



HOUSE OF LORDS

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International Agreements Sub-Committee

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Rt Hon. Elizabeth Truss MP
Secretary of State for International Trade and President of the Board of Trade
Department for International Trade
King Charles Street
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31 July 2020

Trade negotiations between the UK and Japan

Dear Secretary of State,

Thank you for coming to speak to us on 23 July 2020 about the negotiations for free trade agreements with both the US and Japan. I am writing to you about the trade agreement with Japan.

As you know, our inquiries into FTA negotiations will run until the conclusion of the CRAG scrutiny period for any agreed deal. We have a number of questions for you, covering the process that DIT is following in negotiating with Japan, DIT's engagement with Parliament in its scrutiny, and points brought forward by stakeholders in evidence gathered to date. We will hold oral evidence sessions with stakeholders and experts in September.

We are grateful for your written submission to a subset of the questions in our Call for Evidence, and we have included the remaining questions at the end of this letter in Annex A. We look forward to receiving your responses, along with your replies to the points in this letter, set out in bold, by no later than 1 September. Given the pace of the negotiations with Japan and the short timescale for concluding an agreement, it is crucial that we receive responses to these questions promptly so that we can prepare for the short CRAG-scrutiny window that will follow. I am sure you will understand that and so I hope you will be able to comply.

The scrutiny process

We discussed on 23 July the approach that the Government intended to follow in engaging with Parliament when an agreement was reached with Japan. We agreed that the Government would give the Committee the final agreement text in advance of laying it before Parliament under CRAG procedure, time permitting. You also told us that you, Minister Greg Hands, or the chief negotiator would be happy to provide the Committee with private briefings to ensure that we have the relevant information ahead of reporting on the agreement. We welcome these commitments and look forward to the Government upholding them. You told us that the

Government is seeking an “enhanced agreement”¹ with Japan or “a deal that is EPA-plus in many areas”.² This implies that the agreement may, in some areas, diverge from the existing EU-Japan Economic Partnership Agreement (EPA), which the UK will leave at the end of the transition period. It is thus, particularly crucial for Parliament to be able to conduct sufficient scrutiny. If the UK-Japan FTA is a continuity agreement, we expect the Government to uphold its commitment to provide a Parliamentary Report along with an Explanatory Memorandum.

We ask the Government to uphold its commitment to provide the Committee with the initialled agreement in advance of it being laid before Parliament under the CRAG procedure to ensure sufficient time for parliamentary scrutiny, and to do so no later than the point at which the agreement is provided to the Japanese Diet.

Devolved administrations and regional bodies

We discussed with you on 23 July how the Government is ensuring that the devolved administrations are reflected in the UK’s trade objectives and outcomes of negotiations, and you stated that Minister Greg Hands meets regularly with a group of ministers across the UK to make sure they are involved.

We encourage a real and meaningful consultation process with the devolved administrations and Parliaments to ensure that international agreements reflect the interests of the constituent parts of the UK. As I am sure you appreciate, there are some regions which will be particularly significantly impacted by a UK-Japan trade agreement, especially the North East of England, where the automotive industry is heavily concentrated, and a large number of jobs are dependent on Japanese car manufacturers. **We ask the Government to engage with the devolved administrations as well as with the appropriate regional bodies in England, where there is no devolved administration. Will you do so?**

Crown Dependencies and Overseas Territories

We would also encourage a thorough consultation process with the Crown Dependencies and Overseas Territories (CDOT), as the Government can extend the application of treaties to the CDOT at the time of ratification or at a later date. In particular, we are aware that a trade agreement between the UK and Japan may not be extended to Gibraltar. **I was grateful for a private briefing from Lord Grimstone, but we would welcome an explanation that can be made public regarding the Government’s intentions towards the Crown Dependencies and Overseas Territories, which have been automatically included in previous rollover agreements.**

¹ Oral evidence by Secretary of State Liz Truss to the International Agreements Sub-Committee, 23 July 2020 (Session 2019-21), Q55

² Oral evidence by Secretary of State Liz Truss to the International Agreements Sub-Committee, 23 July 2020 (Session 2019-21), Q57

Evidence from stakeholders

Our Call for Evidence remains open, and we will continue to gather evidence about how the UK-Japan deal might affect stakeholders over the summer. Thus far in our inquiry, we have heard from stakeholders through informal discussions about their interests and concerns.

We share the concerns of some stakeholders that the Government has not provided adequate information on what the trade-offs are in the negotiations, what areas are being prioritised, and how the Government might provide support to areas that might be impacted negatively by a UK-Japan FTA. Generally, stakeholders have found it extremely challenging to follow the trade negotiations and provide timely input to the Government, particularly under the circumstances of the COVID-19 pandemic, in which many individuals and organisations are struggling financially and in terms of capacity. They have found the pace and sequencing of trade negotiations with Japan, the US, Australia and New Zealand to be especially challenging as they try to keep up with negotiations and understand how they may be affected by these FTAs.

Automotive sector

Ensuring business continuity for the automotive sector is crucial and it is highly dependent on the outcomes of the UK's trade negotiations with both Japan and the EU. Japanese owned plants made up nearly half of the UK's car production in 2017 and Japan has invested heavily in the UK factories as a gateway to the EU market and integrated supply chains across the UK and EU.³

As you know, the current arrangements in place under the EU-Japan EPA will come to an end on 31 December. On 23 July, we asked you whether you anticipate a comprehensive FTA to be agreed with Japan in time for it to be in place before the end of the transition period, and you responded, "I am not going to set a deadline and say that we must meet that deadline".⁴ You further stated, "There is a real chance to get a very positive deal with Japan, but again I will not be pushed or bounced into agreeing a deal that is not in Britain's interests just because of time constraints".⁵ **We agree that the UK should not enter any deal that is not in its interests. However, we note that this time constraint is not imposed by our negotiating partner, but is a consequence of the transition period coming to an end and is a matter of great importance for the automotive sector and other industries. Failure to conclude trade agreements with Japan and the EU before the end of the transition period would mean reverting to WTO rules. This would lead to a sudden**

³ SMMT, '[Japan-UK auto trade as strong as ever as third more British car buyers choose Japanese brands](#)', (24 October 2017)

⁴ Oral evidence by Secretary of State Liz Truss to the International Agreements Sub-Committee, 23 July 2020 (Session 2019-21), Q57

⁵ Oral evidence by Secretary of State Liz Truss to the International Agreements Sub-Committee, 23 July 2020 (Session 2019-21), Q57

reintroduction of tariffs and barriers and would have significant negative impacts on the UK automotive sector.

Given the high level of integration of supply chains in the automotive sector, the agreements between the UK, Japan and the EU must work together and any gaps between the agreements will have major consequences for businesses.⁶ Automotive stakeholders have asked the UK Government to maintain the basic conditions in the existing EU-Japan EPA rules of origin and to allow the extended cumulation of EU inputs of production in future UK-Japan automotive trade.⁷ We discussed this on 23 July and you stated, “It is a key negotiating objective with Japan to get at least what we’ve got in the EPA on automotive rules of origin, but we also would like to see more. As far as we are concerned, the status quo is a baseline, but EU content being counted is absolutely critical.”⁸ **Could you tell us how the Government will ensure that there will be no disruption to UK automotive trade, including clarifying whether cumulation will be extended to the EU in a UK-Japan FTA and whether a UK-EU trade agreement will include extended cumulation to Japan? What would the effect be on UK-EU trade if the automotive rules of origin in a UK-Japan FTA differed from those in the EU-Japan EPA?**

A clear ask from Japan has been the accelerated liberalisation of UK automotive tariffs in a UK-Japan FTA, faster than the liberalisation schedule set out in the EU-Japan EPA.⁹ Considering the possible increased competition from Japanese automotive companies, stakeholders have noted that a support scheme would be helpful for the UK auto sector.¹⁰ In its written response, DIT acknowledged it was aware of Japan’s demands and stated, “The UK wants to secure broad liberalisation of tariffs on a balanced and mutually beneficial basis, taking into account UK product sensitivities”.¹¹ We understand that this is a sensitive area in negotiations, but we share stakeholders’ concerns regarding the potential impacts of increased competition on the UK automotive sector, particularly under the circumstances of the COVID-19 pandemic and uncertainty regarding the outcomes of other ongoing trade negotiations. **What would be the impact on the UK if it agreed to an accelerated liberalisation of UK automotive tariffs and how would the Government respond?**

⁶ Oral evidence by Dr Meredith Crowley to the Commons International Trade Committee, 17 June 2020 (Session 2019-21), Q61 and Q62

⁷ The Society of Motor Manufacturers and Traders (SMMT), ‘[SMMT Position Paper UK-Japan Trade Negotiations](#)’, (July 2020); SMMT and the Japan Automobile Manufacturers Association (JAMA), ‘[JAMA-SMMT Joint Position Paper UK-Japan Free Trade Agreement Negotiations](#)’, (July 2020); On the cumulation point, see also oral evidence by Honda taken before the Commons International Trade Committee, 8 July 2020 (Session 2019-21), Q146.

⁸ Oral evidence by Secretary of State Liz Truss to the International Agreements Sub-Committee, 23 July 2020 (Session 2019-21), Q67

⁹ Written evidence from Honda submitted to the Commons International Trade Committee UKT0001

¹⁰ The Society of Motor Manufacturers and Traders (SMMT), ‘[SMMT Position Paper UK-Japan Trade Negotiations](#)’, (July 2020)

¹¹ Written evidence from the Department for International Trade JTN0002

Agriculture and food sectors

There have been suggestions that the short timescale for concluding negotiations might lead to a limited UK-Japan FTA, in which Japan may seek reduced access for UK agriculture and food going into its markets. Considering that Japan recently gave significant concessions on agriculture in the EU-Japan EPA, as well as in other deals with the US, CPTPP, it is a particularly sensitive area.¹² The agri-food sectors have identified potential opportunities for exporting to Japan¹³ and some businesses have already invested significant time and effort into extensive relationship building that is often required to gain ground in Japanese markets. The DIT stated in its written response to our call for evidence that the UK “will not accept rollbacks on key UK market access” and that it will “aim to preserve and build on gains from the EU-Japan EPA for the sector”.¹⁴ **Could you clarify how the Government intends to negotiate no rollbacks on key UK market access and what might be the trade-offs involved?**

The Japanese agri-food industry has indicated strong opposition to allowing the UK further access to its market beyond what it has given to the EU.¹⁵ In particular, it is opposed to the Japanese government providing additional tariff rate quotas (TRQs) for UK agri-food, on top of what it has already given the EU. There may be a risk that the UK agri-food industry could lose some of the access to the Japanese market that was gained through the EU-Japan EPA once the transition period comes to an end.¹⁶ Stakeholders have identified some agricultural products which potentially have a significant opportunity in the Japanese market, in particular, malt, skimmed milk powder, butter and whey, for which the EU had negotiated significant TRQs. You told us on 23 July, “We certainly do not want to see any rollback in existing provisions, particularly on agriculture. That is very important. Clearly, if we can make further progress in liberalisation, we will look at that”.¹⁷ **Could you tell us what you are doing to ensure that the UK will secure tariff rate quotas for key agri-food products in a UK-Japan FTA that are proportional to what it gained in the EU-Japan EPA?**

The Government’s negotiating objectives state that an FTA with Japan represents significant opportunities for UK agriculture¹⁸ and you have highlighted potential opportunities for British

¹² Oral evidence by Dr Anna Jerzewska taken before the Commons International Trade Committee, 8 July 2020 (Session 2019-21), Q127.

¹³ Written evidence from the National Sheep Association JTN0001

¹⁴ Written evidence from the Department for International Trade JTN0002

¹⁵ Sam Lowe, ‘A Japan-UK trade deal is more important than ever. Here are the key opportunities and tensions’, *The Telegraph* (9 June 2020): <https://www.telegraph.co.uk/politics/2020/06/09/japan-uk-trade-deal-important-ever-key-opportunities-tensions/> [accessed 11 June 2020]; Oral evidence by Sam Lowe to the Commons International Trade Committee, 10 June 2020 (Session 2019-21), Q12

¹⁶ Robin Harding, ‘Japan rushes UK to agree first post-Brexit trade deal’, *Financial Times* (22 June 2020): <https://www.ft.com/content/a70e644e-f585-4d20-8551-9e3972004f4f> [accessed 22 June 2020]

¹⁷ Oral evidence by Secretary of State Liz Truss to the International Agreements Sub-Committee, 23 July 2020 (Session 2019-21), Q57

¹⁸ Department for International Trade, “[UK- Japan Free Trade Agreement: The UK’s Strategic Approach](#)”, p 6, (13 May 2020)

beef.¹⁹ However, the EU-Japan EPA includes Most Favoured Nation (MFN) provisions for goods, services and investment, which effectively prevents Japan from allowing the UK greater market liberalisation than it has given the EU in these areas.²⁰ If Japan allows more favourable treatment to a third country than it has to the EU, including faster or higher tariff reductions or larger quotas, a review must be held within three months of the UK-Japan FTA entering into force, with a view to offer the EU the same conditions and to conclude the review within six months. **Does this not make it difficult to envisage the UK getting greater access to the Japanese market than the EU?**

Investment

As the automotive sector clearly demonstrates, Japanese investment in the UK is significant and its total value is in the tens of billions. However, Japanese businesses have faced a high level of uncertainty since the Brexit referendum in 2016. Some have suggested that Japan wishes to secure greater legal certainty for their investments in a post-Brexit UK. This may be in the form of stronger investor protection mechanisms in a UK-Japan FTA, including investor-state dispute settlement.²¹ The investment chapter of the EU-Japan EPA did not include investment protection mechanisms,²² so this could be an area where a UK-Japan FTA may diverge significantly from the EPA. On 23 July, when we asked you about investor protection mechanisms within the context of UK healthcare and a potential FTA with the US, you stated that, “on the subject of investor state dispute mechanisms, the fact is that the UK has never lost a case on any of those dispute mechanisms and we will maintain our right to regulate.”²³ However, you did not tell us what the UK’s position is on investor protection mechanisms and we would welcome further detail. **Could you tell us how the Government would ensure that the UK would continue to encourage Japanese investment and what its position is on investor protection provisions in FTAs, in terms of the guarantees for inward investors and the mechanisms for dispute resolution it would prefer?**

The Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP)

We understand that the Government is seeking to use the UK-Japan FTA as a stepping-stone to join the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP). Given that the CPTPP is an agreement which has already been negotiated by its current members and has entered into force, it seems clear what provisions the UK would be asked to

¹⁹ Liz Truss, ‘Post-Brexit trade deal with Japan will show world what Global Britain can do’, *The Times* (9 June 2020): <https://www.thetimes.co.uk/article/post-brexit-trade-deal-with-japan-will-show-world-what-global-britain-can-do-6dz9qztp6> [accessed 10 June 2020]

²⁰ See MFN provisions for goods (Article 2.8.4); investment (Article 8.9); and cross-border trade in services (Article 8.17) in the [EU-Japan EPA](#)

²¹ Minako Morita-Jaeger, ‘[The Japan-UK Free Trade Agreement - Continuity or no continuity? How can it still be ambitious?](#)’, *UK Trade Policy Observatory*, Briefing Paper 46, (July 2020); ‘[The Japan-UK FTA: Three fundamental issues to consider when assessing its value](#)’, *UK Trade Policy Observatory*, Dr Minako Morita-Jaeger (8 July 2020)

²² Oral evidence by Jappe Eckhardt taken before the Commons International Trade Committee, 8 July 2020 (Session 2019-21), Q108.

²³ Oral evidence by Secretary of State Liz Truss to the International Agreements Sub-Committee, 23 July 2020 (Session 2019-21), Q69

sign up to.²⁴ These provisions could set a precedent for what the UK may need to agree to in its other bilateral FTA negotiations. We asked you on 23 July about how the potential membership of the CPTPP is impacting the UK's objectives and compromises in its current bilateral negotiations but you did not tell us how the UK is managing this.²⁵

We would like to know how the prospective membership of CPTPP might affect the objectives that the UK is setting for itself in its bilateral talks and what it can achieve. Additionally, more broadly, given that the UK is negotiating with Japan, the US, Australia, and New Zealand at the same time, there are key areas and issues where there is significant overlap, such as digital trade negotiations with the US and Japan. How is the Government managing the sequencing of negotiating with multiple countries, so that it will be able to achieve its objectives and get the best deals for the UK? Could the Government use the CPTPP to negotiate provisions with Japan that might not be concluded in the current bilateral UK-Japan negotiations due to time constraints? Moreover, what sectoral analyses has the UK conducted on the impacts of tariff elimination in the CPTPP?

We will be publishing this letter on our website. We would be grateful for a detailed response to this letter's conclusions and requests for clarification, set out in bold, by no later than 1 September 2020.

Yours sincerely,



Rt Hon. the Lord Goldsmith QC
Chair of the House of Lords International Agreements Sub-Committee

Annexes:

- A: Remaining questions
- B: Members' declarations of interests

²⁴ Oral evidence by Dr Anna Jerzewska taken before the Commons International Trade Committee, 8 July 2020 (Session 2019-21), Q113.

²⁵ Oral evidence by Secretary of State Liz Truss to the International Agreements Sub-Committee, 23 July 2020 (Session 2019-21), Q56

Annex A

We would like a written response to the following remaining questions.

Call for Evidence: UK-Japan trade negotiations inquiry

General

1. Does the Department for International Trade (DIT)'s strategic approach, published on 13 May 2020, set out the right objectives for negotiations? How effectively does that strategic approach represent the interests of different groups and regions across the country, including the devolved nations, businesses, civil society, and individuals?
2. How reliable do you find the DIT's assessment of the potential impacts of the proposed agreement with Japan, either as set out in the strategic approach or elsewhere?
3. Although both countries have expressed their aspiration for reaching a comprehensive FTA before the end of the Brexit transition period, they face significant time constraints. Japan has suggested that both sides would need to limit their ambitions in negotiations. In what circumstances might the UK and Japan pursue a limited version of a trade agreement, which covers only a handful of industries, instead of a comprehensive FTA? What areas are most likely to be included in any initial 'mini-deal'?
4. What are some of the major points of disagreement that have emerged in Japan's recent trade negotiations that the Committee should be aware of when scrutinising UK-Japan negotiations?
5. What effect could a UK-Japan trade deal have on the UK's future ability to negotiate deals with other countries?
7. How might Japanese investment in the UK be impacted by a UK-Japan trade agreement? What provisions should be included in order to maintain or attract Japanese investment?
8. What rules of origin and cumulation requirements are necessary in a UK-Japan trade agreement, and how might they play into the UK's trading arrangements with the EU?

Impact on the devolved nations and UK regions

9. Do the devolved nations of the UK have any specific interests that need to be protected as part of the negotiation of a UK-wide trade deal with Japan?
10. What are the costs and benefits of a UK-Japan trade deal to the various regions of the UK? We would be especially interested in detailed economic analyses on this point.
11. The Department for International Trade (DIT) has conducted a preliminary impact assessment that outlines the gross value added (GVA) of a UK-Japan trade deal on regions in

the UK, as part of its negotiating objectives. How do you evaluate the economic analysis behind the DIT's the impact assessment? The impact assessment suggests that the trade deal could increase GVA in London, the East Midlands, and Scotland in particular. How do you evaluate this assertion? We would particularly welcome evidence specifically from representative bodies in London, the East Midlands and Scotland, and any case studies considering the impacts on those regions.

12. The impact assessment does not take into account the dynamic effects of a UK-Japan trade deal on the regions. What are some possible economic assessments of the dynamic effects of the trade deal, over time, on regions or on the UK as a whole?

13. Japan is a part of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership, which includes an investor-state dispute settlement (ISDS) mechanism. What ISDS arrangements do you think would be appropriate in this deal? What are the possible risks or opportunities for the UK in negotiating any ISDS arrangements?

Automotive sector

18. Should electric and hybrid vehicles be differentiated from other motor vehicles when setting tariff rates in a UK-Japan trade agreement?

Digital goods and services

The Government has indicated both its intention to maintain the UK's high standards in data protection and protection against online harms and its ambition to "promote a world leading eco-system for digital trade that supports businesses of all sizes across the UK".

19. How might negotiated digital trade provisions serve as enablers for businesses in the UK? What provisions would bring the most benefit and so should be the highest priority in this area?

20. What might be the trade-offs for the UK in agreeing ambitious digital trade provisions with Japan? How might the UK's data protection standards and provisions for protecting users from online harms be affected by any deal?

Agriculture and Food

22. Japan is an important market for the UK agriculture and food export industry. The Japanese agriculture industry has expressed concerns regarding granting additional access to its market if the provisions in the EU-Japan EPA on agriculture and food are rolled over in an FTA with the UK. If such provisions are not included in a UK-Japan trade deal, what consequences might there be for the UK agriculture and food industries?

Annex B: Declarations of Members' Interests for the Japan trade negotiations inquiry

Lord Foster of Bath

- *No relevant interests*

Lord Fraser of Corriearth

- *No relevant interests*

Lord Gold

- *David Gold & Associates LLP*

Lord Goldsmith

- *Partner, Debevoise & Plimpton LLP (in this capacity the member advises clients on investor-state disputes from time to time)*

Lord Kerr of Kinlochard

- *Chairman, Centre for European Reform*
- *Deputy Chairman, Scottish Power plc*
- *Member, Scottish Government's Standing Council on Europe*

Lord Lansley

- *Co-Chair, UK-Japan 21st Century Group*

Baroness Liddell of Coatdyke

- *No relevant interests*

Lord Morris of Aberavon

- *No relevant interests*

Lord Oates

- *Chair, Advisory Committee, Weber Shandwick UK*
- *Director, H&O Communications*
- *Director, Centre for Countering Digital Hate*

Lord Robathan

- *No relevant interests*

The Earl of Sandwich

- *No relevant interests*

Lord Watts

- *No relevant interests*

A full list of Members' interests can be found in the Register of Lords Interests:
<https://www.parliament.uk/mps-lords-and-offices/standards-and-interests/register-of-lords-interests/>