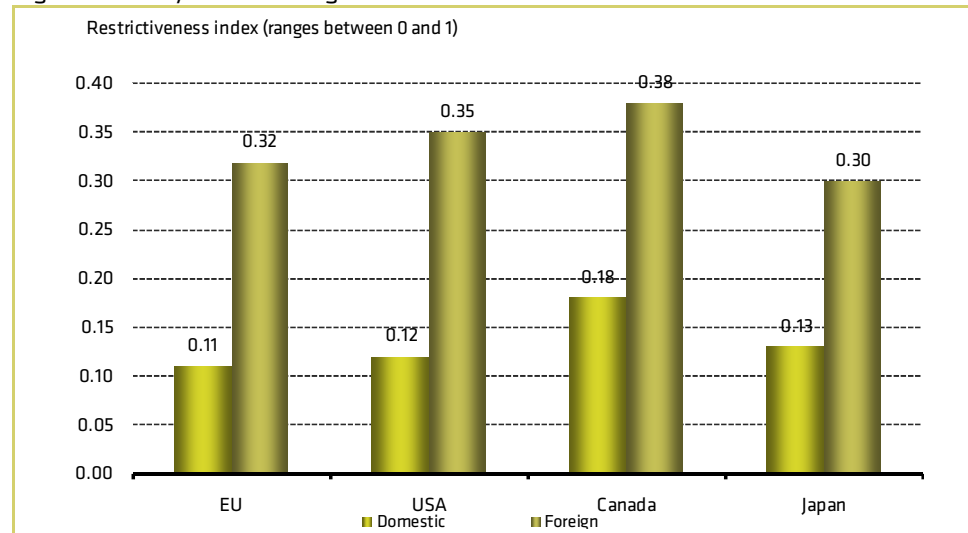
Overall, we find that barriers to operation are the major problem in Japan, while entry barriers do not seem to be of importance. Almost no information concerning the barriers perceived by EU providers of engineering and architectural services is available.

Legal services

Foreign lawyers are required to have at least three years of professional experience in the foreign lawyer's home jurisdiction. If they do not have the required three years of experience they cannot be approved as *gaiben* (a foreign lawyer in Japan). Also, limited liability status is not available to lawyers in Japan. The discrimination against foreign lawyers poses an entry barrier to the Japanese market and limits competition in the sector.

However, the OECD restrictiveness index for entry barriers in legal services places Japan as the country with the lowest entry barriers for foreign companies wanting to start a business, compared to the EU, the US, and Canada, cf. Figure 4.7. Entry barriers are less restrictive for domestic law companies.

Figure 4.7 Entry barriers in legal services

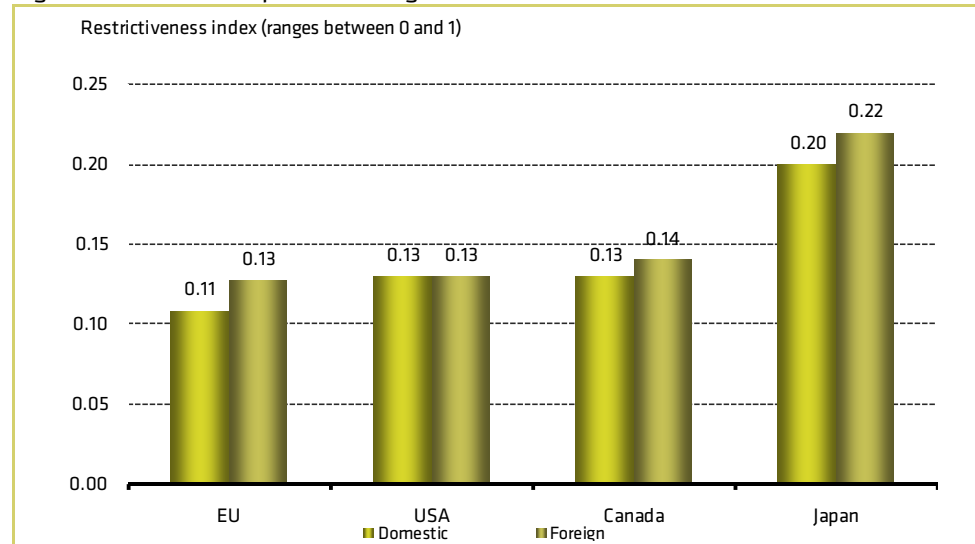


Note: The restrictiveness indices range between 1 (fully closed) to 0 (fully open). The data from the EU consists of a weighted average (by GDP) from the following countries: Austria, Belgium, Denmark, Finland, France, Germany, Greece, Italy, Netherlands, Portugal, Spain, Sweden, and the UK.

Source: Nguyen-Hong (2000).

However, Japan turns out to be the country with most barriers to operation compared to other OECD countries, cf. Figure 4.8. One explanation could be that it is not possible for a *gaiben* law firm or a joint enterprise between *gaiben* and *bengoshi* (a Japanese lawyer) to open more than one office in Japan. This makes it difficult for foreign firms to expand their operations in the Japanese market.

Figure 4.8 Barriers to operation in legal services



Note: The restrictiveness indices range between 1 (fully closed) to 0 (fully open). The data from the EU consists of a weighted average (by GDP) from the following countries: Austria, Belgium, Denmark, Finland, France, Germany, Greece, Italy, Luxembourg, Netherlands, Portugal, Spain, Sweden, and the UK.

Source: Nguyen-Hong (2000).

A number of recommendations have been given by the European Commission (2009), the European Business Council in Japan (2010), the World Trade Organisation (2009), and the US Department of State (2009) to eliminate the barriers to trade in the Japanese business service sector.

A number of recommendations have been given by the EU and the US to eliminate the barriers to trade in the Japanese business service sector:

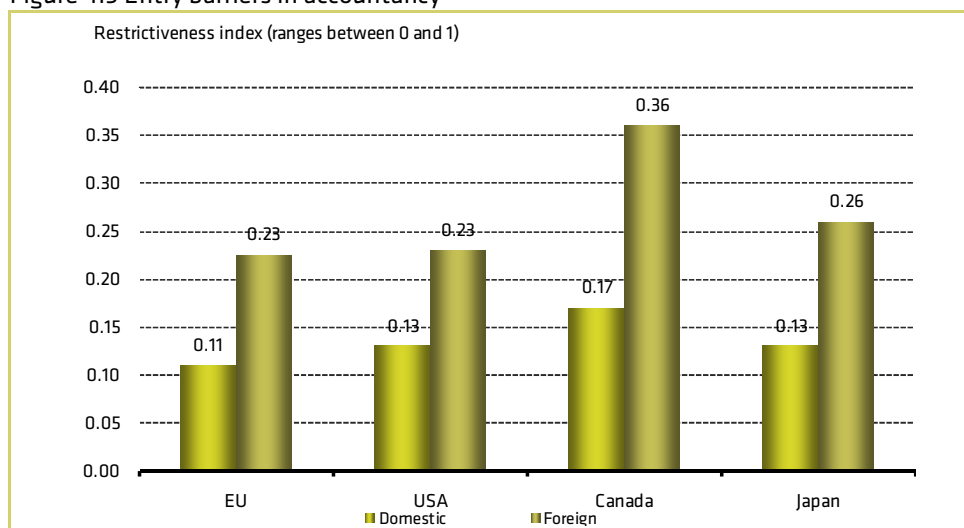
The EBC (2009) urges that the rule requiring a specific number of post qualification years of experience should be abolished. At the very least, experience in home jurisdiction law should be recognised regardless of where it has been practiced.

The EBC (2009) also argues that the rules for registration as *gaiben* should be simplified by allowing the firms to be registered rather than the individual lawyers who are members of the firms. Once a firm has been approved, there should be an accelerated procedure for registering new lawyers coming to Japan. More should be done to accelerate the application procedure for *gaiben* registration. Also, limited liability structure should be made available in Japan for both foreign and domestic law firms, and foreign firms should be able to practice in Japan through branches of their international firms.

Accountancy services

Entry barriers in the Japanese accountancy sector do not seem to be very serious, cf. Figure 4.9. Also, no entry barriers are listed in the IPSI database of barriers to the Japanese market.

Figure 4.9 Entry barriers in accountancy



Note: The restrictiveness indices range between 1 (fully closed) to 0 (fully open). The data from the EU consists of a weighted average (by GDP) from the following countries: Austria, Belgium, Denmark, Finland, France, Germany, Greece, Italy, Luxembourg, Netherlands, Portugal, Spain, Sweden, and the UK.

Source: Nguyen-Hong (2000).

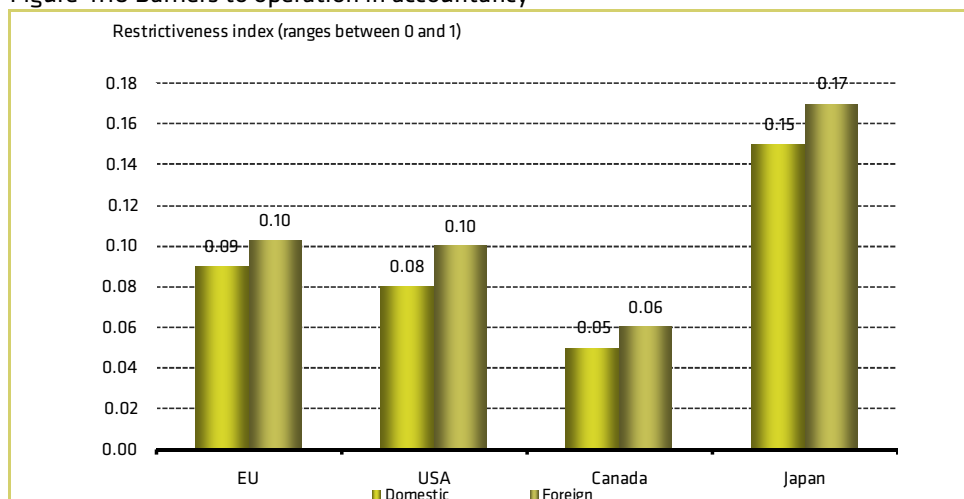
Accounting rules in Japan follow the Generally Accepted Accounting Principles (GAAPs), which is a codification of how certified accountancy firms and corporations prepare and present their business income and expenses as well as assets and liabilities on their financial statements. GAAP is not a single accounting rule, but rather the aggregate of many rules on how to account for various transactions. GAAP includes the standards, conventions, and rules accountants follow in recording and summarising transactions, and in the preparation of financial statements.

Accounting rules in the EU follow the International Financial Reporting Standards (IFRS), which are principles for preparing consolidated financial statements. However, companies operating in an EU regulated market can produce financial reports either on the basis of the IFRS or on the basis of certain third countries' national accounting standards equivalent to those standards. In 2008, the European Commission established that Japanese GAAPs are equivalent to IFRS for use within the Community.

There are important differences between the Japanese GAAPs and the European IFRS, and the lack of convergence between the two accounting systems poses a barrier to EU companies' operations in the Japanese market.¹³ This is confirmed by the Nguyen-Hong restrictiveness index which is significantly higher than the index for the EU, the US, and Canada, cf. Figure 4.10.

¹³ See EU (2009), EU Proposals for Regulatory Reform in Japan.

Figure 4.10 Barriers to operation in accountancy



Note: The restrictiveness indices range between 1 (fully closed) to 0 (fully open). The data from the EU consists of a weighted average (by GDP) from the following countries: Austria, Belgium, Denmark, Finland, France, Germany, Greece, Italy, Luxembourg, Netherlands, Portugal, Spain, Sweden, and the UK.

Source: Nguyen-Hong (2000).

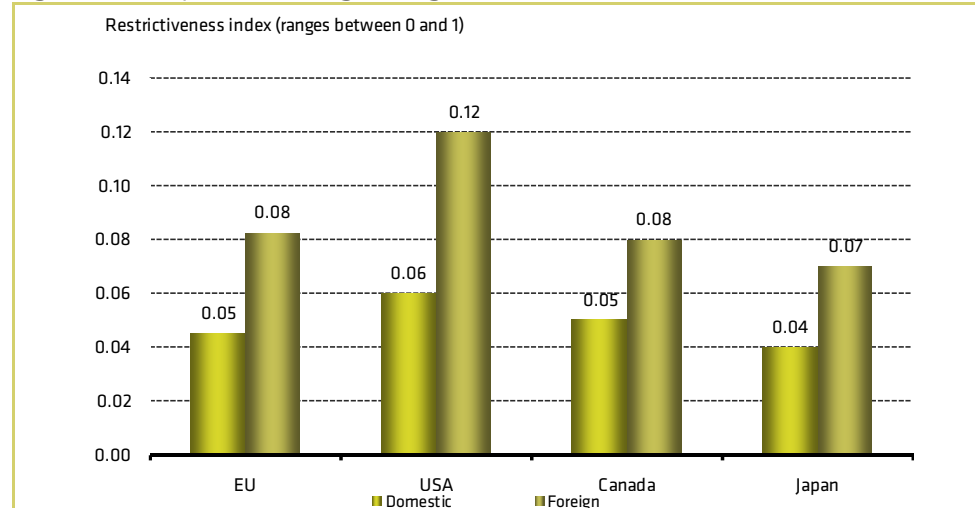
The EU and the US recommend that there should also be set some common industry-wide standards in accountancy which would increase market transparency and competition, thus enabling service providers to realise economies of scale. The EU therefore encourages Japan to continue its efforts towards convergence in order to eliminate all existing differences between Japanese GAAPs and IFRS and to adoption the IFRS.¹⁴ In light of the financial crisis, the EU also considers it important to maintain the close cooperation with Japan on strengthening the governance of the International Accounting Standards Board (IASB).

Engineering services

Entry barriers in the Japanese accountancy sector do not seem to be very serious, cf. Figure 4.11. Also, no entry barriers are listed in the IPSI database of barriers to the Japanese market.

¹⁴ See EU (2009), EU Proposals for Regulatory Reform in Japan.

Figure 4.11 Entry barriers in engineering



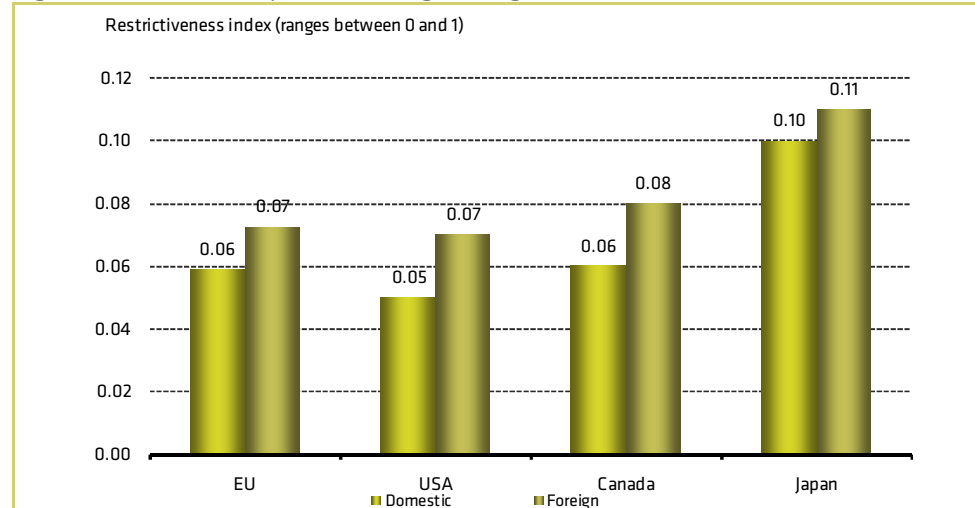
Note: The restrictiveness indices range between 1 (fully closed) to 0 (fully open). The data from the EU consists of a weighted average (by GDP) from the following countries: Austria, Belgium, Denmark, Finland, France, Germany, Greece, Italy, Luxembourg, Netherlands, Portugal, Spain, Sweden, and the UK.

Source: Nguyen-Hong (2000).

Japan's use of excessively narrow Japan-specific qualification and evaluation criteria in public procurements in many cases preclude foreign engineering firms from competing for projects.¹⁵ Furthermore Japan does not always use open and competitive procurement procedures, and engineering service fees are often regulated. The public procurement system therefore makes it difficult for foreign companies to compete for all offers and therefore pose a significant barrier to operating in the Japanese market. This could be one of the explanations for the high level of barriers to operation in the Japanese engineering sector, cf. Figure 4.12.

¹⁵ See the US Department of State (2010).

Figure 4.12 Barriers to operation in engineering



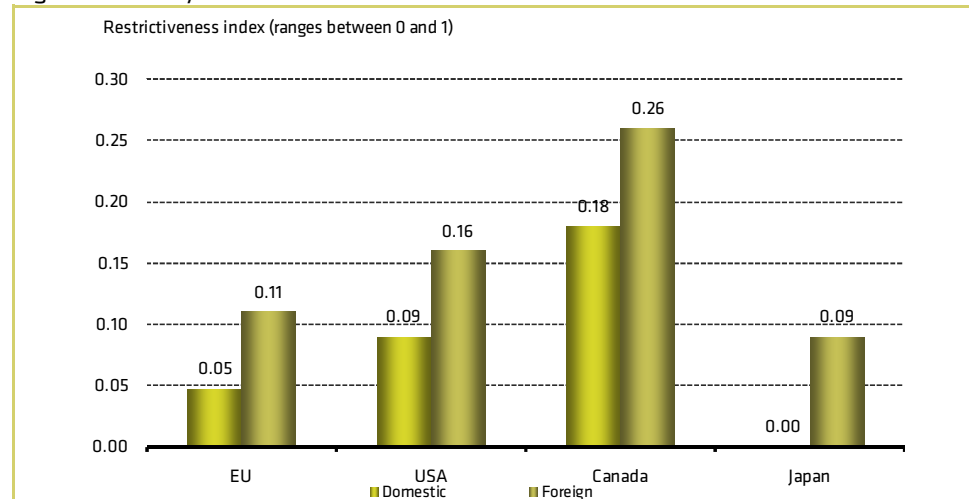
Note: The restrictiveness indices range between 1 (fully closed) to 0 (fully open). The data from the EU consists of a weighted average (by GDP) from the following countries: Austria, Belgium, Denmark, Finland, France, Germany, Greece, Italy, Luxembourg, Netherlands, Portugal, Spain, Sweden, and the UK.

Source: Nguyen-Hong (2000).

Architectural services

Japan seems to be relatively open to trade in architectural services, cf. Figure 4.13. No barriers to entry in the Japanese architectural service sector have been listed in the IPSI database.

Figure 4.13 Entry barriers in architectural services



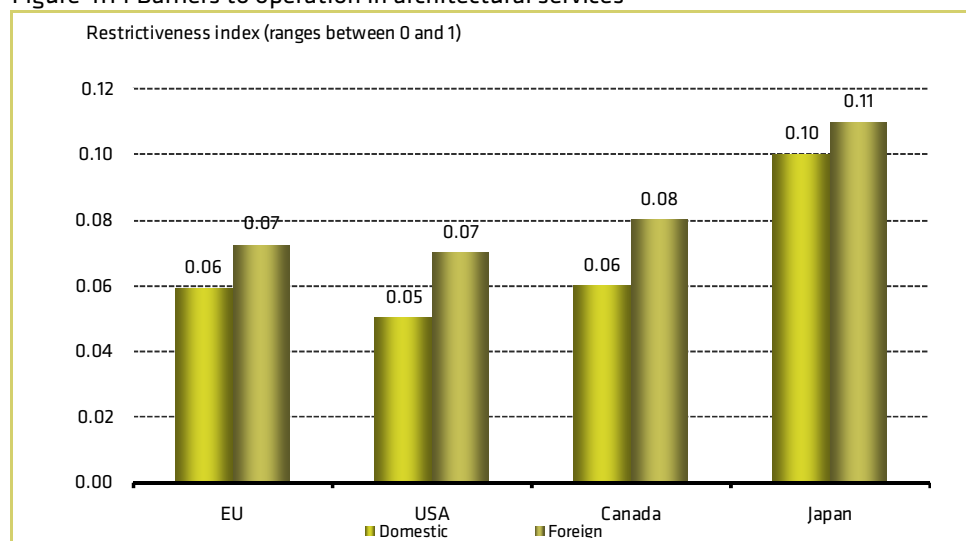
Note: The restrictiveness indices range between 1 (fully closed) to 0 (fully open). The data from the EU consists of a weighted average (by GDP) from the following countries: Austria, Belgium, Denmark, Finland, France, Germany, Greece, Italy, Luxembourg, Netherlands, Portugal, Spain, Sweden, and the UK.

Source: Nguyen-Hong (2000).

Also with regards to entry barriers in engineering and architectural services there does not seem to be a major problem.

In the architectural service sector there also seems to be Japanese barriers that make operations for foreign companies difficult, cf. Figure 4.14. No barriers to operation in the Japanese architectural service sector have been listed in the IPSI database.

Figure 4.14 Barriers to operation in architectural services



Note: The restrictiveness indices range between 1 (fully closed) to 0 (fully open). The data from the EU consists of a weighted average (by GDP) from the following countries: Austria, Belgium, Denmark, Finland, France, Germany, Greece, Italy, Luxembourg, Netherlands, Portugal, Spain, Sweden, and the UK.

Source: Nguyen-Hong (2000).

Some restrictions are applied to foreign and domestic architects equally. These reflect regulations reserving the rights of architects to provide certain activities.¹⁶

4.4. REDUCING JAPANESE NTMS IN THE BUSINESS SERVICE SECTOR

In this section we give an estimate of how much the costs of trading in the Japanese business service sector can be reduced if barriers to trade are removed. It is important to underline that the barriers listed in this chapter cover only the main concerns in the business service sector and that other barriers could also be relevant. It is therefore not evident that the removal of the listed barriers will be sufficient to eliminate all costs incurred by the NTMs. EU and US recommendations on how the Japanese Government may reduce barriers to trade in business services were discussed in the above presentation of the NTMs in each of the sectors.

Two scenarios for NTM reduction

Copenhagen Economics (2010)¹⁷ has analysed the NTMs EU exporters face in the Japanese market. The study rests on a gravity model to quantify the impacts of NTMs in the service

¹⁶ See Nguyen-Hong (2000).

sectors. The total costs of NTMs can be divided into an actionable and a non-actionable part depending on the barriers likely to be removable in trade negotiation between the EU and the Japanese authorities, cf. Box 4.2.

Box 4.2 The applied definition of actionability

Realising that not all of the estimated trade costs can necessarily be reduced, Ecorys (2009) has assessed the so-called 'Actionability' of the NTMs in each sector. Actionability is defined as "the degree to which a NTM or regulatory divergence can potentially be reduced by 2018, given that the political will exists to address the divergence identified." According to their assessment, between 40 and 70 percent of the trade cost per sector is actionable, i.e. can be reduced through trade policy negotiations. This information has been aggregated by Ecorys into a sector level of actionability.

Source: Copenhagen Economics (2010).

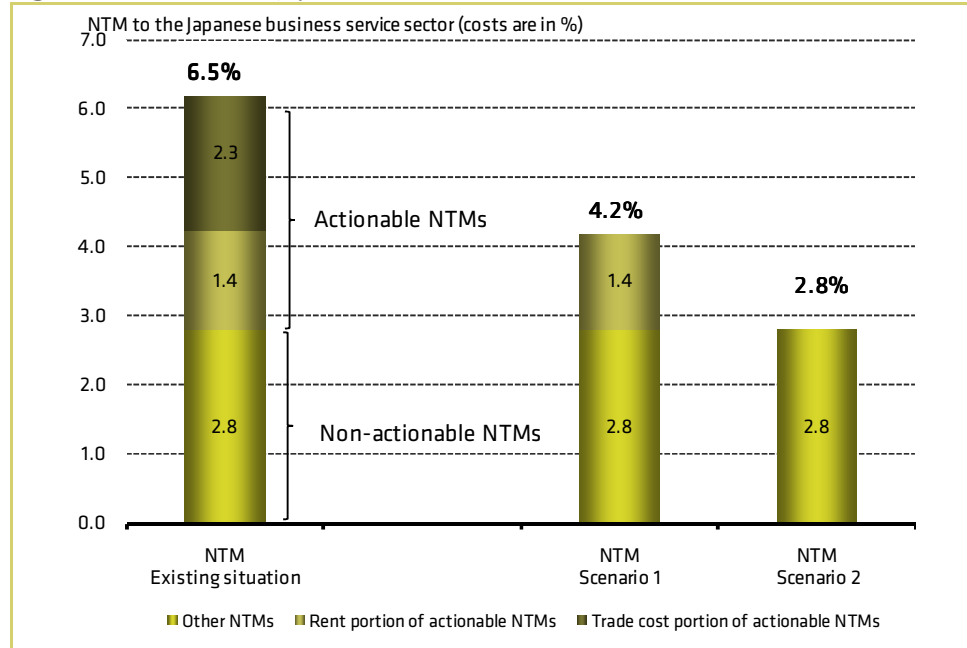
The actionable part includes both rents and trade costs, and we define two NTM reduction scenarios that take this into account:

1. We eliminate the trade cost portion of actionable NTMs in the Japanese business service sector
2. We eliminate the actionable part of Japanese NTMs in the business service sector

The two scenarios are depicted in Figure 4.15. From these estimates we find that the total Japanese NTMs in the business service sector equal to a total cost of 6.5 percent, can be reduced to 4.2 percent under Scenario 1 where the trade cost portion of actionable NTMs are eliminated. Likewise, we find that the costs of NTMs are reduced to 2.8 percent if the actionable part of Japanese NTMs is removed.

¹⁷ Copenhagen Economics (2010) 'Assessment of barriers to trade and investment between the EU and Japan'.

Figure 4.15 NTMs to the Japanese business service sector



Source: Copenhagen Economics (2010).

Chapter 5 | THE POSTAL AND COURIER SERVICE SECTOR

The special structure, gigantic size and the range of activities of Japan Posts are responsible for the creation of a number of barriers to entry for EU postal, financial services, and insurance businesses.¹⁸ In addition to that, there is no level playing field between Japan Post and private sector companies in these sectors today.

5.1. MAJOR CONCERNS IN THE POSTAL AND COURIER SERVICE SECTOR

A significant problem from a market entry point of view is created by the bundling of postal and financial activities and the practice of cross selling using the nationwide network of postal branches. The 2007 government plans to reform and unbundle the activities of Japan Post with the view to reduce its power appear to have recently been put on hold – if not reversed, cf. Box 5.1. The recent reversal of the postal reform by the Japanese government is likely to maintain, if not worsen, the problems with uncompetitive conditions in the sector. This includes markets such as express and courier services, where EU and international competitors are active in Japan today.

Box 5.1 Apparent reversal of the 2007 reform plans for Japanese Post

“Japan Post was then [in 2007 – Copenhagen Economics] split into four subsidiaries: Japan Post Insurance, Japan Post Bank, Japan Post Service, and Japan Post Network. The planned reform would now foresee a merger of Japan Post Service and Japan Post Network into an entity referred to as ‘Japan Post Holdings Co.’ Japan Post Bank and Japan Post Insurance would operate separately, but within the framework of this holding, thereby integrating management of mail, banking, and insurance operations and providing the same financial services nationwide. The Japanese Government strives to hold on to 1/3 of all the shares of Japan Post Holdings Co.”

Source: *Trade Perspectives (May 21, 2010)*.

Furthermore, the gigantic size of operations coupled with the relatively strong participation of the Japanese State in the firm, has raised concerns about the lack of level playing field between Japan Post and private competitors. This means that the barriers to EU businesses are likely to persist in the near future.

5.2. THE EU EXPORTS TO JAPAN IN POSTAL SERVICES

Only 10 percent of the consolidated revenue of Japan Post comes from postal operations.¹⁹ The remainder is generated by the postal savings bank selling retail banking, investment, and insurance products using the network of postal offices.²⁰ Japan Post is thus rather a bank hosting some postal services than the other way around. In 2007, the bank held nearly €1.4 trillion (\$2.0 trillion) in assets, corresponding to 28 percent of Japan’s household savings. This made it the World’s largest bank.²¹ In addition, close to €1 trillion in household assets were held by the life insurance segment. Last, but not least, the conglomerate held about 20 percent of Japan’s Government bonds.

¹⁸ By postal markets we understand the traditional activities performed by a national postal operator, such as the handling of mail, provision of universal services but also express services and logistics.

¹⁹ ITA / WIK (2009).

²⁰ See www.nytimes.com/2007/03/27/business/worldbusiness/27iht-jpost.1.5042530.html.

²¹ See www.nytimes.com/2007/03/27/business/worldbusiness/27iht-jpost.1.5042530.html.

The EU exported about €32 million (approx. \$44 million) worth of postal services to Japan in 2008, cf. Figure 5.1. This is a comparatively small amount as it is e.g. nearly the same as EU exports to India but about 40 times smaller than exports to the US. Moreover, EU exports of postal services to Japan are 4 times smaller than exports of telecommunication services.²²

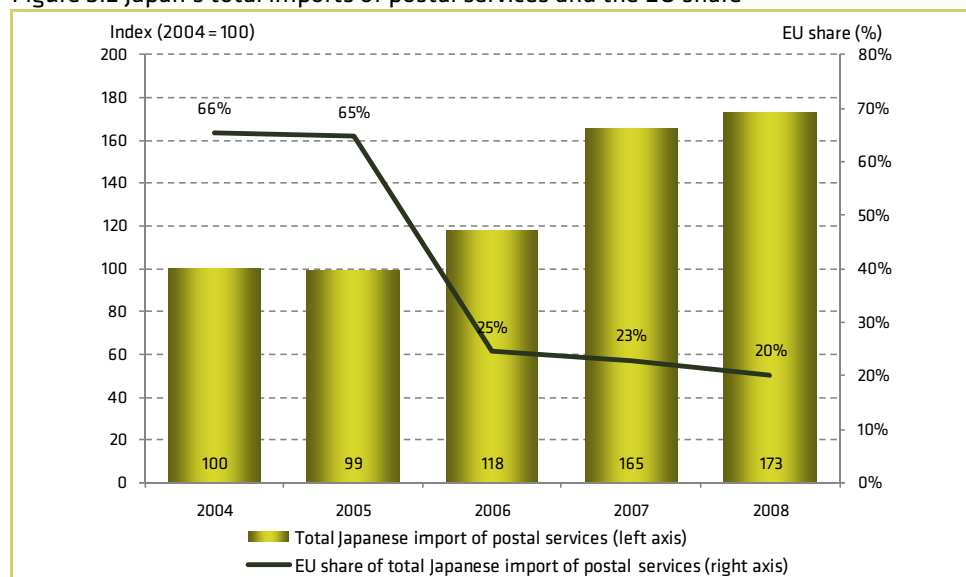
Figure 5.1 Value of EU postal service exports to Japan, 2008



Source: OECD Extended Balance of Payments Services (updated EBOPS 2002).

Although the total size of Japan's imports of postal services from the World increased by 70 percent between 2005 and 2008, the importance of the EU as an exporter declined dramatically from 65 percent in 2005 to a mere 20 percent in 2008, cf. Figure 5.2. There is thus an indication that EU exporters have lost their competitive stance from 2004-2005 and that they have been unable to take advantage of the increased Japanese import of postal services.

Figure 5.2 Japan's total imports of postal services and the EU share



Source: OECD Extended Balance of Payments Services (updated EBOPS 2002).

²² OECD Extended Balance of Payments Services (updated EBOPS 2002).

5.3. NTMS IN THE JAPANESE POSTAL SERVICE SECTOR

The organisational setup and scope of activities of Japan Post are responsible for a number of “general” barriers whose impact applies to both the postal as well as the financial and insurance sectors. Therefore, in what follows, we will first present the general barriers caused by the setup of Japan Post and then proceed to the sector specific barriers in the postal sector and the financial services and insurance sectors.

By “general barriers” we understand the barriers that are caused by the organisational setup of Japan Post and its activities in more than just the postal market. Therefore, from the point of view of EU exporters, the barriers are likely to be relevant both postal operators and financial service providers. The most important barriers in this category are:

- Lack of unbundling between postal, financial, and insurance services (possibility of cross-subsidisation)
- The size and strong position of Japan Post in the country
- The apparent reversal of the unbundling and privatisation reforms
- Lack of level playing field between private and public firms due to a continued strong role of the State

The first two barriers – strong position of Japan Post and the conglomerate structure of Japan Post (lack of unbundling) – stem from by the conduct of Japan Post. Both are responsible for the market power of the national postal operator and the lack of competition. In practice, the implications of the barriers can be severe from a market entry point of view: from the sheer size of the competitor with its nationwide distribution network serving millions of clients unaccustomed to using alternative postal operators, to the possibility of cross-subsidisation of services by Japan Post in case any competition emerges. While national postal operators in Europe tend to be dominant in the postal sector as well, the spirit of the current EU postal reform, communicated in the 3rd Postal Directive, are in the direction of ensuring better services through more competition.

The next two barriers have the effects of increasing the costs of uncertainty on potential entrants and have to do with the political processes regarding the apparent recent reversal of the unbundling reform and the continuously dominant role of the Japanese state in the postal conglomerate, cf. Box 5.2.

Box 5.2 The apparent reversal of the 2007 reform plans

The Koizumi government decided in 2007 to fully privatise Japan Post. However, the new government backtracked in October 2009 by freezing the 10-year privatisation process and started to reorganise the Japan Post group. The Japanese Government recently submitted a bill with a view to changing the Japan Post organisation and management. (...) The Government will keep control of at least 1/3 of the shares of Japan Post Holding (making cross-subsidisation more easily).

Source: Interview with the European Commission (2010).

The implications of both barriers are important as they maintain the above *status quo*, not the least the lack of level playing field between state and private operators. Moreover, since

both of these barriers are caused by “political will”, they do so for an indefinite future. The Inventory of Barriers to the Japanese Market (2010) has identified “transparency in process” as a barrier, which points to increasing the costs of uncertainty for businesses, cf. Table 5.1.

Table 5.1 General barriers due to the structure and operations of Japan Post

Barrier	Type	Implication	Actionable through TPI?	Do Japanese exporters face similar barriers in the EU?
Lack of unbundling	Conduct of public owned firm (barrier of entry)	Possibility for cross-subsidisation within and between products in the mail, financial, and insurance sectors	No, not possible to influence an individual firm directly	Generally, the process of unbundling is more advanced in the EU. Not possible to cross-subsidise postal services in the EU
Strong position of Japan Post	Conduct of public owned firm (barrier of entry)	Market power of incumbent	No, market power exists for historical reasons	Strong incumbents in some EU countries – though their power seems to diminish (slowly)
Privatisation / unbundling reform on halt due to crisis / political will	Cost of uncertainty (barrier to operation)	Preservation of status quo for indefinite future	No, question of “political will”	No, generally EU postal reform proceeds along the deadlines in the 3 rd postal directive
Strong role of the state	Cost of uncertainty (barrier to operation)	Protection of national interests – prevention of foreign entry	Yes / No -	Private investors in postal operators in relatively few EU countries (AUS, DE, FI, NL, DK)

Note: TPI stands for Trade Policy Instruments.

Source: Copenhagen Economics, Inventory of Barriers to the Japanese Market (2010).

Barriers specific to the postal sector

In addition to the problems due to the apparent recent reversal of the postal reform by the Japanese government, a number of sector-specific entry barriers persist in the Japanese postal sector. The presence of these barriers is likely to have the effect of strengthening the position of Japan Post and thereby make entry by EU and international competitors difficult or prevent them from expanding their operations in the country. The main barriers, specific to the postal sector are summarised in Table 5.2 and they are:

- Dominance of Japan Post in the postal sector
- Wide scope of the universal postal service (incl. competitive products such as the Express Mail Service (EMS)²³, not transparent accounting, and State funding
- Strict requirements for the provision of universal postal service and lack of downstream network access

The barriers were sourced from a country profile on the Japanese postal market from a study performed by ITA and WIK (2009) and the database of NTM barriers in Japan, Inventory of Barriers to the Japanese Market (2010), and the EBC (2009). In what follows, we discuss them shortly in turn.

²³ See CAPEC (2009): Japan appears to treat the EMS as a part of the universal service obligation. In Europe, the EMS is treated as a service outside the universal service area according to the 3rd Postal Directive. The UPU Convention gives countries the right to choose whether or not to provide the EMS. The USA, there is no clear definition of universal services.

Competition in the postal and parcel delivery markets is dominated by Japan Post, or other domestic firms, which can be considered an intrinsic barrier to entering the market. According to the ITA and WIK (2009) study, there is no competition in the Japanese correspondence market as there has been no entry since the legal market opening in 2002.²⁴ The door-to-door parcel delivery market is served by Japanese-only operators and foreign competitors are absent from this market.²⁵ International operators are only active in the express and courier services, but competition against Japan Post made difficult because its EMS²⁶ product is a part of the basic universal postal service.

An extensive universal postal service, whose provision is guaranteed by the State, is a source of concern as it limits the market open for competition for private firms. The universal postal service in Japan can be considered wide, as it includes six delivery days per week, as well as competitive products, such as the EMS. To provide it, Japan Post enjoys “exemptions from consumption taxes and stamp taxes, in order to compensate the Japan Post Group for the costs it incurs in the provision of its universal service obligations imposed by the Government.”²⁷ Furthermore, a transparent accounting system for universal postal services is lacking. This can raise questions whether these services do not cross-subsidise the competitive services provided by Japan Post, such as express services.²⁸

The implication of this apparent subsidy is a lack of level playing field in the treatment of public and private companies, is further exemplified in the differential treatment of EMS and private operators’ international parcels, cf. Box 5.3.

²⁴ According to the ITA and WIK (2009) study, there remains a de facto monopoly on the delivery of correspondence up to 250g and Y1000 (€8.75).

²⁵ The firms are Yamato, Sagawa, Nippon Express (merger with Japan Post), and Fukuyama. This dominance appears to be related to the ban on Cf. also EBC (2009), p. 39.

²⁶ EMS is an international postal Express Mail Service, for documents and merchandise, offered by postal operators of the Universal Postal Union (UPU). In Japan, the EMS is provided by Japan Post.

²⁷ Trade Perspectives (May 21, 2010).

²⁸ See EBC (2009), p. 39. Cf. US Department of State (2010), p. 7.

Box 5.3 Establishing a level playing field for competitive express services in Japan

In 2009, the Conference of Asia Pacific Express Carriers (the industry organisation of international express carriers) released a document expressing their concerns regarding the state of competition in express services in Japan. Due to its special treatment, the EMS service offered by Japan Post enjoys unfair competitive advantages in relation to the services offered by express carriers. As a result, customers switch to EMS at the expense of private carriers.

The objective of CAPEC is to create a level playing field for competition in the express segment among its members and Japan Post. Currently, the organisation believes that there is no level playing field due to the following reasons:

1. Japan Post treats the EMS as a universal service, although there is no international legal background for this, and the EU and the US treat the EMS as a competitive product.
2. Japan Post offers the EMS at lower prices than those standard international mail and the prices of the private express carriers.
3. Japan Post grants volume discounts on the EMS
4. Japan Post enjoys favourable treatment regarding customs clearance and parking in cities.
5. Japan Post discloses no customer and shipment statistics, which makes an assessment of the competitive situation of the operator difficult.
6. Japan Post actively targets the same customers as private carriers, namely the B2B segment

The CAPEC study develops two main recommendations:

1. **Regulation:** The legal status of the EMS should be reformed so that the service is regulated in the same way as other competitive services provided by Japan Post (incl. customs clearance and parking rules).
2. **Cost calculation:** Internal cross-subsidising, especially in relation to common costs such as IT, sales force, transport and sorting, should not take place.

Source: CAPEC (2009).

The licensing regulations for providers of the universal postal service can also be considered a barrier to entry. The ITA and WIK (2009) study reports the presence of strict requirements concerning the provision of universal postal service obligation in Japan, as well as difficulties surrounding access to the downstream part of the Japan Post network.²⁹ The implication of the barriers is that provision of postal services based on a business model focusing on the provision of the universal postal service or requiring network access can be severely compromised. Lack of downstream access may be a bigger problem, although the experience from Europe suggests that competitors are able to successfully adopt innovative business models that bypass the same barrier in many EU countries.

According to the EBC, in 2009 there was a lack of level playing field between the private operators' active in the markets for international packages, parcels, and express services. The key barriers are related to different customs treatment of Japan Post and private operators' shipments, as well as the application of the Parking Law:

²⁹ The provider of universal postal service must guarantee the installation of 100,000 mailboxes and 6 day nationwide delivery).

- Packages by private operators are subject to customs at values substantially below those applicable to EMS packages handled by Japan Post' EMS shipments containing quarantine-related goods are not checked by quarantine offices at the airports, contrast to checks performed on packages arriving with private operators.
- EMS shipments containing quarantine-related goods are not checked by quarantine offices at the airports, contrast to checks performed on packages arriving with private operators.
- EMS-carrying vehicles enjoy special provisions regarding the Parking Law.

Table 5.2 Specific barriers in the Japanese postal sector

Barrier	Type	Implication	Actionable through TPI?	Bilateral?
Dominance of Japan Post in the postal sector / extensive universal postal service / exclusion of foreign competitors from door-to-door parcel delivery	Market structure (intrinsic barrier)	No competition in correspondence. Japanese firms active in door-to-door parcel delivery. Competition in express / courier services	No	Generally, a similar situation exists in the EU
Wide scope of the universal postal service / no transparent accounting	Costs of uncertainty (barrier to operation?)	Japan Post receives compensation from the state, lack of level playing field between public and private enterprises	No	Similar problems are known to exist in the national postal sectors in the EU
Strict universal postal service requirements, no access to downstream network of Japan Post	Licenses & permits (barrier to entry). High start-up costs (barrier to entry)	Entry very expensive / impractical. Entry impossible if no access to network	No, universal postal service requirements are a matter of Japanese postal law	Yes / No: EU level – NO (3 rd Postal Directive does not define level of universal postal service or level of access). National level – Sometimes could be considered strict & entry barrier, access issues present
Special treatment of EMS packages	Costs of uncertainty (barrier to operation?)	Private operator services more expensive relative to EMS provided by Japan Post	No	No

Note: TPI stands for Trade Policy Instruments.

Source: The Copenhagen Economics IPSI database, ITA and WIK (2009) and EBC (2009).

Barriers specific to the financial and insurance sectors

The problems in the financial and insurance sectors are closely related to the recent freeze of the 2007 reform plan and were included in the recently passed bill charting a new course of action for the reform, cf. Box 5.2. The main barriers, specific to the financial sector are summarised in Table 5.3 and they are:

- Increase in the deposit ceiling (government guarantees for deposits)
- Specific exemptions from the Banking Law granted to Japan Post
- Regulation of access to over-the-counter network by private financial companies for sales of financial products

The bill contains a provision to raise the ceiling on personal deposits from 10 million Yen per person to 20 million Yen per person. The latter would provide for an implicit Govern-

ment guarantee on postal deposits and it would thereby distort competition with private sector financial institutions.

In addition to that, Japan Post enjoys specific exemptions from the Banking Law, which are not available for private operations – a clear sign of a lack of level playing field.

Japan Post uses the nationwide network of over-the-counter branches for sales of financial products. Japan Post Network can enter into agency contracts with private banks other than Japan Post Bank.³⁰ Insofar as access is not ensured to foreign banks, it may constitute a barrier limiting the market share open for foreign providers.

Table 5.3 Specific barriers created by Japan Post in the financial sector

Barrier	Type	Implication	Actionable through TPI?	Bilateral?
Doubling the ceiling on personal deposits (from ¥10m to ¥ 20m, €88k to €176k)	Conduct of public owned firm (entry). Costs of uncertainty	Higher state guarantee / increase in market share of the dominant firm	No	No
Specific exemptions from Banking Law	Costs of uncertainty	Lack of level playing field	No	No
Regulation of access to over-the-counter network by private financial companies for sales of financial products			No	No

Note: TPI stands for Trade Policy Instruments.

Source: Copenhagen Economics, *Trade Perspectives (May 21, 2010)*.

The barriers in the insurance sector for which Japan Post is responsible to a large extent mirror those in the financial services sector. They are:

- Increase in the limit on life insurance coverage
- Possibility for introducing the sales of new insurance products by Japan Post
- Specific exemptions from the Insurance Business Law

The recent Government bill on Japan Post increased the ceiling on life insurance from ¥ 13 million (approx €115 thousand) to ¥ 25 million (approx. €220 thousand). The implication of this is an increased attractiveness of the insurance products sold by Japan Post relative to competitor offerings.

Another element of the Government bill was the permission for Japan Post Insurance to sell new products currently provided by private competitors, such as health insurance products such as "cancer insurance". The implication of this is that to the extent that the general barriers continue to exist, they are likely to spread to new sectors. In the assessment of the European Commission, this action by the Japanese Government marks the end of "a gentlemen's agreement" to not allow Japan Post to introduce new products as long as level playing field is not present.

³⁰ US Department of State (2009), p. 53.

In addition to financial services, Japan Post uses the nationwide network sales of insurance products and the Japan Post Networks can “make insurance soliciting contracts with private insurance companies other than Japan Post Insurance”.³¹ For as long as foreign insurance firms will not be given access, the lack of it constitutes a barrier reducing the size of the market.

Table 5.4 Specific barriers created by Japan Post in the insurance sector

Barrier	Type	Implication	Actionable through TPI?	Bilateral?
Limit on life insurance coverage would be raised from 13 million Yen to 25 million (€115k to €220k)	Conduct of public owned firm (barrier to entry) Costs of uncertainty (barrier to?)	Higher state guarantee / increase in market share of the dominant firm	No	No
Sale of new insurance products possible	Conduct of public owned firm (barrier to entry)	Barriers to entry extend to new sectors, where Japan Post absent hitherto	No	No
Specific exemptions from Insurance Business Law	Costs of uncertainty (barrier to?)	Lack of level playing field	No	No
Access to over-the-counter network for sales			No	No

Note: TPI stands for Trade Policy Instruments.

Source: Copenhagen Economics, *Trade Perspectives (May 21, 2010)*, NY Times.

5.4. REDUCING JAPANESE NTMS TO INSURANCE AND FINANCIAL SERVICES

The size, structure and conduct of Japan Post are responsible for some of the most important barriers in the financial services and insurance sectors, but important barriers are also sustained by legislation. Ensuring a level playing field for state and private financial service and insurance providers is important. Improving accounting transparency should contribute to the reduction of the potential for cross-subsidisation, while regulating market access to Japan Post’s distribution network will reduce some of the entry barriers in distribution.

In this section we give an estimate of how much the costs of trading in the Japanese insurance and financial service sectors can be reduced if barriers to trade are removed. It is important to underline that the barriers listed in this chapter cover only the main concerns in the two sectors, and that other barriers (not related to Japan Post) could also be relevant. It is therefore not evident that the removal of the listed barriers will be sufficient to eliminate all costs incurred by the NTMs. In the end of this section we also summarise some of the EU and US recommendations on how the Japanese Government may reduce barriers to trade in the insurance and financial service sectors.

³¹ US Department of State (2009), p. 53.

Copenhagen Economics (2010)³² has analysed the NTMs EU exporters face in the Japanese market. The study rests on a gravity model to quantify the impacts of NTMs in the service sectors. The total costs of NTMs can be divided into an actionable and a non-actionable part depending on the barriers likely to be removable in trade negotiation between the EU and the Japanese authorities, cf. Box 5.4.

Box 5.4 The applied definition of actionability

Realising that not all of the estimated trade costs can necessarily be reduced, Ecorys (2009) has assessed the so-called 'Actionability' of the NTMs in each sector. Actionability is defined as "the degree to which an NTM or regulatory divergence can potentially be reduced by 2018, given that the political will exists to address the divergence identified." According to their assessment, between 40 and 70 percent of the trade cost per sector is actionable, i.e. can be reduced through trade policy negotiations. This information has been aggregated by Ecorys into a sector level of actionability.

Source: Copenhagen Economics (2010).

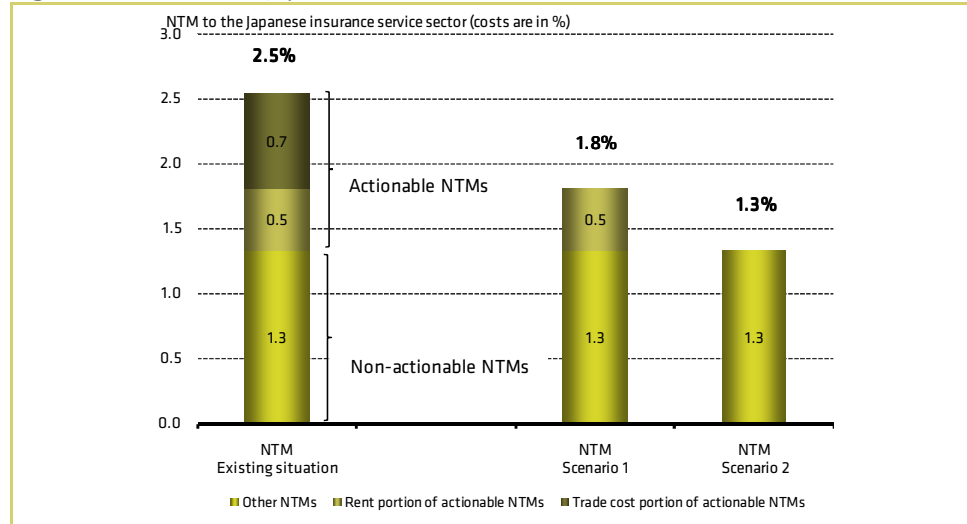
The actionable part includes both rents and trade costs, and we define two NTM reduction scenarios that take this into account:

1. We eliminate the trade cost portion of actionable NTMs in the Japanese insurance and financial service sectors.
2. We eliminate the actionable part of Japanese NTMs in the insurance and financial service sectors.

NTM reduction in insurance services

The two scenarios for NTM reduction in insurance services are depicted in Figure 5.3. From these estimates we find that the total Japanese NTMs in the insurance service sector - equal to a total cost of 2.5 percent - can be reduced to 1.8 percent under Scenario 1 where the trade cost portion of actionable NTMs are eliminated. Likewise, we find that the costs of NTMs are reduced to 1.3 percent if the actionable part of Japanese NTMs is removed (Scenario 2).

Figure 5.3 NTMs to the Japanese insurance service sector

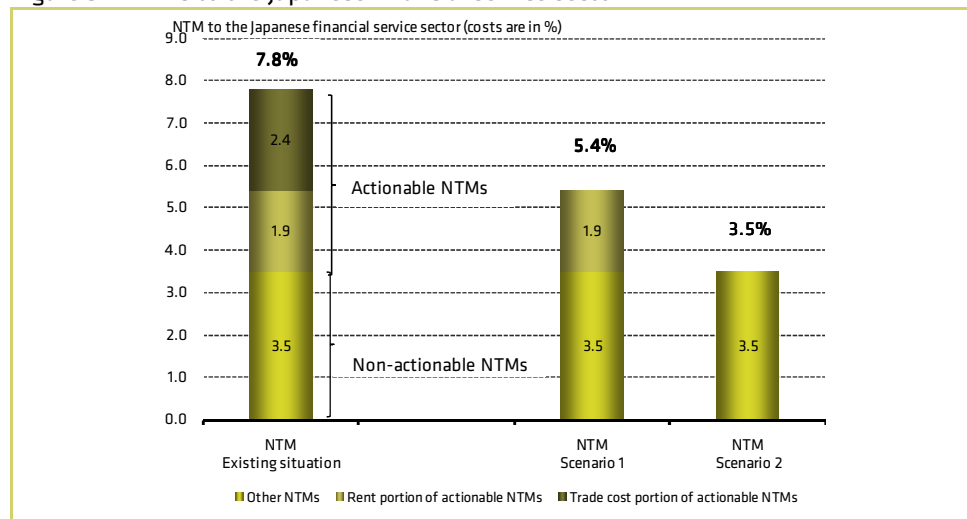


Source: Copenhagen Economics (2010).

NTM reduction in financial services

The two scenarios for NTM reduction in financial services are depicted in Figure 5.4. From these estimates we find that the total Japanese NTMs in the financial service sector - equal to a total cost of 7.8 percent - can be reduced to 5.4 percent under Scenario 1 where the trade cost portion of actionable NTMs are eliminated. Likewise, we find that the costs of NTMs are reduced to 3.5 percent if the actionable part of Japanese NTMs is removed.

Figure 5.4 NTMs to the Japanese financial service sector



Source: Copenhagen Economics (2010).

How can barriers be reduced?

A number of recommendations have been given by the European Commission (2009), the European Business Council in Japan (2010), the World Trade Organisation (2009), and the

US Department of State (2009) to eliminate the barriers to trade in the Japanese insurance and financial service sectors.

In order to reduce the general barriers in the insurance and financial sectors caused by the operations of Japan Post, efforts to ensure the creation of a level playing field between the firm and foreign providers with respect to regulatory obligations as well as supervisory standards are necessary.

In the postal sector, emphasis should be placed on eliminating the special treatment of Japan Posts in the areas of the market where real competition exists today, such as express services – or the special treatment of domestic operators in door-to-door parcel market. Moreover, the issue of promoting accounting transparency will be important from the point of view of ensuring that the universal postal service provided by Japan Post is not a source of subsidy. A report by the US Department of State (2009), however, indicated, “the Government of Japan is to undertake a study on the scope (weight, price, etc.) of EMS to which simplified customs treatment is applied compared to other carriers service, and report conclusions by March 31, 2010”.³³ The potential impact from the removal of customs barriers will be an increase in the choice of express carriers for a certain group of internationally traded products (e.g. salted and fermented sardines). Currently, Japan Post enjoys an advantage over private carriers in the delivery of such products due its more efficient customs treatment.

The specific barriers in the financial sector, such as the question of access to the over-the-counter network or the potential for cross-subsidisation between financial and non-financial entities³⁴, appear to be best actionable through a dialogue between EU and Japan experts. Such a dialogue could take a point of departure in sharing the solutions to similar issues regarding the ongoing process of privatisation and reform of the postal sector in the EU, e.g. to illustrate the importance of transparency and the presence of strong and independent regulators to ensure a level playing field between market players.

Barriers in the financial service sector are not directed against the EU or any other specific countries or areas but are general barriers to trade with foreign countries and general barriers in the sector. This also suggests that the reduction of the barriers listed in this section is not bilateral, i.e. that once the barriers are removed it is to the benefit of all suppliers in insurance and financial services – not only EU companies.

³³ US Department of State (2009), p. 56. We were not able to verify whether the Japanese study is publicly available in English.

³⁴ US Department of State (2009), p. 53.

REFERENCES

Bertrand and Kramarz (2002), “*Does Entry Regulation Hinder Job Creation? Evidence from the French Retail Industry*”, Quarterly Journal of Economics, Vol. 117, No. 4.

Conway, P. and Nicoletti, G. (2006), “*Product Market Regulation in the Non Manufacturing Sectors of the OECD Countries: Measurement and Highlights.*”

Copenhagen Economics (2010), “*Assessment of Barriers to Trade and Investment between the EU and Japan*”, Copenhagen.

Copenhagen Economics (2010), “*Inventory of Barriers to the Japanese Market*”, Copenhagen.

European Business Council in Japan (2009), “*Time for Change*”, the EBC Report on the Japanese business environment.

European Council in Japan (2010), “*Going for Growth*”, The EBC report on the Japanese business environment 2010.

European Commission (2009), “*EU proposals for regulatory reform in Japan*”

Ecorys (2009), “*Study on Non-Tariff Measures to EU-US Trade and Investment*”, study conducted for the European Commission, DG Trade (Reference: OJ 2007/S 180-219493).

Grier (2001), “*Japan’s Regulation of Large Retail Stores: Political Demands versus Economic Interests*”, University of Pennsylvania Journal of International Economic Law 1-60.

ITA and WIK (2009), “*The Evolution of the European Postal Market since 1997: Annex Country Fiches*”, a study for the European Commission, DG Internal Market and Services.

Kalirajan, K. (2000), “*Restrictions on Trade in Distribution Services*”, Productivity Commission Staff Research Paper, Ausinfo, Canberra.

Kim, H. et al. (2000), “*Financing the Development of New Ports and Encouraging Private Investment*”, Korea Maritime Institute Research Paper, Seoul (in Korean).

Kommers (2008), “*A Comparative Analysis of the Trade Policies of the European Union, the United States, Canada and Japan*”, Kommerskollegium National Board of Trade.

McGuckin et al (2005), “*The Retail Revolution: Can Europe Match US Productivity Performance?*”, Perspective on a Global Economy, The Conference Board.

McKinsey (2000), “*Why the Japanese Economy is not Growing: Micro Barriers to Productivity Growth*”, McKinsey Global Institute.

Nguyen-Hong (2000), “*Restriction on Trade in Professional Services*”, Productivity Commission Staff Research Paper, AusInfo, Canberra.

Nicoletti and Scarpetta (2003), “*Regulation, Productivity and Growth: OECD evidence*”, OECD Economics Department Working Paper No. 347, OECD, Paris.

OECD (2003), “*Measures of Restrictions on Inward Foreign Direct Investment for OECD countries*”, Working Paper.

OECD (2007), “*Globalisation and Structural Adjustment: Summary Report of the Study on Globalisation and Innovation in the Business Sector*”, Paris.

OECD (2008), “*Economic Surveys: Japan*”, Paris.

OECD (2009), “*Economic Surveys: Japan*”, Paris.

Pelkman, J. (2010), “*Product Market Reforms in EU Countries: Are the Methodology and Evidence Sufficiently Robust?*”, CEPS Working Document 332.

Trade Perspectives (2010), “*The EU and the US Express Concerns in Relation to Japan’s Planned Postal Reform*”, *Trade Perspectives* 10.

UNESCAP (2002), “*Commercial Development of Regional Ports as Logistics Centres*”, Economic and Social Commission for Asia and the Pacific.

UNESCAP (2002), “*Development of Shipping and Ports in North-East Asia*”, Economic and Social Commission for Asia and the Pacific.

US Department of State (2009), “*U.S – Japan regulatory reform and competition policy initiative*”.

WTO (2001), “*Guide to the GATS – An Overview of Issues for Further Liberalisation of Trade in Services*.” The Hague: Kluwer Law International.

WTO (2009), “*Trade Policy Review*”, Report by the Secretariat, Japan