



Basic information	
2023/0450(NLE) NLE - Non-legislative enactments	Procedure completed
EU/Japan Economic Partnership Agreement: free flow of data <b>Subject</b> 6.20.03 Bilateral economic and trade agreements and relations <b>Geographical area</b> Japan	

Key players				
European Parliament	<b>Committee responsible</b>		<b>Rapporteur</b>	<b>Appointed</b>
	<span style="border: 1px solid red; padding: 2px;">INTA</span> International Trade		LANCINI Danilo Oscar (ID)	12/12/2023
			Shadow rapporteur MUSSOLINI Alessandra (EPP) RODRÍGUEZ-PIÑERO Inma (S&D) ANDREWS Barry (Renew) BÜTIKOFER Reinhard (Greens/EFA) BERLATO Sergio (ECR) SCHOLZ Helmut (The Left)	
	<b>Committee for opinion</b>		<b>Rapporteur for opinion</b>	<b>Appointed</b>
	<span style="border: 1px solid red; padding: 2px;">LIBE</span> Civil Liberties, Justice and Home Affairs		The committee decided not to give an opinion.	
Council of the European Union				
European Commission	<b>Commission DG</b>		<b>Commissioner</b>	
	Trade and Economic Security		DOMBROVSKIS Valdis	

Key events			

Date	Event	Reference	Summary
01/12/2023	Preparatory document	COM(2023)0774 	Summary
31/01/2024	Legislative proposal published	16005/2023	Summary
26/02/2024	Committee referral announced in Parliament		
07/03/2024	Vote in committee		
08/03/2024	Committee report tabled for plenary, 1st reading/single reading	A9-0081/2024	Summary
14/03/2024	Decision by Parliament	T9-0168/2024	Summary
14/03/2024	Results of vote in Parliament		
29/04/2024	Act adopted by Council after consultation of Parliament		
14/05/2024	Final act published in Official Journal		

Technical information	
Procedure reference	2023/0450(NLE)
Procedure type	NLE - Non-legislative enactments
Procedure subtype	Consent by Parliament
Legal basis	Treaty on the Functioning of the European Union TFEU 207-p4 Treaty on the Functioning of the European Union TFEU 218-p6a Treaty on the Functioning of the European Union TFEU 218-p7
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	INTA/9/13799

Documentation gateway				
<b>European Parliament</b>				
Document type	Committee	Reference	Date	Summary
Committee draft report		PE757.871	03/01/2024	
Committee report tabled for plenary, 1st reading/single reading		A9-0081/2024	08/03/2024	Summary
Text adopted by Parliament, 1st reading/single reading		T9-0168/2024	14/03/2024	Summary
<b>Council of the EU</b>				
Document type	Reference	Date	Summary	
Legislative proposal	16005/2023	31/01/2024	Summary	
<b>European Commission</b>				
Document type	Reference	Date	Summary	

Document attached to the procedure	<a href="#">COM(2023)0773</a> 	01/12/2023	
Preparatory document	<a href="#">COM(2023)0774</a> 	01/12/2023	<a href="#">Summary</a>

Additional information		
Source	Document	Date
European Commission	EUR-Lex	

Final act	
<a href="#">Decision 2024/1303</a> <a href="#">OJ OJ L 14.05.2024</a>	<a href="#">Summary</a>

## EU/Japan Economic Partnership Agreement: free flow of data

2023/0450(NLE) - 01/12/2023 - Preparatory document

**PURPOSE:** to conclude, on behalf of the European Union, the Protocol amending the EU-Japan Economic Partnership Agreement on the free movement of data.

**PROPOSED ACT:** Council Decision.

**ROLE OF THE EUROPEAN PARLIAMENT:** Council may adopt the act only if Parliament has given its consent to the act.

**BACKGROUND:** by decision of 12 July 2023, the Council approved negotiating directives for the Commission to negotiate the inclusion of provisions on cross-border data flows in the Agreement between the European Union and Japan for an Economic Partnership.

On 24 October 2022, the EU and Japan launched the negotiations on cross-border data flows. The negotiations were concluded in principle on 28 October 2023.

Data is the lifeline of many businesses and a critical component of business models and supply chains across many economic sectors. The outcome of the negotiations confirms EU and Japan continued commitment to the rules-based international trading system and joint determination to shape global data flow rules that respect shared values and respective regulatory approaches.

**CONTENT:** the Commission proposes that the Council decide to approve, on behalf of the Union, the Protocol amending the EU-Japan Economic Partnership Agreement on the free movement of data.

This agreement brings much needed legal certainty that data flows between the EU and Japan will not be hampered by unjustified data localisation measures, and ensures the benefit from the free flow of data with trust in full compliance with our respective rules on data protection and the digital economy.

The proposal concerns:

- the addition of definition of "covered person" defining the scope of the provisions concerned;
- the rules for cross-border transfer of information by electronic means based on a closed list of prohibited measures restricting cross-border flow of information and relevant exceptions;
- personal data protection. In line with EU practice and with the consolidated proposal for provisions on cross-border data flows and protection of personal data and privacy in trade agreements it recognises each Party's right to determine the appropriate level of privacy and personal data protection;
- the deletion of the provision concerning financial data.

## EU/Japan Economic Partnership Agreement: free flow of data

2023/0450(NLE) - 08/03/2024 - Committee report tabled for plenary, 1st reading/single reading

The Committee on International Trade adopted the report by Danilo Oscar LANCINI (ID, IT) on the draft Council decision on the conclusion, on behalf of the European Union, of the Protocol amending the Agreement between the European Union and Japan for an Economic Partnership.

The committee recommended that the European Parliament give its **consent** to the conclusion of the Protocol.

By decision of 12 July 2022, the Council approved negotiating directives for the Commission to negotiate the inclusion of provisions on cross-border data flows in the Agreement between the European Union and Japan for an Economic Partnership. On 24 October 2022, the EU and Japan launched the negotiations on cross-border data flows. On 28 October 2023, the negotiations were concluded in principle at the EU-Japan High-Level Economic Dialogue.

This agreement brings much needed legal certainty that data flows between the EU and Japan will not be hampered by unjustified data localisation measures, and ensures the benefit from the free flow of data with trust in full compliance with our respective rules on data protection and the digital economy.

The outcome of the negotiations confirms EU and Japan continued commitment to the rules-based international trading system and joint determination to shape global data flow rules that respect shared values and respective regulatory approaches. Moreover, this agreement will contribute to deepening the partnership with Japan, which is a crucial EU partner in the Indo-Pacific.

Negotiated rules on cross-border data flows with Japan complement the existing mutual adequacy arrangement between the EU and Japan for personal data, and are in line with the consolidated proposal for provisions on cross-border data flows and protection of personal data and privacy in trade agreements. The proposal pursues the Commission's strategy laid down in the Trade Policy Review, the EU Data Strategy, the Joint Communication on the EU Strategy for Cooperation in the Indo-Pacific and in the Joint Declaration on privacy and the protection of personal data co-signed by the EU and Japan.

## EU/Japan Economic Partnership Agreement: free flow of data

2023/0450(NLE) - 14/03/2024 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 453 votes to 34, with 60 abstentions, a legislative resolution on the draft Council decision on the conclusion, on behalf of the European Union, of the Protocol amending the Agreement between the European Union and Japan for an Economic Partnership.

The European Parliament gave its consent to the conclusion of the protocol.

The EU and Japan are among the largest digital economies in the world. The EU seeks to accelerate and harness the benefits of the further digitalisation of the global economy and society. Data governance and cross-border data flows are crucial to this development. Data is the lifeline of many businesses and a critical component of business models and supply chains across many economic sectors.

By decision of 12 July 2022, the Council approved negotiating directives for the Commission to negotiate the inclusion of provisions on cross-border data flows in the Agreement between the European Union and Japan for an Economic Partnership. The EU-Japan Economic Partnership Agreement (EPA) that entered into force on 1 February 2019, foresaw that the EU and Japan would assess the need for the inclusion of provisions on cross-border data flows within 3 years of the date of entry into force of the EPA.

On 24 October 2022, the EU and Japan launched the negotiations on cross-border data flows. On 28 October 2023, the negotiations were concluded in principle at the EU-Japan High-Level Economic Dialogue (HLED).

This Agreement brings much needed legal certainty that data flows between the EU and Japan will not be hampered by unjustified data localisation measures, and ensures the benefit from the free flow of data with trust in full compliance with our respective rules on data protection and the digital economy.

The outcome of the negotiations confirms EU and Japan continued commitment to the rules-based international trading system and joint determination to shape global data flow rules that respect shared values and respective regulatory approaches. Moreover, this Agreement will contribute to deepening the partnership with Japan, which is a crucial EU partner in the Indo-Pacific.

## EU/Japan Economic Partnership Agreement: free flow of data

2023/0450(NLE) - 31/01/2024 - Legislative proposal

PURPOSE: to conclude, on behalf of the European Union, the Protocol amending the EU-Japan Economic Partnership Agreement on the free movement of data.

PROPOSED ACT: Council Decision.

ROLE OF THE EUROPEAN PARLIAMENT: Council may adopt the act only if Parliament has given its consent to the act.

BACKGROUND: by decision of 12 July 2023, the Council approved negotiating directives for the Commission to negotiate the inclusion of provisions on cross-border data flows in the Agreement between the European Union and Japan for an Economic Partnership.

On 24 October 2022, the EU and Japan launched the negotiations on cross-border data flows. The negotiations were concluded in principle on 28 October 2023.

The Protocol amending the EU-Japan Economic Partnership Agreement as regards the free movement of data was signed subject to its conclusion at a later date. The Protocol should be approved on behalf of the Union.

CONTENT: the Council draft concerns the approval, on behalf of the Union, of the Protocol amending the EU-Japan Economic Partnership Agreement.

#### ***Cross-border transfer of information by electronic means***

According to the Protocol, the Parties are committed to ensuring the cross-border transfer of information by electronic means where this activity is for the conduct of the business of a covered person. To that end, a Party should not adopt or maintain measures which prohibit or restrict the cross-border transfer of information by:

- requiring the use of computing facilities or network elements in the territory of the Party for information processing, including by requiring the use of computing facilities or network elements that are certified or approved in the territory of the Party;
- requiring the localisation of information in the territory of the Party for storage or processing;
- prohibiting storage or processing of information in the territory of the other Party;
- making the cross-border transfer of information contingent upon use of computing facilities or network elements in the territory of the Party or upon localisation requirements in the territory of the Party;
- prohibiting the transfer of information into the territory of the Party; or
- requiring the approval of the Party prior to the transfer of information to the territory of the other Party.

#### ***Protection of Personal Data***

The Parties recognise that individuals have a right to the protection of their personal data and privacy as provided for by the laws and regulations of each Party and that high standards in this regard contribute to trust in the digital economy and to the development of trade. Each Party recognises the right of the other Party to determine the appropriate level of the protection of personal data and privacy, to be provided for by their respective measures.

Each Party should: (i) endeavour to adopt measures that protect individuals, without discrimination based on grounds such as nationality or residence, from personal data protection violations occurring within its jurisdiction; (ii) adopt or maintain a legal framework that provides for the protection of personal data related to electronic commerce.

Lastly, the provision concerning financial data is deleted.

## **EU/Japan Economic Partnership Agreement: free flow of data**

2023/0450(NLE) - 14/05/2024 - Final act

PURPOSE: to conclude, on behalf of the European Union, the Protocol amending the EU-Japan Economic Partnership Agreement on the free movement of data.

NON-LEGISLATIVE ACT: Council Decision (EU) 2024/1303 on the conclusion, on behalf of the Union, of the Protocol amending the Agreement between the European Union and Japan for an Economic Partnership.

BACKGROUND: by decision of 12 July 2023, the Council approved negotiating directives for the Commission to negotiate the inclusion of provisions on cross-border data flows in the Agreement between the European Union and Japan for an Economic Partnership.

On 24 October 2022, the EU and Japan launched the negotiations on cross-border data flows. The negotiations were concluded in principle on 28 October 2023.

The Protocol amending the EU-Japan Economic Partnership Agreement as regards the free movement of data was signed subject to its conclusion at a later date.

CONTENT: under this Decision, the Protocol amending the Agreement between the European Union and Japan for an Economic Partnership is hereby approved on behalf of the Union. This protocol aims to include provisions on cross-border data flows in the agreement between the EU and Japan for an Economic Partnership. It will provide greater legal certainty, ensuring that data flows between the EU and Japan will not be hampered by unjustified data localisation measures, and also ensuring the benefit from the free flow of data according to the EU and Japan's rules on data protection and the digital economy.

In addition, the protocol will enable companies to handle data efficiently without cumbersome administrative or storage requirements, and provide them with a predictable legal framework.

#### ***Cross-border transfer of information by electronic means***

According to the protocol, the Parties are committed to ensuring the cross-border transfer of information by electronic means where this activity is for the conduct of the business of a covered person. To that end, a Party should not adopt or maintain measures which prohibit or restrict the cross-border transfer of information by:

- requiring the use of computing facilities or network elements in the territory of the Party for information processing, including by requiring the use of computing facilities or network elements that are certified or approved in the territory of the Party;
- requiring the localisation of information in the territory of the Party for storage or processing;
- prohibiting storage or processing of information in the territory of the other Party;
- making the cross-border transfer of information contingent upon use of computing facilities or network elements in the territory of the Party or upon localisation requirements in the territory of the Party;
- prohibiting the transfer of information into the territory of the Party; or
- requiring the approval of the Party prior to the transfer of information to the territory of the other Party.

***Protection of personal data***

The Parties recognise that individuals have a right to the protection of their personal data and privacy as provided for by the laws and regulations of each Party and that high standards in this regard contribute to trust in the digital economy and to the development of trade. Each Party recognises the right of the other Party to determine the appropriate level of the protection of personal data and privacy, to be provided for by their respective measures.

Each Party should: (i) endeavour to adopt measures that protect individuals, without discrimination based on grounds such as nationality or residence, from personal data protection violations occurring within its jurisdiction; (ii) adopt or maintain a legal framework that provides for the protection of personal data related to electronic commerce.

ENTRY INTO FORCE: 29.04.2024.