



International Trade Committee

14 Tothill Street, London SW1H 9NB

Tel.: 020 7219 1318 E-mail: trade@parliament.uk

Rt Hon Elizabeth Truss MP
Secretary of State
Department for International Trade
King Charles Street
Whitehall
London
SW1A 2AH

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Dear Elizabeth,

Thank you for agreeing to appear in front of the International Trade Committee later this week.

As part of my Committee's inquiry into the UK-Japan Comprehensive Economic Partnership Agreement, I would be grateful if you could respond, in writing, to the attached questions on the Agreement.

In order for my Committee to be able to report in good time before end of the 21-day sitting period allowed by the Constitutional Reform and Governance Act 2010, I would appreciate receiving answers to these questions by Tuesday 10 November.

I plan to publish this letter, and your response, on the Committee's webpage.

Yours sincerely,

Angus Brendan MacNeil
Chair of the International Trade Committee

Questions on the UK-Japan Comprehensive Economic Partnership Agreement

Rules of origin

What due diligence has DIT undertaken to assure itself that the cumulation arrangements under Article 3.5 are not in violation of Articles I (Most Favoured Nation), III (National Treatment) and XXIV (Free Trade Agreements) of the General Agreement on Tariffs and Trade?

Tariff Rate Quotas

What modelling has DIT done of the impact of the UK no longer having access to 15 Tariff Rate Quotas (TRQs) under the Japan-EU Economic Partnership Agreement (JEEPA) – particularly in respect of TRQ23 (Butter, Skimmed Milk Powder, Milk powder, Butter Milk Powder and Condensed Milk)?

What modelling has DIT done of usage of the remaining 10 EU TRQs (listed in Annex 2-A Part 3 - Section B) and how it's likely to change in the coming years as the relevant provisions in JEEPA are progressively implemented – potentially squeezing the “headroom” available for the UK to use?

A side-letter to the Agreement commits Japan to “take all reasonable steps to maximise the utilisation of the [TRQ] scheme”. What specific steps is Japan obliged to take in this respect?

The side-letter also commits Japan to participate in a review of the TRQ scheme if UK cheese exports under the scheme fall in any given year. In that circumstance, what measures does DIT expect Japan might take to remedy the situation – and how far would it be obligated to implement any such measures?

- Why is this commitment only made in relation to use of the cheeses quota (TRQ25)?

DIT's [press release](#) on the Agreement says that “Japan has guaranteed market access for UK malt exports under an existing quota which is more generous and easier to access than the EU quota.” Can DIT explain how this is the case given that: the UK already has access to Japan's autonomous / global quota for malt; there's more competition for it (as it's open to the whole world); and this quota can be unilaterally changed or removed by Japan at any time, unlike the EU malt quota (TRQ10), which Japan is obligated under JEEPA to maintain?

Can DIT set out in plain language how Japanese importers will be able to claim preferential treatment for UK goods in relation to the TRQ scheme, as provided for under Annex 2-A Part 3 - Section B?

Agricultural safeguards

The agricultural safeguards threshold (under Article 2.5) will apply to EU and UK imports combined. What modelling has DIT done of the effect of this arrangement compared to there being separate safeguards thresholds for UK and EU imports?

Services

DIT's [press release](#) on the Agreement states (regarding Article 8.31) that it has secured "Improved market access for UK financial services – including greater transparency and streamlined application processes for UK firms seeking licences to operate in Japan." If the basis for granting licences to operate remains unchanged, in what sense is market access increased?

DIT's [press release](#) on the Agreement states (regarding Annex 8-A, paras 17–25) that "The deal creates an annual dialogue between Her Majesty's Treasury, UK financial regulators, and the Japanese FSA that will explore ways to further reduce regulatory friction - something that would be impossible were the UK still in the EU." What is the difference in this regard between the provisions in CEPA in respect of the Joint UK-Japan Financial Regulatory Forum and those in JEEPA regarding the Joint EU-Japan Financial Regulatory Forum?

Article 8.5.1 states that the Parties shall endeavour, where appropriate, to reduce or eliminate the non-conforming measures set out in their respective Schedules. What timeframe, if any, will apply in this regard?

On [14 September](#), the Secretary of State told the House that "We have achieved improvements in areas such as transportation services". Which provisions of the Agreement was she referring to and how do they differ from those under JEEPA?

The UK's Schedules on entry and temporary stay of natural persons in Annex 8-B do not offer reciprocity with Japan in length of stay for contractual service providers and investors; nor do they include reference to the ability of a spouse to apply for change of status to enable them to work. Why is this the case?

Why does the Agreement not go beyond JEEPA in liberalising market access to the UK audio-visual sector (Article 8.4.2)?

Digital and data

Does the scope of the "Personal Information Protection" exception (Article 8.80) allow the UK to comply with ongoing domestic and international legal obligations to protect the personal data of: (a) UK nationals; and (b) EU and other non-UK nationals?

- Was the view of the Information Commissioner sought on the exception itself – and, if so, what did she conclude?
- What implications, if any, does the scope of the exception have for the UK obtaining adequacy decisions from the EU, and for Japan maintaining its own EU adequacy decision?

Agreement implementation and governance

Article 1.3 states that the Agreement applies to the whole territory of the UK. However, Article 1.9.5 provides that, where there is an inconsistency between the Agreement and the Protocol on Ireland / Northern Ireland, a Party is not prevented from taking a step in relation to that inconsistency, even if it is inconsistent with the obligations of the Agreement. What possible scenarios have been foreseen that have led to the inclusion of Article 1.9.5?

JEEPA provides for the Joint Committee, Specialised Committees and Working Groups under the Agreement to make decisions “by meeting in person or in writing”. CEPA additionally allows decisions of these bodies to be made “by other means” (Article 23). What “other means” are anticipated here, and how will decisions made in that way be recorded and made transparent?

JEEPA provides for a Select Committee on Cooperation in the Field of Agriculture. CEPA provides instead for a Working Group on Cooperation in the Field of Agriculture (Article 19.5). What difference will this make to the potential composition and role of this body as compared to its counterpart under JEEPA?

Certain aspects of the Agreement’s Sanitary and Phytosanitary provisions (Article 6.12) are not subject to the main dispute resolution mechanism (set out in Chapter 22). Why does CEPA differ from JEEPA in this respect – and what practical impact does DIT expect this to have?

Under Clause 2 of the Trade Bill as it currently stands, the Government would have the power to change domestic law by means of regulations in order to implement CEPA, even where ordinarily primary legislation would be necessary (since Clause 2 confers a “Henry VIII power” in this respect). Does the Government envisage using this provision of the Trade Bill in respect of CEPA?

Intellectual Property

Regarding protected Geographical Indications, DIT has [tweeted](#) that “Under [JEEPA], the EU was not able to put forward any products without explicit Japanese agreement”, in contrast to CEPA. How does Article 14.34 of CEPA differ from the equivalent provision in JEEPA in this respect?

Articles 14.55, 14.58 and 14.59 commit the UK to having dispute resolution approaches, including criminal penalties and particular remedies, for certain breaches of IP rights. Will those provisions require changes to UK law – and, if so, will they require primary legislation?

CPTPP accession

A side-letter to the Agreement deals with the UK’s prospective accession to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership. What does the side-letter oblige Japan to do in this regard?

Technical Barriers to Trade

What are the legal and practical effects of the EU-Japan Agreement on Mutual Recognition being incorporated into CEPA as a Protocol, rather than being rolled over from the corresponding EU-Japan agreement as a standalone UK-Japan Mutual Recognition Agreement?

Customs cooperation

Article 2.32.1 refers to “an agreement on cooperation and mutual administrative assistance in customs matters to be concluded between the Governments of the Parties” (CMAA); and this agreement is mentioned in Articles 3.23 and 4.12.1. What will be the scope of that agreement and what is the timetable for concluding it?

- The Parliamentary Report indicates at para 59 that the equivalent of the EU-Japan Joint Customs Cooperation Committee which will be established pursuant to the UK-Japan CMAA will be more narrowly constituted than its EU counterpart. Why is that?

Territorial Application

On what basis will the Government exercise its right to have the territorial application of CEPA extended to cover UK Crown Dependencies or Overseas Territories, as provided for under Article 1.3.5?

- Have any Crown Dependencies and Overseas Territories requested that the Agreement be extended to include them under the provisions of Article 1.3.5?
- What role, if any, did Crown Dependencies and Overseas Territories have in negotiating CEPA?

How will Parliament be involved in any decision by the UK to increase (under Article 1.3.5) or decrease (under Article 1.3.6) the territorial application of the Agreement?

Security Exceptions

The wording of Article 1.5, on security exceptions, differs slightly from the equivalent Article in JEEPA. The Parliamentary Report states at para 43 that this is to allow “the UK Government to protect legitimate domestic security priorities”. How does the change in wording achieve this?