



Department for International Trade

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Lord Goldsmith QC
Chair International Agreements Sub-Committee
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12 October 2020

Dear Lord Goldsmith,

I am writing following the letter of 31 July that I received from the International Trade Committee (ITC) and subsequent discussions on the ITC's proposal for an FTA scrutiny arrangement between the Government and your committee and the ITC.

I am particularly keen to work with your Committee and the ITC to support your important scrutiny role. I am therefore writing to further build on these initial proposals and to set out in Annex A how my Department has worked and will continue to work with the IAC and ITC in respect of our Comprehensive Economic Partnership Agreement (CEPA) with Japan. A copy of the Written Ministerial Statement is attached at Annex B.

On Japan, my officials are working to share the initialled treaty text and drafts of related documents with your Committee around 12 October on a confidential basis as set out in the 'Statement of Confidentiality' in Annex C. These related draft documents include the Explanatory Memorandum, Parliamentary Report highlighting differences with the previous EU agreement and impact assessment. I hope this will help your Committee produce your report on the CEPA, which in turn will assist Parliamentarians in further understanding the agreement and its potential impacts when the signed treaty is laid in Parliament under the CRaG procedure.

I note that Lord Grimstone and the Chief Negotiator are to appear before your committee for a private briefing on the CEPA on 12 October.

I look forward to continuing our positive engagement with your committee as we progress our trade agenda.

Best wishes,

A handwritten signature in blue ink, appearing to read 'Elizabeth Truss', written in a cursive style.

THE RT HON ELIZABETH TRUSS MP
Secretary of State for International Trade
& President of the Board of Trade

Annex A – Japan Agreement Transparency and Scrutiny Arrangements with ITC and IAC

Prior to Negotiations:

- Undertook a call for evidence from the public, stakeholders, and MPs and Peers on the approach to negotiations.

At the launch of Negotiations:

- Published an Outline Approach for the negotiation. This included the scope of the proposed trade agreement and negotiating objectives and was accompanied by a scoping assessment providing an economic analysis of the potential impacts of an agreement.

During Negotiations:

Engagement with Parliament:

- Participated in ITC and IAC inquiries as required.
- Provided briefings by Ministers and officials to MPs and Peers on the progress of negotiations as part of X-FTA discussions.

Engagement with Industry:

- Provided regular updates to the Trade Advisory Groups to obtain expert input and get industry support for our negotiating objectives.

Now agreement in principle has been reached:

Scrutiny by the ITC / IAC:

- The text of the initialled Comprehensive Economic Partnership Agreement (CEPA) with Japan and drafts of the Explanatory Memorandum, Parliamentary Report highlighting differences with the EU agreement and impact assessment will be shared on a confidential basis with the ITC and IAC, where circumstances allow, in advance of the CRaG process starting. These documents will be under a duty of confidentiality as well as other security requirements.
- The ITC and IAC may wish to review the Japan CEPA text and related documents and in private sessions call expert witnesses, but the text and documents covered by the confidentiality requirements cannot be shared. Sighting Chairs of other Select Committees on the Japan CEPA text and related documents must be approved by DIT which will share the documents directly with those other Committee Chairs, if approved (e.g. Environment, Food and Rural Affairs Committee).
- At the end of this period the ITC and IAC may wish to produce a report on the Japan CEPA.

Scrutiny by Parliament:

- The Department will lay the signed Japan CEPA before Parliament and lay and/or publish the Explanatory Memorandum, Parliamentary Report and the impact assessment, starting the 21 sitting day CRaG process.
- During the CRaG process, the Government will endeavour to provide time for the text of the Japan agreement to be debated in the Commons and the Lords, subject to Parliamentary time, should the Committees recommend one.
- Following CRaG, Parliament will scrutinise/pass any necessary implementing legislation for the Japan CEPA.

The Government cannot provide the Committees with precise dates for actions due to the flexibility that the concluding arrangements for the Japan CEPA require but we will use all reasonable endeavours to keep the Committees informed in good time.

Annex B – Written Ministerial Statement

WRITTEN MINISTERIAL STATEMENT

Rt Hon LIZ TRUSS MP SECRETARY OF STATE FOR THE DEPARTMENT OF INTERNATIONAL TRADE.

DATE 12 October

TITLE Transparency and scrutiny arrangements with International Trade Committee and International Agreements Sub-Committee for UK-Japan Comprehensive Economic Partnership Agreement

I am setting out transparency and scrutiny arrangements for international trade deals starting with the UK - Japan Comprehensive Economic Partnership Agreement (UK-Japan CEPA) which will be signed shortly.

At the outset of negotiations, the government published its objectives for this agreement, along with a scoping assessment. During the consultation period we have discussed progress with trusted advisors across industry, including with stakeholders in farming. This sector has been involved throughout, to ensure that nothing we agree undermines our farmers' ability to compete internationally whilst producing food at a high standard. The government has also established a Trade and Agriculture Commission to advise on future trade policy. This will look at policy for our trade agreements and our work to improve the world's trade rules, making sure they work for British business and consumers.

We will share future trade agreements with the International Trade Committee in the House of Commons and the International Agreements Sub-Committee in the House of Lords, in advance of being laid in Parliament through the process set out under the Constitutional Reform and Governance Act 2010 (CRaG). Today we are doing this for the UK-Japan CEPA.

We will always endeavour to make sure the committees have at least 10 sitting days to read through these on a confidential basis, as we are doing for this deal. We are also sharing a full impact assessment which covers the economic impacts along with the social, environmental, and animal welfare aspects of the deal. This impact assessment has been independently scrutinised by the Regulatory Policy Committee.

At the end of negotiations, this government is committed to ensuring the final agreement text, alongside an explanatory memorandum, is laid in Parliament under the CRaG scrutiny procedure for 21 sitting days. This will ensure the House has sufficient time to scrutinise the detail of any deal.

This overall approach goes well beyond many comparable Parliamentary democracies. Parliament has been provided with the information it needs to provide effective scrutiny at all stages of the negotiations. We are also working constructively with the Select Committees referred to above, who may choose to produce independent reports on the agreement.

Widespread prior consultation and the publication of detailed impact assessments and objectives upfront, allows informed debate at the start of the negotiations. Extensive stakeholder engagement on the detail of the negotiations as they proceed, and confidential briefing of relevant committees, means we have taken best practice at every stage from comparable democratic systems. Combined with the confidential sharing of text at the end of negotiations, this is a best in class approach to transparency and openness to scrutiny by Parliament and other stakeholders, compared with such countries.

For example, before any of our negotiations with the US, Japan, Australia and New Zealand commenced, this government led a comprehensive public consultation or call for input. Like Canadian, Australian and New Zealand systems, we have kept Parliament updated on negotiations as they progress, including close engagement with relevant Select Committees.

These arrangements are appropriate to the UK's constitutional makeup and separation of powers. Ultimately if Parliament is not content with a trade deal, it can raise concerns by resolving against ratification and delay any implementing legislation indefinitely.

This government is committed to ensuring that no trade deal undermines key industries or lowers standards for consumers. We are concluding free trade agreements that benefit all parts of the UK, by creating opportunities for our world-leading industries and maintaining high standards, while increasing choice for consumers.

Annex C – Statement of Confidentiality

Statement of Confidentiality between the Department for International Trade and the International Trade Committee and the International Agreements Sub-Committee on the sharing of treaty text and related documents for the Comprehensive Economic Partnership Agreement between the UK and Japan

The Department for International Trade “DIT” will share the pre-signature treaty text and drafts of the related Explanatory Memorandum, Parliamentary Report and Impact Assessment for the Comprehensive Economic Partnership Agreement (CEPA) between the UK and Japan with both the International Trade Committee (ITC) and the International Agreements Sub-Committee (IAC) “the Committees” to enable them to complete a report(s) on the agreement to aid transparency and parliamentary scrutiny of the agreement.

DIT will share the text and related documents of the CEPA based on the understanding of DIT and the Committees that the information contained in the text and related documents are governed by an obligation of confidence owed in good faith by the Committees to DIT and under the following conditions:

1. DIT retains discretion to share the CEPA text and related documents with the Committees at a time of its choosing, considering wider time constraints. DIT will endeavour to allow the Committees reasonable time to produce its report(s) ahead of the final treaty text and related documents being laid in Parliament and/or published.
2. The text of the CEPA or related documents, as a whole or in part must not be shared outside a named list of members of the Committees and/or Parliamentary officials which is to be provided to DIT in advance of text sharing and whom will have access to the text for the purpose of producing the Committees’ report only. The Committees may only share the text with the named individuals and take all reasonable steps to handle the text and related documents securely. The Committees can review the documents and in private sessions can call expert witnesses, but the text and documents covered by the confidentiality requirements cannot be shared. Sighting Chairs of other Select Committees on the text must be approved and conducted by DIT and if approved these will be shared directly by DIT.
3. The Committees must not publish their final or any prior draft report on the CEPA until at least the day the final CEPA treaty text has been laid in Parliament, thereby respecting the Parliamentary convention that Parliament is the first to see a treaty.
4. The Committees should contact DIT officials immediately if there is a breach inadvertently or otherwise of the contents of this arrangement.