










# Procedure file

Basic information		
NLE - Non-legislative enactments	<a href="#">2023/0450(NLE)</a>	Awaiting final decision
EU/Japan Economic Partnership Agreement: free flow of data		
Subject 6.20.03 Bilateral economic and trade agreements and relations		
Geographical area Japan		

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	 <a href="#">International Trade</a>	 <a href="#">LANCINI Danilo Oscar</a>	12/12/2023
		Shadow rapporteur	
		 <a href="#">MUSSOLINI Alessandra</a>	
		 <a href="#">RODRÍGUEZ-PIÑERO</a>	
		 <a href="#">ANDREWS Barry</a>	
		 <a href="#">BÜTIKOFER Reinhard</a>	
		 <a href="#">BERLATO Sergio</a>	
		 <a href="#">SCHOLZ Helmut</a>	
	Committee for opinion	Rapporteur for opinion	Appointed
	 <a href="#">Civil Liberties, Justice and Home Affairs</a>	The committee decided not to give an opinion.	
Council of the European Union			
European Commission	Commission DG <a href="#">Trade</a>	Commissioner DOMBROVSKIS Valdis	

Key events			
01/12/2023	Preparatory document	<a href="#">COM(2023)0774</a>	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	<a href="#">A9-0081/2024</a>	Summary
14/03/2024	Decision by Parliament	<a href="#">T9-0168/2024</a>	Summary

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 EU TFEU 218-p6a; Treaty on the Functioning of the EU TFEU 207-p4; Treaty on the Functioning of the EU TFEU 218-p7
Other legal basis	Rules of Procedure EP 159
Stage reached in procedure	Awaiting final decision
Committee dossier	INTA/9/13799

Documentation gateway					
Document attached to the procedure		<a href="#">COM(2023)0773</a>	01/12/2023	EC	
Preparatory document		<a href="#">COM(2023)0774</a>	01/12/2023	EC	Summary
Committee draft report		<a href="#">PE757.871</a>	03/01/2024	EP	
Legislative proposal		16005/2023	31/01/2024	CSL	Summary
Committee report tabled for plenary, 1st reading/single reading		<a href="#">A9-0081/2024</a>	08/03/2024	EP	Summary
Text adopted by Parliament, 1st reading/single reading		<a href="#">T9-0168/2024</a>	14/03/2024	EP	Summary

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

**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

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**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

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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 Commissions 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

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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.