



Select Committee on the European Union

International Agreements Sub-Committee

Oral evidence: UK-Japan trade negotiations

Wednesday 4 November 2020

4 pm

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Members present: Lord Goldsmith (The Chair); Lord Foster of Bath; Lord Gold; Lord Kerr of Kinlochard; Lord Lansley; Baroness Liddell of Coatdyke; Lord Morris of Aberavon; Lord Oates; The Earl of Sandwich; Lord Watts.

Evidence Session No. 3

Virtual Proceeding

Questions 33 – 44

Witnesses

I: Lord Grimstone of Boscobel Kt, Minister for Investment, Department for International Trade; Graham Zebedee, Chief Negotiator on Japan, Department for International Trade.

Examination of witnesses

Lord Grimstone of Boscobel and Graham Zebedee.

Q33 **The Chair:** Good afternoon to Lord Grimstone and Mr Zebedee, the witnesses before the EU International Agreements Sub-Committee this afternoon, to talk principally about the Japan deal but also about other issues in the trade brief. Welcome and thank you very much for being here. We are very grateful, as always, for your presence. As you will know, this is being broadcast and the transcript will be made available for any corrections you want to make before it is finalised. Members may declare relevant interests before they ask questions. You know the form of this Committee, and we are very pleased to see you again.

There is quite a lot to cover, because the agreement is very detailed. We congratulate you on having got to the point of being able to present the agreement, after having agreed it, and we can now scrutinise it, which we are in the process of doing. We will not be able to cover all the topics that we have this afternoon, I suspect. Some questions are being raised at official level, although you may well have an input into those, Minister. We are very happy that you should. We will see how we get on. I invite my Committee colleagues to keep their questions reasonably brisk so you have time to answer and we can cover the ground in the time we have.

Lord Grimstone, I want to ask you a general question about the negotiations. How difficult have the negotiations with Japan been, given the time pressures and given whatever Japan has been demanding? What do you believe the key victories have been for the UK and where have we failed to reach our ambitions in this trade agreement?

Lord Grimstone of Boscobel: Thank you, Lord Chair. Would it be in order if I made a short introductory statement before I started to put my answers into context? Would that be permissible?

The Chair: Yes, of course.

Lord Grimstone of Boscobel: Good afternoon, everybody. Thank you for inviting me to this session of your Committee on our comprehensive economic partnership agreement, which we call CEPA, with Japan and the rest of the FTA programme. I am pleased to be joined by Graham Zebedee, who has been our lead negotiator on this free trade agreement.

As a matter of record, I am delighted to state that on Friday 23 October the Secretary of State for International Trade, Elizabeth Truss, signed the agreement with the Japanese Foreign Minister. As your Committee knows, the following documents have all now been laid in Parliament and published on GOV.UK after being shared with you on 12 October.

Those documents comprise: the full pre-signature agreement in all its glory; the supporting documents in the form of the parliamentary report, which highlights the differences and enhancements with the previous EU-Japan EPA; various side letters relating to agriculture that were agreed as part of the CEPA; an Explanatory Memorandum that outlines

the content of the treaty, how the agreement will be implemented and the consultations with businesses, devolved Administrations and other stakeholders; and an important independently reviewed impact assessment, which includes an economic assessment of the agreement on a macroeconomic level and by nations and regions. That also helpfully assesses the impact on developing nations, UK businesses and consumers, the labour market and the environment.

We very much appreciate the work the Committee is doing on this agreement. As we all appreciate, neither the Government nor Parliament have carried out this type of work in over 50 years, so we have all had to learn new techniques and new ways of handling this. I have to say on behalf of the Government that we are proud of the enhanced transparency and scrutiny offer we have put in place for this deal, as outlined in my Written Ministerial Statement on 12 October. We believe that this compares favourably with other Westminster-style democracies.

The arrangements we have put in place balance the need for effective parliamentary scrutiny and our unique constitutional arrangements in the UK while protecting the UK's interests. It is very important to me that this Committee feels suitably well informed to carry out the important role it has been charged with by this House. We want to continue to work with the Committee to review the process we have put in place for text sharing as well as the accessibility of the documents we have made public.

I say without reservation that if, in light of the experience of this free trade agreement, we feel that we could make improvements that make will the work of your Committee better, we will do that. As I have confirmed previously, if your Committee or the ITC were to recommend a debate on the agreement, we would endeavour to accommodate such a request, subject to parliamentary time.

Ultimately, Parliament will decide whether to allow the deal to progress through the CRaG process, and that should end on 7 December, or of course Parliament may decide to withhold its consent to this agreement. However, speaking personally, I am strongly of the view that this is a good deal, indeed a great deal, for the UK. It benefits all parts of the country while protecting our red lines in areas such as the National Health Service and food standards.

It is for your Committee to come to its own conclusions on these matters, but I do hope that you will come to agree with this assessment. I can also commit that Graham Zebedee and his full team will be available to your Committee to answer questions during the CRaG period.

If it would be helpful, perhaps I could provide a short overview of what we have negotiated as part of the CEPA.

The Chair: What you have said is very helpful, particularly the offers you have made on your behalf and on Mr Zebedee's behalf. I am just concerned about time. I would like you, if you can, please, to identify the

key victories and, if there are such areas, where you feel the Government was not able to achieve the ambitions it had for this trade agreement. The parliamentary statement describes the agreement, so I would not want to take up your time by asking you to do that.

Lord Grimstone of Boscobel: I will take that as a recommendation that I leave out what you might call the propaganda and cut to the quick. I would particularly draw attention to the digital and tech chapter, the cutting-edge digital and data provisions. They go far beyond the EU-Japan deal on data localisation, the free flow of data and net neutrality. This will certainly benefit our leading tech sector. I have heard from a number of tech companies directly to that effect in recent days.

Financial services are our biggest export to Japan. They account for 28% of all UK exports to Japan. We are pleased that the deal secures greater transparency and streamlined application processes for UK firms seeking licences to operate in Japan. As a result of this deal, there will be an annual dialogue between Her Majesty's Treasury, the UK financial regulators and the Japan FCA. All parties are committed to explore ways to further reduce regulatory friction.

On business mobility, which is so important to our businesses, we have much better arrangements for professionals and their families. That will secure more flexibility for Japanese and British companies to move talent into each country. That covers a range of UK skilled workers to enter Japan, from computer services to construction.

On agriculture, a vitally important sector in free trade agreements, we have a way to win new protections for up to 70 of our iconic British goods. Under the EU deal it was limited to just seven. We like to refer to such goods as Welsh lamb, Yorkshire Wensleydale cheese, English sparkling wine and, of course, many others.

The Chair: We will ask you about that particular issue.

Lord Grimstone of Boscobel: We will be prepared for that. We have negotiated a deal that sees tariffs fall on pork, beef, salmon and a range of other agricultural exports. We will continue to benefit from access to low tariffs for key food and drink products covered by quotas—I am sure the Committee will want to probe that more—covering products such as Stilton cheese, tea extracts and bread mixes.

We do believe that this forms a pathway for further market access under the Trans-Pacific Partnership. As the Committee will know, Japan has committed support to UK accession. Later in the session you may wish me to say a bit about the Trans-Pacific Partnership.

The Chair: We will come to that as well.

Lord Grimstone of Boscobel: To bring my comments to a close, in manufacturing we believe the CEPA supports jobs and major investors in the UK such as Nissan and Hitachi through reduced tariffs on parts that already come from Japan, streamlined regulatory procedures and greater

legal certainty for their operations as well as our own manufacturers. This is a very important sector, because it employs around 2.7 million people across the UK.

Last but not least, the CEPA also includes an automotive annexe to facilitate greater regulatory alignment and the reduction of non-tariff barriers. UK tariffs on two tariff lines covering electrical control units, which are the gizmos that make sure all the fancy stuff in cars nowadays works properly—

The Chair: This is clearly set out in the Explanatory Memorandum, Minister, so you do not need to spend time on it.

Lord Grimstone of Boscobel: I am happy to pass back to you to ask us more detailed questions on this.

The Chair: Thank you for that. It is very helpful to us indeed. I had asked you two questions. First, were these difficult negotiations because of the pressures and the demands of the Japanese? Secondly, are there areas where we have failed to achieve the UK's ambitions in the deal that has been done?

Lord Grimstone of Boscobel: Thank you for those questions. As Mr Zebedee was the man who conducted them, I will ask him to give the detail. Actually, the negotiations went surprisingly easily. When you think that all this had to be done virtually due to problems associated with the pandemic, it was a surprisingly smooth process, certainly in my perception. In these agreements, there is always a bit of give and take. That is the nature of a negotiation, but we are very pleased with where we ended up with this agreement.

The Chair: You rightly say that we need to look at where you ended up, but this was an agreement where you at least had somewhere to start, unlike a case of a free trade agreement where you have a blank sheet of paper. You were working from and building on JEEPA, the existing European Union-Japan deal. That is one of the things the Committee is interested in: to what extent and how far that is an improvement over what there was under the European arrangements.

Graham Zebedee: In terms of regrets, there were a number of areas where, if we had had more time, we could have gone further, for example on intellectual property. I do not expect people to know the numbers off the top of their head, but in article 14.12 we agreed to discuss measures related to public performance rights. We did not agree to do anything further than discuss. That was just because of the time required to make changes in legislation on either side. There were a number of things such as that where there just was not time to do what in our system we would call primary legislation. I suppose there are one or two things that might have ideally happened if we had had longer.

In terms of key victories, in addition to what Lord Grimstone mentioned, I would highlight that both the subchapter on anti-corruption and the

chapter on women's economic empowerment are valuable additions to the trade agreement.

In terms of how difficult the negotiations were, I was not sure how doing it all virtually was going to work, frankly. Trade negotiations are normally done a certain way. Every two or so months, a group of people from one capital go to the other, lay siege to it for one or two weeks and then come back. Not that much happens between those major sessions. Instead, we had constant engagement in a whole bunch of different technical fields between our experts and theirs, such that there would be videoconferences between the two sides every day, sometimes three or four of them a day.

The Japanese are experienced and robust negotiators. That is no adverse comment on them; they are defending their national interest, just as we do. They have been at this a good long time and are very experienced. We had the advantage of negotiating in our mother tongue. I was impressed with their ability to do it in English. It was tough in that respect, but, as Lord Grimstone said, it went smoothly in terms of the technology.

The Chair: Mr Zebedee, thank you. I would not like my questions to be taken as not including congratulations to your team, the Secretary of State and the Ministers for having done this deal. I cannot take anything away from that.

Q34 **Lord Kerr of Kinlochard:** I would like to join the Chair in congratulating Lord Grimstone and Mr Zebedee on this deal. It is a good deal. I think that, largely because any deal is better than no deal in the circumstances in which we find ourselves. You must have been negotiating under time pressure, with the cliff edge coming up, and you did very well.

You are at risk of spoiling that by overselling it. I would like to hear the Minister's presentation when he does not leave the propaganda out. One criticism we hear from witnesses is that it is less beneficial than your press releases maintain, because you are using the comparator of MFN and WTO terms, rather than where we would have been had we remained in the Japan-EU agreement, which your agreement broadly tracks. That is a valid criticism of some of the press releases from the department.

Secondly, it is argued that it is less beneficial and less of a great deal than Ministers say, because 80% of the benefits from the tariff reductions accrue to the Japanese side and because that £15 billion that you put up in headlights as the value of the deal is not worth £15 billion to us. Indeed, your own analysis suggests that it is worth less than 0.1% of GDP.

Is there a danger that you are taking the eye off the genuine benefits you have secured by what looks like a bit of overselling? I want to come back in a moment to ask you whether these benefits might decline over time, but what about the overselling risk?

Lord Grimstone of Boscobel: I completely understand where you are coming from. To an extent, beauty is in the eye of the beholder with

agreements like this. It would have been open to Japan not to add things on to the European agreement but to diminish the European agreement in its favour. As you know from your deep experience of these matters, all these agreements tend to start from a precursor agreement of one sort or another, whether it is between the two contracting counterparties or with another counterparty. In a sense, one has to start somewhere with these things.

The huge benefit of the scrutiny the IAC will give to this agreement is that you will rightly and properly produce a completely objective assessment of what you think the advantages are of this agreement. Frankly, your assessment of it will probably trump any assessment I would like to make of it. That is right and proper. It is why these agreements are quite properly laid open to the scrutiny of your Committee. I am sure you will probe the differences. We have laid in front of Parliament a factual account of the differences between the two agreements.

I repeat: we are happy with where we ended up. We think this was the best agreement we could strike under the conditions in which it was negotiated. In a way, it will be for your Committee and the court of public opinion to judge us on that.

Lord Kerr of Kinlochard: Can we look at the question of whether over time, as was suggested by some of our witnesses, the benefits of the agreement to the UK will dwindle?

Let us take the example of tariff-rate quotas. The EU agreement has 25. We have guaranteed access to none, but for 10 of the 25 we are allowed to use anything left over once all EU exporters have been satisfied, if there is any headroom left in the quota. We have been told that, over time, as EU exporters get used to the system, there will be less headroom left over for us in the 10 to which we have access but not guaranteed access. We have also been told that, since it is an annual exercise, it will not become clear until quite late in the year what headroom there is. UK traders may be reluctant to export and pay the tariff in the hope that, at the end of the year, there will turn out to be some headroom and they will get a rebate.

Are these fair criticisms? What happens for the 15 TRQs the EU has that we do not have? On the 10 we do have, is the headroom likely to decline over time? Will it be easy for traders each year to determine whether there is any headroom they can use?

Lord Grimstone of Boscobel: Let me ask Mr Zebedee to talk us through in detail how these TRQs operate and how they will affect our exporters in practice. That will then lead into your questions.

Graham Zebedee: Before going on to TRQs, I would contest the point about the benefits of the agreement declining over time. There are many provisions in the agreement where there are more benefits over time. There is staged liberalisation on beef, for example, where the tariff

becomes less and less over time. You could say that the benefits of all preferential trade agreements decline over time, because there is a backdrop of global liberalisation. Leaving that aside, there is a trend towards more openness and more benefits in this agreement in a number of ways, not just on tariffs.

In terms of the replacement system for TRQs, only five TRQs covered in the EU-Japan agreement were used by UK exporters in the financial year 2019-20. We are talking about around £1 million worth of trade. To put that in context, that is against £15 billion of overall UK exports. Exporters do not pay the out-of-quota tariff up front; they pay the in-quota tariff rate. Should it subsequently transpire that there was not enough space in the quota to be covered by a low-rate import certificate, they would have to pay the out-of-quota rate, but they do not have to pay it up front.

As you have noted, there is currently headroom in those quotas. There is no reason to think that is about to change, according to what the Japanese tell us. As we quoted, this is a solution that will be of use to us pending our accession to the CPTPP, which the Japanese and the other CPTPP members are supportive of.

This is a good solution. I would also mention the reduction in paperwork required relative to exporting under a TRQ, which is quite a significant deterrent. We often find that exporters do not claim preferential tariffs because the paperwork involved is so high. That is also a significant factor.

Lord Grimstone of Boscobel: Our negotiating position on that was driven by the real-world behaviour of British exporters. We know in detail how much is exported. That allowed us to gauge the headroom and the likelihood of the headroom running into any problems. As Graham has said, we could clearly demonstrate to ourselves and, indeed, more openly what that headroom was, which gave us great confidence that the theoretical biting of these TRQs would not happen for UK companies.

Lord Kerr of Kinlochard: It is the EU headroom that will be important. You had only one year of the Japan-EU deal to look at. Will getting into the CPTPP help? Can you guarantee that there will be further liberalisation here if we get into the CPTPP?

Lord Grimstone of Boscobel: The prior point is how confident we are that we will get into the CPTPP. Then I will turn to Graham for the details. We have had a lot of contact with the member nations of the Trans-Pacific Partnership, culminating with a meeting Secretary Truss had with representatives of all 11 countries just two or three weeks ago. We have had very strong signals from those countries that they wish us to join.

The importance of Japan in this context is that it is chairing the CPTPP in the coming year. That commits it to facilitating this. Obviously, it will be a negotiation. There is a lot of self-interest both on our side and on the side

of the CPTPP members to have us access. Graham, if we were to access, how would that improve the position?

Graham Zebedee: Japan has a number of TRQs that are open to other CPTPP members. We would be able to enjoy them. Japan has committed in a side letter to providing us with meaningful market access to similar products to those covered by TRQs in the EU-Japan agreement. “Guarantee” is a very strong word, but it is a solid commitment from Japan to enable market access in products covered by those CPTPP TRQs.

The Chair: I was very interested in what you said, Mr Zebedee, about the way this would work in practice. You would do an assessment after the event and you may find that the importer was not able to take advantage of the lower quota. Have you had a chance to talk to business about whether that would create a lack of certainty, making it more difficult for them to trade and to operate? If so, what have they said about how they would overcome that problem?

Graham Zebedee: Yes, we talk to business about this, including through the trade advisory groups we set up relatively recently with a whole range of sectors of the economy. They are led by Ministers, but with chief negotiators like me briefing business on the deals and how to take best advantage of them.

On that specific point, I should have perhaps mentioned earlier that we will be giving business as much information in as close to real time as we can about the availability of the quota and how much is being used up. The Japanese have committed to working with us on this. That will reduce the uncertainty a bit. We will certainly have further conversations with businesses between now and the end of the year about how they can best make use of the scheme and limit any uncertainty they feel.

Lord Grimstone of Boscobel: One reason why we asked the members of the advisory groups to operate under a confidentiality agreement is so that we can exchange real-time information with them during the negotiation of these agreements. Why are we doing these agreements? It is to benefit UK business. It is perfectly sensible for us to ask them these questions and for them to feed directly into the negotiators in real time during these negotiations. We in no way want or would be able to have these negotiations in an ivory tower. We have to have close interaction with UK businesses to strike the best agreements.

The Chair: I am sure we are fully aware of the need to talk to business.

Lord Watts: I am a bit confused. If quotas are a good thing—a good thing that has been negotiated by you, Minister, but we are allowed those quotas only because the EU is not taking up its maximum number—why would it be an advantage to UK industries when it is not seen by the EU industries to be an advantage?

Lord Grimstone of Boscobel: The simple answer is that different companies and different nations have different competitive advantages in

these matters. The decision whether to utilise a quota relates to the commercial and competitive circumstances of the company doing it. As a general point, you could easily envisage that businesses in certain countries feel competitive or commercial in this area and others do not. It is a matter of commercial choice for the companies concerned.

The Chair: It is also a matter of whether there is a market.

Lord Grimstone of Boscobel: Yes.

Q35 **Lord Gold:** Good afternoon, Lord Grimstone and Mr Zebedee. First, I too would like to congratulate you on negotiating this agreement. To do so much in such a short time, bearing in mind that we have not done this for a very long time, is a great achievement. That we might quiz you a bit should not detract from that achievement.

I was going to ask about the greater protection for iconic UK goods and increasing the geographical indications. Moving from seven to 70, if that can be achieved, is excellent. How did the number 70 come about? Was it just sticking a nought at the end or was it more scientific?

Graham Zebedee: That is the approximate number of geographical indicators the UK has on its books at the moment that can be protected or are protected domestically. We could put all those forward into the Japanese system for protection. There may be one or two among our stock that cannot be protected, because they are not food, like Shetland wool, but by and large they are food and drink items that we would intend to put forward.

Lord Gold: How will this be achieved? How will this be negotiated? How long will it take?

Graham Zebedee: The good thing is that it does not have to be negotiated. We have agreed with Japan that we will automatically be able to put them forward to Japan and it will put them forward into its domestic system, which is what we call an opposition process. They have to check, for example, that there is no prior claim on the use of a geographical indicator. I know it sounds a bit implausible that there might be somebody in Japan producing Stornoway black pudding and marketing it as such. Nevertheless, they have to check that. The only constraint is just how many you can get through the pipe at one point, administratively speaking.

We think that a conservative estimate would be five months from when we start putting them forward to when they could receive protection in Japan. We would aim to do that in liaison with our colleagues in Defra, who lead in this area of government, as early as possible in 2021.

Lord Grimstone of Boscobel: This is an administrative process that these GIs have to go through, as opposed to a political process or a negotiating process. If Japan had wanted to put political constraints on this, it no doubt would have raised that in the negotiations and we would not have ended up with this process. As Graham says, it is a process

now. If the GIs pass that process, because there are no competitors in Japan doing it, they will be accepted. There may have been some misunderstanding about this, because people may have thought it was just wishful thinking on our part to think that we may see these GIs coming on to the book, but it is much more substantial than wishful thinking.

Lord Gold: Your answer demonstrates how useful a session like this is to clarify the position. If you have to select which ones go through the pipeline first, how will you do that?

Lord Grimstone of Boscobel: I would please some people with an answer on that, but I would offend another 50. It would be inviting me to put my head into the lion's den if I were to answer that question specifically. Maybe Graham is braver than I am.

Graham Zebedee: No, I am not. There is a question over which ones are the most valuable, if you can measure that objectively. There is a question of balance between different regions and nations of the UK, which Ministers might want to take account of. There are doubtless other matters.

Lord Grimstone of Boscobel: If the Committee has a view on which GIs should take precedent, no doubt you will let us know.

The Chair: We are not going to do that. Can I be very clear about this? It is very important. Lord Gold is quite right that it demonstrates why it is important to have this sort of session, because misunderstandings can be cleared up and answers given. From what you have both said, I understand that the only reason for not allowing the geographical indicator is because there is a Japanese competitor or would-be competitor producing a product under the same name. Is it more than that?

Graham Zebedee: There is also a process that Japan has to go through to make its CPTPP partners aware of these GIs. It does not seem all that likely that there could be someone in Vietnam producing iconic British products either, but there is a process that gives those countries a right to raise some objection. Somebody might think we were trying to claim a GI on something that was incredibly generic. There is often a debate about feta cheese. Must it necessarily come from Greece or is it a generic thing that you should be able to produce anywhere and market as such? The debate rages on about that. I do not think any UK GI comes into that category, but theoretically somebody could raise an objection on those grounds.

Q36 **Lord Foster of Bath:** Lord Grimstone and Mr Zebedee, thank you for being with us. Thank you for giving me a much better understanding of the deal on GIs than I had until a few minutes ago. I have a couple of questions that I hope will help me get a better understanding of the issue of tariff reductions.

A big play was made of big tariff reductions to support beef and salmon,

and low-tariff access to Stilton cheese and so on. You referred to this in your opening remarks. I wonder whether you could tell us which tariffs will be reduced immediately to zero or otherwise. In particular, can you tell us whether these reductions are at a different pace than they would have been under the EU-Japan trade deal?

Lord Grimstone of Boscobel: If we had not done this agreement, given that the transition period ending on 1 January is a definite date, there would have been no tariff reductions at all at that point. With great respect, it comes back to the end of the telescope through which one is looking at this. It would have been possible to have had nothing from 1 January. In a sense, it seems a small thing that we have got to where we have got to, but, even with the difficulties that Japan perceived in the Brexit structures originally, it has been very happy to enter into this agreement. Let me ask Graham to go straight on to the technicalities.

Graham Zebedee: The short answer is that in almost all respects the tariff liberalisation is the same as it is in the EU agreement. Both sides will inherit the clock, as we call it. If there is a tariff that, under the EU agreement, was going down from 20% to zero over 10 years at 2% a year and it started in 2019, we and Japan would start at 16% and go down to zero at the same pace. The exceptions to that are one or two tariff lines that the Minister mentioned earlier and for products not covered by quotas. I could give a few examples of tariff reductions that will benefit the UK, if that would be helpful.

Lord Foster of Bath: I am sure it would be very helpful if you could write to us with that information. I know the Chair is anxious to get through, and I want to come back and ask some questions a bit later on.

I accept entirely that this is not a little thing, but it is a matter of what you are making comparisons with in selling this deal, whether it is no deal or a continuation of the EU trade deal. I want to pick up one specific example of that. We could almost call it "The Great British Bake Off" soy sauce-gate issue. A lot of comment was made about making goods cheaper for UK consumers. Soy sauce was one. The department put out a tweet after the first challenge on "The Great British Bake Off" that soy sauce would be cheaper thanks to our trade deal.

Can you confirm that the tariff on soy sauce under the EU deal is zero and under the Japan deal it will continue to be zero, and therefore there is no cheaper soy sauce, leaving aside the fact that it mostly comes from the Netherlands anyway?

Lord Grimstone of Boscobel: Can I apologise for the obvious confusion that those in the department who tweeted that matter caused people outside? It was an error; it was a clear confusion. We have apologised for that. Sometimes in a display of exuberance these things happen, but I would hope the deal is not judged by what was, frankly speaking, something silly that somebody did.

Lord Foster of Bath: I hope you will accept that it highlights the

importance of not overselling not only this deal but future deals that come. Lord Kerr picked this up earlier. It is very important that we agree on the baseline for comparisons. You have accepted that. I would be very happy to leave it there for the time being

The Chair: I am grateful to Lord Grimstone for what he says. That is a matter that has concerned the Committee.

Q37 **The Earl of Sandwich:** Minister, I will ask about the automotive sector. I will put this in two questions. First, given that the automotive sector is heavily dependent on the UK's trading with both Japan and the EU, is it not premature to talk about any gains in that sector while the negotiations are going on? We have heard from witnesses about the need for provisions on rules of origin and diagonal or extended cumulation in the agreements with both parties. We have heard in the media that the EU is unwilling to allow Japanese parts to count as British parts for these purposes. What do the provisions in the bilateral CEPA agreement mean for this sector, and how will it affect them in practice?

Lord Grimstone of Boscobel: I completely accept the point that, as far as the automotive sector is concerned, the bigger game in town at the moment is the EU negotiations and not this agreement. Those negotiations are ongoing, so I hope noble Lords will not mind if I do not go into detail of what the outcome of those negotiations might be and the effect.

In a sense, one has to take these things one step at a time. The timing has meant that this Japanese deal has been struck before we know where the EU negotiations will come to, but all will become clearer in due course. I am certainly very happy to communicate with the Committee again after that and come back with a detailed answer on the noble Lord's point at that point.

The Earl of Sandwich: I would really appreciate that. Perhaps in the CRaG period we will be able to get more than just a hint of what is happening. Thank you.

Secondly, CEPA replicates the trade and sustainable development chapter in the EU-Japan agreement, which relates to environment and climate change. Why is there so little in the CEPA about investment in environmentally friendly business? You mentioned gizmos. Electric vehicles are barely mentioned in this, and there is nothing about solar heating, wind power or other means of reducing carbon emissions. Surely this is surprising between two countries with a similar economic framework.

The North East England Chamber of Commerce, for instance, as you know, was one of our key witnesses. They said they want to see more attention paid to other growth sectors of our economy such as renewable energy.

Lord Grimstone of Boscobel: You are completely right to identify that sector. Part of my responsibility as the Minister for Investment is to

identify the sectors that have the greatest potential for the UK. That sector is right up there with that. Rightly and properly, that is attracting a huge amount of government attention and support. Graham, could you just talk about those goods in the context of the FTA?

Graham Zebedee: Trade agreements often do not go into specific technologies but rather create an enabling environment for easier and more beneficial trade and investment generally. For example, the trade in the extremely important sector that you mentioned will benefit from lower tariffs compared to WTO tariffs. There is an investment chapter in the agreement, which provides increased certainty to investors in both directions over the provision of environmental services in all modes, including the movement of people. The mutual recognition aspect to the agreement provides for goods in a number of areas not to have to be retested for conformity with local standards at the other end as well as in the country of origin. There are benefits, but I agree that there is no specific chapter setting out that linkage.

The Earl of Sandwich: It is a little like propaganda again. We would like to hear detail. It is helpful to the public to identify these things, but I will be patient today.

Lord Grimstone of Boscobel: It is a point that we will bear mind for future FTAs, given the increasing attention the world is giving to sustainable development.

Q38 **The Chair:** I appreciate the answers that have been given. Lord Grimstone, you are not here to discuss and still less to negotiate whatever EU deal there may be, but the objectives the UK set itself in the negotiation with Japan included objectives on rules of origin that reflect the UK industry requirements. I was reading from the objectives as they were published. Particularly if one is thinking about certain parts of the country, those requirements involve being able to incorporate Japanese parts of cars in order to trade. Recognising that, however good the deal may be otherwise with Japan, without the necessary arrangements with the EU on EU-sourced parts this will be a disappointment at least to some parts of British industry. Is that a fair point?

Lord Grimstone of Boscobel: Of course it is. In an ideal world, the EU negotiations would have been completed successfully, these negotiations would have followed that, and then we would be in a position to deal with all these points at one time. Regrettably we cannot answer the Committee's questions fully at this time. Again, I will be more than happy to come back, not to dodge the question but to answer the question specifically in relation to the vitally important Japan automotive industry at some point in the future.

The Chair: I raise the question only because this point has been made to us strongly by industry stakeholders we have talked to.

Graham Zebedee: We have done all we could in this agreement to link in with what we hope to be a future UK-EU agreement covering this area.

This agreement includes a provision that seeks to recognise Japanese inputs contained in goods exported to the EU. We know this is particularly important for the auto sector. This arrangement would also need to be agreed between the UK and the EU in order to come into effect. In a sense, we have done as much as we could in this agreement to enable the triangle of cumulation to be operational.

The Chair: That is understood. The political context in which issues arise is that people will be comparing what the Government are achieving now with what the previous arrangements were. I will say nothing further than that.

Q39 **Lord Morris of Aberavon:** I have two specific questions. First, what new legislation will we need to implement the agreements? Secondly, what legislation will be required in the devolved Administrations in our four countries? What is the timescale?

Lord Grimstone of Boscobel: I will answer, but then I will ask Mr Zebedee to correct me if I get the answer wrong. No new primary legislation is needed to implement this agreement. There are certain technical SIs—I remember one on electric television equipment or something—to which you have to make an amendment to bring this agreement into effect. That will be dealt with in the normal course of action with SIs. The Trade Bill, which I hope will pass through our House at some point in the not-too-distant future, gives powers under Clause 2 to make the necessary changes through statutory instruments to allow any aspects of these continuity agreements to be put into effect.

Graham Zebedee: I agree with all that. The key piece of legislation required for tariffs is the Taxation (Cross-border Trade) Act, which is already there. That will enable us to create the preferential tariff schedule and the rules of origin that relate to that.

Lord Morris of Aberavon: To ensure that Parliament is well prepared to engage fully with its scrutiny work, what would your reaction be if this Committee proposed that, in future, Explanatory Memoranda should set out in detail the legislative processes required to implement an agreement?

Lord Grimstone of Boscobel: That is a perfectly sensible suggestion, which I am sure we will happily consider. We have no desire other than to make these Explanatory Memoranda as helpful as possible to Parliament and to scrutiny. If that can be done, it sounds like a suggestion we should consider.

Lord Morris of Aberavon: I am asking that it be set out in the Explanatory Memorandum. Would you object to that?

Lord Grimstone of Boscobel: As I say, that is a very good suggestion. The purpose of those Explanatory Memoranda is to give noble Lords and Parliament all the information they need. If that can be done, it seems to me to be a perfectly sensible suggestion.

Q40 Lord Foster of Bath: I thank Mr Zebedee for making clear, in answer to the Chair's question at the beginning, that one area where progress was not as full as might have been hoped was the IP chapter. Despite that, the Government still talk in their publicity about new protections for UK creative industries and having gone beyond the EU provisions that tackle online infringement of IP rights. The creative industry bodies I have spoken to do not recognise any of that. None of their key asks, such as website blocking, public performance rights, as Mr Zebedee said, and artists' resale rights was delivered. The industry bodies see this as a standstill and a failure against the stated aims of securing additional benefits. Do you accept that analysis?

I particularly want to go on to something else that Mr Zebedee said: that there was no primary legislation requirement as a result of this deal. Was it agreed in advance between both countries that the negotiations would start from that premise: that nothing that required primary legislation in either country would be agreed? Is that not one of the key reasons, if that is true, why progress was not able to be made in a number of these areas?

Lord Grimstone of Boscobel: There was no agreement as such on that, but remember that this programme of activity was the programme of rolling over agreements that were already in existence with the EU. In relation to the Japanese agreement, we saw an opportunity to improve on the EU agreement. We believed that in the time available to us, which was constrained, given that 1 January seems to be approaching more quickly than anybody would wish it, we would be able to negotiate with Japan and have the enhancements needed.

There was the art-of-the-possible consideration in relation to that, because the key thing was to allow continuity so that, as of 1 January, people importing from and exporting to Japan know where they stand. I am not sure it was ever specifically stated that there will be no primary legislation, but in a sense that was a necessary concomitant of the time constraints we were operating under.

Lord Foster of Bath: That is a time constraint imposed by the Government not getting on with this much sooner.

Lord Grimstone of Boscobel: That is a little unfair, given the hard work that was put into this agreement. Noble peers have been very generous in the congratulations they have given to Mr Zebedee and his team for this. If we had started earlier, we might have finished earlier, but often these negotiations seem to expand to fill the time available.

Lord Foster of Bath: So I can be clear, was it that because of that time delay, regardless of what caused it, it was in effect agreed that no primary legislation in either country could be passed in time? Did that therefore limit the progress that Mr Zebedee implied might have been made for example on public performance rights?

Lord Grimstone of Boscobel: I would draw a distinction between this and the new free trade agreements we are negotiating that are not the subject of existing agreements, where primary legislation may well be needed to implement them. This agreement was already in force and was covered by EU legislation, which is being converted into UK legislation, so no question of primary legislation arose in relation to the continuity agreements.

That may not be the case with the future free trade agreements that do not have the benefit of existing legislative cover, through EU legislation, to be effective in the UK. Given where we were starting from and that these were continuity agreements, the case of primary legislation was not considered because it was not relevant to continuity agreements.

Graham Zebedee: Japan's views on Brexit are very well known. It was not really thinkable that they would engage with us before Brexit happened on 31 January. It was not the UK Government dragging their feet on this. As the Minister said, there was not the time for very lengthy processes, on the Japanese side more than ours. We had some asks that the Japanese would not have been able to do through their quite lengthy legislative process.

There are a range of improvements on intellectual property beyond geographical indicators—on designs, trademarks, copyright, enforcement, access to justice and criminal enforcement. That is on top of an already high-standard intellectual property chapter, chapter 14 of the EU agreement. If it is of use, we would be happy to write, making clear what those improvements are, because they are many and quite substantial.

Lord Foster of Bath: That would be very helpful. I am just left reflecting that all the advisory groups that provided indications to the team as to what they wanted would have benefited from knowing that there was no point in proposing anything that needed primary legislation, because they were wasting their time.

Lord Grimstone of Boscobel: Their valuable views will be taken into account in future FTA negotiations.

Graham Zebedee: Indeed, they will be in revisions of this agreement.

The Chair: We will come to that question in a moment.

Q41 **Lord Watts:** Minister, there are small changes to some chapters that are otherwise similar to the EU deal. The parliamentary report notes that the dispute settlement mechanism to our deal will not apply to areas such as hygiene, health and plants. Does our deal have more restrictions than the EU does? Who sought those restrictions and why?

Lord Grimstone of Boscobel: I do not believe it does, but I do not want to get caught out by giving you the wrong answer. As ever, I will turn to Mr Zebedee to give us the detail on that.

Graham Zebedee: The coverage of that chapter is broadly the same. I would rather not get into who proposed what, because it is quite complex

and that is a more internal negotiation, if anything. We are very confident that what we have in this agreement gives dispute settlement coverage for whatever we need it to cover. Interestingly, the dispute settlement provisions in trade agreements are relatively rarely used. Parties tend to use the WTO mechanisms. That is always an option for us should we need it.

Lord Watts: Minister, it is a legitimate question to ask. If the EU deal is very similar to the one we have negotiated, yet there are exceptions to the rules, as has been drawn out by the parliamentary committee, on hygiene, health, plants and maybe other areas, why have those differences occurred? Are they something that you or Japan sought?

The Chair: Minister and Mr Zebedee, perhaps you might reflect on the not-unreasonable point that Lord Watts is pressing and consider whether you can give a more fulsome answer in writing, if that is more convenient than answering now.

Lord Grimstone of Boscobel: I am very happy to commit to that.

Lord Lansley: Can I apologise? I was not able to join the meeting for the first 15 minutes; I was chairing a separate meeting. I remind colleagues that I am the UK co-chair of the UK-Japan 21st Century Group. The timing and achievement of a deal has cropped up in our conversations quite a bit. In discussions with my Japanese friends, they told me that not only would they not discuss a deal before we had left the European Union, but there was a certain reluctance to enter into a substantive negotiation with us before knowing what the UK-EU future free trade agreement would look like. To have delivered the deal in the absence of that information seems to me to have been a signal success.

On that dispute settlement issue, it is the same as the EU, in relation to the competition and subsidy control issues. In both those chapters, the dispute settlement procedure in chapter 21 is disapplied in the agreement with Japan, as it was in the EU-Japan agreement. There is no enforcement mechanism as such, for example, on the subsidy control chapter. Is that correct?

Graham Zebedee: Yes. As you say, the coverage of the dispute settlement provision, in relation to subsidies and competition, has not been changed. From memory, it applies to only some parts of that chapter. It has not been changed from what it was under the EU agreement.

Lord Lansley: Can I move on to the question of implementation and the outcome of the agreement? Can you tell us your intentions, in reviewing the implementation of the agreement, for reporting on that? How are you expecting to review the gains and benefits, or disbenefits, of the deal?

Lord Grimstone of Boscobel: This was a matter that we rightly and properly debated at some length during the Committee stage of the Trade Bill. I made the point then that these agreements are not worth the paper they are written on unless one has a determined effort to

operationalise and implement them afterwards. I committed that the department will produce a report every two years setting out how we have performed under that.

Lord Lansley: I presume that that will be quantified as well as qualitative.

Lord Grimstone of Boscobel: I am sure it will be, to the extent that we can.

Lord Lansley: Mr Zebedee mentioned the question of revision to the agreement. Former ambassador Koji Tsuruoka and I were talking about the deal as it happened. We were on an online conference discussion about it on the day it was published, in September. He stressed that the deal would pass through the Japanese Diet quite quickly because it was so similar to the EU-Japan agreement, but that, from their point of view, what matters is that this is a starting point, not an endpoint. One does not always have to have a formal process, but by what mechanism do you anticipate that the deal might be added to in the months and years ahead?

Lord Grimstone of Boscobel: There are two aspects to that. There are variations to this deal, which I will ask Graham to talk to, but our accession to the Trans-Pacific Partnership may then overtake the provisions in this agreement.

Graham Zebedee: There is a general provision in here that the agreement would be reviewed after five years. Major changes would be re-ratified. Changes can also be made through the committees, such as the addition of extra GIs, further tariff liberalisation that has been agreed in the agreement, or small changes to rules of origin. We will approach that by lived experience of using the agreement. Where is it not providing business with the openings or the legal certainty that they need to make real-world gains in trade and investment with Japan? Through that ongoing dialogue with business, we will get our wish list together, which will form our proposed negotiating mandate for next time round.

Lord Grimstone of Boscobel: These agreements are never-ending, never finished. Going forward, there are always refinements that one can make to them in practice.

Lord Lansley: That is understood.

The Chair: Not for the first time, you mentioned the CPTPP in those answers. I suggest that we move straight on to that, because it is an important part, as you see it, of the agreement that has been reached. You have mentioned, more than once, the fact that Japan has committed itself to supporting the UK's entry into that.

Q42 **Baroness Liddell of Coatdyke:** I am completely intrigued by the CPTPP, because it is a very interesting model. We are told that deals with Japan, Australia and New Zealand have all been referred to as stepping stones to joining the CPTPP. Could the Government use the CPTPP to negotiate

more ambitious provisions with Japan in areas you would have liked to go further, for example in ensuring adequate competition in digital markets?

What would be the incentive for Japan to accept something like that in the CPTPP arena that it did not accept in a bilateral arrangement? Japan has come out pretty well from that negotiation with us. I think the estimate is a 79.9% increase in trade into the UK. Why would they give up, in a different arena, some of what they have gained in the bilateral negotiations with the UK?

Lord Grimstone of Boscobel: First, we have already identified that none of these agreements has a static background. The requirements of business change, new industries develop, people think of ways of enhancing them. Every time one does a negotiation, there is a ticking up of certain matters. By the time we sat down to negotiate this agreement, we had full visibility of what is in the TPP, as did Japan.

If it gets to the point where, as we very much hope, we are sitting down with Japan and negotiating, one of the starting points will no doubt be the agreement that we have with Japan. It will be the agreements that we hope to negotiate with Australia and New Zealand in the not-too-distant future. The key point is that Japan, Australia, New Zealand and Canada are very influential members of the Trans-Pacific Partnership. The extent to which we can negotiate satisfactory agreements with them acts as a stepping stone to the future Trans-Pacific Agreement.

Baroness Liddell of Coatdyke: Would that not mean that we have to put something on the table to suit them, to get them to give up some of the advantages that we are seeking?

Lord Grimstone of Boscobel: As always, we would only do something that we feel is to the benefit of the United Kingdom. We have a free hand in these matters. In any of these negotiations, people ask for things; they do not always get them. There are sometimes trade-offs between asking for one thing and giving up on another. It is why these things are so complicated, as we are all now experiencing with this agreement, and generate so many aspects. From our point of view, we will not enter into an agreement with the CPTPP unless we feel it is to the benefit of the United Kingdom.

Q43 **Lord Oates:** I start by declaring my interest, as set out in the register, as chairman of the advisory board of Weber Shandwick UK.

Minister, some of our witnesses have told us that the CPTPP strongly reflects a market-based US-style regulatory regime, in contrast to the European, and therefore UK, approach, which values non-economic factors, such as those raised by Lord Sandwich, on the environment and climate change. In your view, will the UK need to shift from the approach we have taken as a member of the EU towards a more US-style regulatory approach?

Graham Zebedee: I would not say that we will shift towards a US style. It is perfectly possible for countries to have good, classic and deep trade agreements, such as the one we will have with Japan, with countries that

have different regulatory systems. Canada has a very deep arrangement with the US—the USMCA, or NAFTA as was—and a deep trade agreement with the EU. Those things are not incompatible. Therefore, they are not incompatible for the UK either. I do not know if that helps.

Lord Oates: That is helpful, thank you. Do you accept the characterisation that the CPTPP reflects more the US-style regulatory approach? Separately, what sectoral analysis has the UK conducted on the impacts of tariff elimination in the CPTPP?

Graham Zebedee: No one could deny that there are aspects of the CPTPP that bear the hallmark of the US. The US was the driving force behind it until President Trump pulled the US out of it before it came into force. That is fairly true. What it would mean for the UK to join the CPTPP depends on the market access discussions. This goes back to Baroness Liddell’s question. CPTPP accession involves a number of things. It involves signing up to a common set of rules that exist already in the CPTPP treaty, and it involves a market access discussion with the countries already in it, both giving and getting.

The UK already has bilateral trade agreements with some CPTPP countries, and deep liberalisation has been agreed to in those. We would not expect countries to come back for a very big second bite if we have already liberalised trade in goods to a very high level. That partly answers the previous question about what would be in it for Japan to have another big market access discussion with us. We do not expect that there would be much, because our agreement with them very substantively liberalises all trade.

Lord Grimstone of Boscobel: When we apply to join the Trans-Pacific Partnership, as we have done previously, we will publish our negotiating objectives on that point and a scoping assessment, which will set out all the potential sectoral and economic impacts of UK accession. I am sure that at that point the Committee will wish to have a further session, which I would be delighted to participate in, where we will go into the detail of that. I apologise if our answers in relation to the CPTPP are rather broad-brush at the moment because we are not yet at the stage of having done that detailed work. If the Chair wishes, I am sure we will return to that in the future.

Q44 **The Chair:** Before we conclude, can I raise one other question on the relationship between one set of rules and another? In article 1.95, this agreement specifically provides for the possibility of there being an inconsistency between its terms and the terms of the Northern Ireland protocol, under the arrangements on withdrawal from the EU. You may park this on the basis that this is about the EU, but the fact is that you thought it right to include this provision in this agreement.

There are two questions. First, can you give indicate the areas that this was intended to cover? Secondly, does this mean that you think it will be necessary to include a similar provision in all the other continuity agreements that have already been provided?

Lord Grimstone of Boscobel: I can congratulate you. I am afraid you have guessed my answer to that question in advance. One would expect matters affecting the Northern Ireland protocol to be raised in these agreements. They will be dealt with as and when they are.

The Chair: If you can say anything more about that outside this meeting, in writing, it would be helpful, simply because it gives rise to the question: how will the mechanism found to deal with it work? You know how politically sensitive that issue is. I will leave it there.

Lord Grimstone of Boscobel: I completely appreciate that. I am very happy to write on that. As you can imagine, I did not want to jump right in and give an answer to that at this time. I will certainly follow up on that in correspondence.

The Chair: As I have said already, we will have questions coming through for Mr Zebedee, his colleagues and others in your department. You have been very generous with your time. Thank you very much for that. We had some questions on Australia and New Zealand, and the other trade negotiations, but I will suggest that we do not spend time on those now, because the urgency is for the CRaG review of this particular agreement. May I thank you very much for your time and your answers, and for the answers you offered to provide during this meeting?

Lord Grimstone of Boscobel: In return, can I think the Committee for the way it has handled this session? As I expected, the questions have been perceptive and have put us on our mettle. This is how the system should work. Can I welcome in particular people's comments on the hard work of Mr Zebedee and his team, and put on my record my thanks for that? His team have worked enormously hard and very long hours to do this, and I was very grateful for the Committee's recognition of that. Thank you very much.

The Chair: In the present circumstances, we have all got used to doing certain stuff on Zoom, but to negotiate a three-volume agreement through video is a particular achievement, which needs to be recognised. Thank you very much indeed.