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**Scrutiny of international
agreements: UK-Japan
Comprehensive Economic
Partnership Agreement**

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The European Union Committee

The European Union Select Committee and its five sub-committees are appointed each session to consider EU documents and draft laws; to consider other matters relating to the UK's relationship with the EU, including the implementation of the UK/EU Withdrawal Agreement, and the Government's conduct of negotiations on the United Kingdom's future relationship with the European Union; and to consider matters relating to the negotiation and conclusion of international agreements generally.

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Q in footnotes refers to a question in oral evidence.

SUMMARY

On 23 October 2020, the UK and Japan signed a new Comprehensive Economic Partnership Agreement (CEPA), which will replace the existing EU-Japan Economic Partnership Agreement (JEEPA) at the end of the Brexit transition period, when otherwise there would have been a reversion to trading on WTO terms. This is therefore an important agreement for UK and Japanese businesses and consumers.

This report considers CEPA against the Government's stated objectives and reviews it in the context of the Government's advertisement of it. Overall, CEPA provides valuable continuity for businesses, consumers and other stakeholders. Most of its chapters are rolled over from JEEPA, but it does secure some useful additional provisions. We do, however, have concerns about how the Government has presented the deal publicly, in some respects overselling the extent of CEPA's achievements in going beyond JEEPA. By exaggerating the gains made, including by comparing the outcome not with the status quo but with WTO terms, the Government courts unjustified scepticism about what is a respectable continuity-plus agreement.

Regarding trade in goods, CEPA's negotiated tariff reductions largely keep pace with those in JEEPA. This means that UK exporters will not be at a competitive disadvantage versus EU exporters because of differential tariffs. However, the UK's negotiated access to tariff rate quotas (TRQs), although affecting only a small proportion of agri-food exports, does leave UK exporters at a disadvantage compared to EU exporters, with only second-order access to the preferential rate via access to unused EU quota. CEPA offers a potential extension of Geographical Indications (GIs) for unique British products. The value of these provisions will only become clear in the light of the success or otherwise of applications for additional GIs, and Japanese approval may take longer than anticipated, but this seems to be at least a potential victory for the Government.

CEPA contains welcome provisions on rules of origin and cumulation, which will help protect existing supply chains and manufacturing. But for these and tariff reductions to be most valuable to key sectors, such as car and railway parts manufacturing in the UK, including by Nissan, Toyota and Hitachi, the UK and EU must agree similar provisions. While JEEPA clearly enabled the Government to produce a bilateral rollover agreement more easily, the lack of any UK-EU agreement in time for CEPA on, for example, rules of origin has proved to be an obstacle to a conclusive settlement.

CEPA offers improvements over JEEPA's services and investment chapter, including provisions supporting digital trade that move closer to the provisions of the Comprehensive and Progressive Trans-Pacific Partnership (CPTPP), which the UK seeks to join in due course. The new provisions in CEPA will have cross-cutting benefits for a range of sectors, including financial services, environmental goods, and manufacturing, although we note that concerns have been raised about how these new provisions might affect data protection. CEPA also enhances the ability of companies to send and maintain employees between the UK and Japan, which will be a benefit for businesses. However, CEPA does not offer a comprehensive, stand-alone investment chapter, which we think would have been of benefit to the UK once it is no longer a gateway to the EU.

We note that, because of the required pace of negotiations for a deal to be in place by the end of the transition period, it has not been possible to achieve some of the objectives of key industries, such as the creative industries, which might have required primary legislation on both sides. The Government should aim to achieve more in this area in future trade negotiations.

Other areas where outcomes have been relatively modest are women's economic empowerment and sustainable development. While CEPA includes a new chapter on the former, this is framed in non-binding language, and it remains to be seen how effectively the Government will use cooperative mechanisms to further the aim of women's economic empowerment. The published Impact Assessment does not clearly answer the question of whether CEPA will benefit women particularly, economically or otherwise. CEPA retains JEEPA's chapter on sustainable development, with some marginal changes that seem to slow the pace of cooperative work. These chapters have not demonstrated international leadership in these areas in the way they might have done.

The Impact Assessment also does not help us judge the full benefit of CEPA, or whether the Government has successfully negotiated a more bespoke deal better suited to UK interests, as it takes as its baseline the UK and Japan trading on WTO terms and does not consider how the UK would have fared under JEEPA. We recognise that the policy choice facing the Government is between trade with Japan on WTO terms or trade under CEPA, as the UK cannot remain a party to JEEPA after the end of the transition period. Nevertheless, the relative merits of CEPA and JEEPA are important context. The Government previously published an Impact Assessment of JEEPA that predicted larger GDP, export and import growth than those predicted in its Impact Assessment of CEPA, for example a £2.1–3bn per annum GDP increase in the long term, versus the £1.5bn per annum GDP increase in the long term estimated for CEPA. It would have been useful if the Government's explanatory materials had addressed this fact to better explain CEPA's consequences. We also would have welcomed analysis of respective gains that the UK and Japan have won through renegotiating. We note, for example, that the Government's Impact Assessment estimates that UK exports to Japan will increase by 17.2% long term under CEPA, while Japanese exports to the UK will increase by 79.9%.

Finally, we welcome the Department for International Trade's constructive attitude to working with us to try to facilitate scrutiny, including private briefings and confidential access to documents. The process for CEPA was not perfect, but clear lessons have been learned. We look forward to improving the process for scrutinising trade deals in the future.

Scrutiny of international agreements: UK-Japan Comprehensive Economic Partnership Agreement

CHAPTER 1: INTRODUCTION

1. The International Agreements Sub-Committee was established in April 2020 as a sub-committee of the European Union Committee. Its responsibility is to consider “matters relating to the negotiation and conclusion of international agreements”. This includes, but is not limited to, all treaties laid under the Constitutional Reform and Governance Act 2010 (CRAG) and those trade agreements the Government is negotiating post-Brexit.¹
2. The Comprehensive Economic Partnership Agreement between the UK and Japan (CEPA) was laid before Parliament on 23 October 2020.² The CRAG scrutiny period is scheduled to end on 8 December. CEPA was published along with a range of explanatory documents, including a Parliamentary Report, an Explanatory Memorandum, and an Impact Assessment.³ This report on CEPA and its accompanying documents was considered by the International Agreements Sub-Committee on 18 November.

Background

The underlying EU agreement and UK-Japan negotiations

3. As an EU Member State, the UK was party to the EU-Japan Economic Partnership Agreement (JEEPA), which entered into force on 1 February 2019, and has continued to be part of this agreement during the Brexit transition period.⁴ CEPA seeks to maintain the effects of JEEPA in a bilateral context from 1 January 2021 and to “go beyond” JEEPA in some areas.
4. Negotiations between the UK and Japan were launched on 9 June 2020 by the Secretary of State for International Trade, Rt Hon Liz Truss MP, and the Japanese Foreign Affairs Minister Toshimitsu Motegi. Agreement in principle was reached on 11 September, and CEPA was signed on 23 October.

UK-Japan trade

5. Japan is the UK’s fourth-largest non-EU export market, accounting for over 2% of the UK’s total exports in 2018. Because JEEPA only came into

1 The main EU Select Committee will, however, take responsibility for scrutinising any UK-EU free trade agreement under CRAG.

2 Agreement, done at Tokyo on 23 October 2020, between the United Kingdom of Great Britain and Northern Ireland and Japan for a Comprehensive Economic Partnership, CP 311, 2020: <https://www.gov.uk/government/publications/ukjapan-agreement-for-a-comprehensive-economic-partnership-cs-japan-no12020> [accessed 3 November 2020]

3 Department for International Trade, *UK/Japan: Agreement for a Comprehensive Economic Partnership* (23 October 2020): <https://www.gov.uk/government/publications/ukjapan-agreement-for-a-comprehensive-economic-partnership-cs-japan-no12020> [accessed 11 November 2020]

4 European Commission, *EU-Japan Economic Partnership Agreement: texts of the agreement* (December 2017): <http://trade.ec.europa.eu/doclib/press/index.cfm?id=1684> [accessed 11 November 2020]

force relatively recently, more up-to-date figures reflecting trade under that agreement are not available. On 2018 figures, total trade between the two countries was worth over £29.5bn, and the UK is Japan's 13th-largest export market and accounted for approximately 2% of its total exports. Of the UK's exports to Japan, 49% were goods, of which turbojets, machinery and engines were the top exports between 2016–18. Just over half of the UK's exports to Japan were in services, with financial services being the top export, followed by other professional services, including auditing, accounting and legal services.⁵

Future negotiations to join the Comprehensive and Progressive Trans-Pacific Partnership

6. The Government has stated that its negotiations with Japan—as well as its ongoing bilateral negotiations with Australia and New Zealand—are intended to act as a stepping-stone to the UK acceding to the Comprehensive and Progressive Trans-Pacific Partnership (CPTPP).⁶
7. The CPTPP is a trade agreement between 11 countries: Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, and Vietnam. When it is ratified in all member countries (ratification is pending in Brunei, Chile, Malaysia, and Peru), the CPTPP will cover 13.5% of global GDP and 495 million consumers.⁷ It is based on the Trans-Pacific Partnership (TPP), which was negotiated by the current 11 members and the United States, until the withdrawal of the US in 2017. The CPTPP largely copies the TPP, but some provisions on intellectual property and investment protection advocated by the US were removed.
8. CEPA is accompanied by a side letter on CPTPP accession, in which Japan expresses its “firm determination to support the early accession of the United Kingdom to the CPTPP”.⁸ The UK's aspiration to join the CPTPP has particular relevance to CEPA's arrangements for tariff rate quotas, which we consider in detail in Chapter 2.

This report

9. We launched our inquiry into the CEPA negotiations on 25 June, taking oral and written evidence about the UK's objectives, the progress of negotiations, and the final deal. We are grateful to all those who gave evidence, and they are listed in Appendix 2.
10. This report considers first the key chapters where CEPA varies more than minimally from JEEPA: on tariffs, rules of origin and cumulation, trade in services, digital trade, and intellectual property. It then sets out those chapters that are identical, or nearly identical, to JEEPA, before moving on

5 Department for International Trade, *UK-Japan Free Trade Agreement: The UK's Strategic Approach* (13 May 2020), p 13: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/885176/UK_Japan_trade_agreement_negotiations_approach.pdf [accessed 10 November 2020]

6 For example, in her Written Ministerial Statement about the opening of negotiations with Japan, the Secretary of State called them “a logical first step to joining” the CPTPP (13 May 2020, [HCWS231](#)).

7 Government of Canada, *What is the CPTPP?:* <https://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/cptpp-ptpdp/index.aspx?lang=eng> [accessed 11 November 2020]

8 Department for International Trade, *The UK's trade relationship with Japan: parliamentary report* (23 October 2020), pp 36–7: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/929175/UK-Future-Trading-Relationship-with-Japan-accessible.pdf [accessed 11 November 2020]

to consider practical matters, including the Government's presentation of CEPA and ways of working with Parliament. It is intended to both inform Parliament's consideration of the deal and its implementation and contribute to public debate about the UK's trade-deal making.

11. Given the short timeframe for scrutinising the agreement, we are limited to focusing on the key elements, though we received valuable evidence from stakeholders from a wide range of sectors and backgrounds, including submissions about how Japan needs to improve its domestic regulation regarding animal welfare,⁹ and submissions about children's rights.¹⁰ It has not been possible to cover these issues in detail, but we note them here as they have been brought to our attention.
12. One key question for our inquiry was how to evaluate the success of trade negotiations. Prior to negotiations, the Government published its "strategic approach", including "outline" negotiating objectives, drawing on a 2019 Call for Input. Stakeholders have raised with us the question of whether those objectives were the right ones, and we believe that Parliament has a duty not only to compare the final agreement with the Government's published objectives but also to ask whether the deal is objectively good for the UK and achieves useful outcomes, whether or not publicly stated as Government objectives.
13. **We draw special attention to the UK-Japan Comprehensive Economic Partnership Agreement on the grounds that:**
 - **It is politically important and gives rise to issues of public policy that the House may wish to debate prior to ratification.**

9 The British Veterinary Association expressed concerns that Japan failed to meet UK standards in animal welfare, noting that the Animal Protection Index gave Japan an E rating for animal welfare in comparison to a rating of B for the UK ([JTN00014](#)). Cruelty Free International also raised concerns regarding animal testing in the Japanese cosmetics industry for products deemed to be quasi-drugs ([JTN0008](#)).

10 British Children Abducted To Or Within Japan stated that an estimated 1400 British children have been abducted and British parents have no legally enforceable rights to see their children, despite Japan being a signatory of treaty obligations relating to human rights ([JTN0006](#)).

CHAPTER 2: TRADE IN GOODS (CEPA CHAPTER 2)

14. The Government's published objectives in this area included "broad liberalisation of tariffs", "taking into account UK product sensitivities", and securing "comprehensive access for UK industrial and agricultural goods" through lowering tariffs.¹¹

Tariff reductions

15. For the most part, CEPA replicates JEEPA's provisions for trade in goods. JEEPA achieved a high level of liberalisation, with the EU agreeing to eliminate 99% of tariff lines, and Japan agreeing to eliminate 97% of tariff lines and making significant concessions in the form of Tariff Rate Quotas (TRQs), which are considered in the next section. Through JEEPA, tariffs on industrial goods will in due course be fully eliminated on both sides, with staging, or phased reductions, for sensitive products (chiefly automotive vehicles in the EU, and wood and leather products in Japan).¹² Tariff preferences in CEPA will be "almost identical", with 94% of Japanese tariff lines and 99% of UK tariff lines fully liberalised in the long term.¹³
16. The Department for International Trade (DIT) has stated that the UK gained "strong tariff reductions for UK pork and beef exports", and a range of other agricultural projects, in CEPA.¹⁴ In fact CEPA does not deliver new reductions, but retains those negotiated under JEEPA. In general, further tariff liberalisation beyond JEEPA has not been achieved on either side. For example, GR Japan pointed us to Japan being "unable to secure better elimination of tariffs on imported autos" than in JEEPA.¹⁵ Nevertheless, for a small number of goods, additional tariff reductions will be brought forward. Two UK tariff lines covering electrical control units frequently used in cars will be eliminated at entry into force, instead of 2024 in JEEPA, and CEPA reflects the UK's elimination of tariffs on 21 industrial goods tariff lines in its Global Tariff schedule, including goods such as speed indicators for land vehicles.¹⁶ Japanese tariffs on nine tariff lines covering certain leathers and hides will be eliminated in 2026, instead of 2028 under JEEPA.¹⁷
17. Aside from these small changes, CEPA's tariff reductions will keep pace with JEEPA's staging, which witnesses raised as important during negotiations and have since welcomed. During negotiations, the National Farmers' Union (NFU) told us of the risk that, if CEPA and JEEPA involved "tariffs cut over a different timescale or to different levels", UK businesses might be "at a competitive disadvantage compared to equivalent EU businesses". They noted that "market share is hard won", and that any EU "preferential access over and above the UK" would allow EU exporters to "establish themselves earlier, leaving less room in the market for UK imports".¹⁸

11 *Strategic approach*, p 9

12 European Commission, *The Economic Impact of the EU-Japan Economic Partnership Agreement (EPA)* (July 2018): https://trade.ec.europa.eu/doclib/docs/2018/july/tradoc_157115.pdf [accessed 11 November 2020]

13 *Parliamentary report*, paras 44-45

14 See Lord Grimstone's letter to the Committee of 23 October, set out in Appendix 4.

15 Written evidence from GR Japan ([JTN0047](#))

16 *Parliamentary report*, para 47

17 *Ibid.*, para 49

18 Written evidence from the National Farmers' Union ([JTN0015](#)); see also written evidence from the Food and Drink Federation ([JTN0009](#)).

18. **We welcome CEPA’s tariff reductions keeping pace with EU-Japan reductions, protecting UK competitiveness in the Japanese market. However, the Government’s presentation of tariff liberalisation on products like UK pork and beef exports as though they were new to CEPA is just the first instance of what will be a theme of this report: the Government presenting as a new gain the retention of EU-negotiated provisions. Except for a faster tariff reduction for leather and hide goods in the Japanese tariff schedule, the UK does not seem to have secured significant improvements in this area.**

Tariff rate quotas

19. TRQs are a set amount of imports on which reduced, or zero, tariffs will be paid. Imports above the quota will be subject to the normal rate.¹⁹ TRQs can exist in both WTO schedules and free trade agreements. As mentioned above, in JEEPA Japan agreed a slightly lower level of tariff liberalisation than the EU, but made significant concessions in the form of 25 TRQs for EU exports to Japan.
20. TRQs reflect only a very small percentage of UK agri-food exports to Japan, but this issue is nevertheless important, as the provisions contained in CEPA contain uncertainties for UK exporters. Under CEPA, 10 TRQs will remain available to UK exporters,²⁰ but they will only be able to use left-over quota unused by EU exporters. NFU raised concern that, as exports to Japan from both the UK and EU rose in the future, the EU might exhaust the TRQs, leaving no preferential rate access for UK exporters,²¹ which, as the FDF noted, “create[d] significant uncertainty” and “risk[ed] undermining UK trade in these products”.²²
21. In his evidence, the Chief Negotiator, Mr Graham Zebedee, told us that there was currently headroom in the EU quotas, adding that there was “no reason to think” that would change, “according to what the Japanese tell us”. We note, however, that JEEPA is relatively new, so TRQ uptake is likely to be low at the moment. DIT’s modelling suggests that the headroom available now may be lost by 2024.²³ UK exporters will also experience some uncertainty about what access they have to the TRQ in-year, as although they will not be required to pay the full tariff up-front, “[s]hould 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”.²⁴ Nevertheless, Japanese importers may have to provide a guarantee to the Japanese customs authority through its Before Permit scheme.²⁵

19 Usually the Most Favoured Nation (MFN) rate. MFN rates are the tariffs that WTO members impose on imports from other members, unless they are part of a preferential trade agreement.

20 Those relating to wheat products (TRQ1); mixes and doughs and cake mixes (TRQ2); food preparations made primarily of wheat (TRQ3); food preparations of barley (TRQ8); coffee, tea mixes, food preparations and doughs (TRQ11); food preparations (TRQ12); food preparations containing more than 50 per cent of sucrose, and cocoa powder (TRQ15); food preparations containing cocoa (TRQ19); food preparations containing cocoa (for the preparation of chocolate) (TRQ20); and cheese (TRQ25).

21 [Q 21](#) (Nick von Westenholz)

22 Supplementary written evidence from the Food and Drink Federation ([JTN0041](#))

23 This analysis was set out in a letter from the Secretary of State for International Trade to the Chair of the House of Commons International Trade Committee dated 12 November 2020: <https://committees.parliament.uk/publications/3515/documents/33729/default/> [accessed 18 November 2020]

24 [Q 34](#) (Graham Zebedee)

25 Secretary of State’s letter to the Chair of the Commons International Trade Committee

22. One positive change was the simplification of paperwork requirements for UK exporters using TRQs. UK exporters will no longer need to file a marketing plan, but will “only require documentation such as Rules of Origin certificates”.²⁶
23. The UK’s second-order TRQ access is presented as an interim measure until the UK joins the Comprehensive and Progressive Trans-Pacific Partnership (CPTPP), which has its own TRQs. Japan has expressed support for the UK’s quick accession to the CPTPP and use of those TRQs in a side letter to CEPA.²⁷ Mr Zebedee told the Committee that joining the CPTPP should be straightforward, in the light of the political weight that Japan has given its position of chair of the CPTPP next year.²⁸ However, it is unclear whether, or when, the UK will in fact accede to the CPTPP.
24. **The arrangements in CEPA for the UK’s continued access to some tariff rate quotas are sub-optimal. It is better to have access to these TRQs than not, but uncertainty around how much of the TRQ will be left for UK exporters is likely to disincentivise their use. EU exporters are likely to use the TRQs more as they become more familiar with them, potentially limiting UK exporters’ opportunities. Further, as it will not be clear at the time of ordering goods whether they will in fact benefit from the lower tariff, we have been told that this will make British goods less attractive vis-à-vis EU goods. The streamlining of the process that the UK and Japan have agreed, with less paperwork required for UK exporters to use the TRQ, is welcome in principle but unlikely to mitigate this uncertainty.**
25. The TRQ for malt (a key ingredient in the manufacture of whisky and beer) became a specific area of focus, as the UK lost access to the EU TRQ for malt. Instead it has signed a specific side-letter with Japan on market access, which will continue under an autonomous TRQ set out by the Japanese government. The Maltsters’ Association of Great Britain (MAGB) highlighted that Japan was “the single largest export destination for UK malt with up to 90,000 tonnes exported annually”,²⁹ and the Grain and Feed Trade Association echoed the importance of maintaining grain trade flows, including malt.³⁰
26. The Government has said that, in CEPA, the UK gained “more generous market access for malt producers”.³¹ However, as MAGB has noted, CEPA only “offers the same benefits as the existing system”, with the new side-letter on malt offering “reassur[ance]”, but not “chang[ing] anything”.³² Japan remains free to modify its quota in the future.
27. **As Japan’s autonomous TRQ for malt has always been available to UK exporters, we fail to see how CEPA has secured “more generous**

26 Written evidence from Dairy UK ([JTN0043](#))

27 This and the other side-letters should be read as political statements and are not legally binding.

28 [Q 34](#)

29 Written evidence from The Maltsters’ Association of Great Britain ([JTN0037](#))

30 Written evidence from the Grain and Feed Trade Association ([JTN0011](#))

31 Department for International Trade, ‘UK and Japan agree historic free trade agreement’, (11 September 2020): <https://www.gov.uk/government/news/uk-and-japan-agree-historic-free-trade-agreement> [accessed 11 November 2020]

32 Written evidence from The Maltsters’ Association of Great Britain ([JTN0037](#)); the Food and Drink Federation also noted that “the loss of access to the EU’s quota removes a potentially useful alternative preferential route to market for UK malt exporters” outside of Japan’s global quota ([JTN0041](#)).

market access”, as the Government claims. Nonetheless, we welcome the assurance provided to UK exporters by the side-letter on malt.

CHAPTER 3: RULES OF ORIGIN AND ORIGIN PROCEDURES (CEPA CHAPTER 3)

28. The Government's published objectives in this area were also very general: to agree "simple and modern" rules of origin (RoOs) that were "clear and flexible" and reflected "UK industry requirements", including "existing as well as future supply chains".³³ Stakeholders also identified specific complexities for certain industries, in particular regarding cumulation. This chapter addresses RoOs first, followed by cumulation.

Rules of origin

29. RoOs provide criteria for determining the economic nationality of a good. To qualify for preferential tariff rates, a good must "originate" in a country party to the trade agreement. Due to global value chains, many final products, like foodstuffs or automotive vehicles, are made up of a variety of inputs, which may not always be sourced or processed in the countries party to the FTA. RoOs thus govern how "intermediate inputs which are not of 'domestic' origin" can be used while still benefiting from "preferential access into each other's markets".³⁴ This is usually achieved by means of thresholds for how much of a product's inputs must qualify as domestic, by reference either to a certain share of the total value or weight of the product. The more non-originating materials allowed in a product, the less restrictive the RoOs are.
30. While negotiations were ongoing, the Food and Drink Federation (FDF) stated that the RoOs needed to be generous enough to preserve existing supply chains, particularly as issues related to climate and seasonality required producers to source ingredients globally.³⁵ The National Office of Animal Health argued that the RoOs should not restrict the supply and manufacturing processes of veterinary medicines.³⁶ On the other hand, the NFU cautioned that they should not overly encourage the substitution of UK materials for imported ones.³⁷ The National Sheep Association also noted that it "wouldn't want to see the authenticity and value of UK sheep meat and sheep products undermined by 'substantial transformation'" that would allow imported inputs to be used in place of UK ones.³⁸
31. CEPA provides less restrictive RoOs for certain products than under JEEPA. The Government indicates that changes were made to the Product Specific Rules contained in Annex 3-B to allow UK exporters to import key ingredients from other countries and use them in their exports to Japan, in particular in products such as pet food, confectionery and baked goods, and certain textiles.³⁹ FDF noted that most agri-food-related rules were unchanged from JEEPA, but welcomed the simplification of rules for some products, providing greater flexibility for the sourcing of inputs for use in UK products for export to Japan, particularly benefiting UK pet-food manufacturers and bakers and biscuit makers.⁴⁰

33 *Strategic approach*, pp 9 and 16

34 Written evidence from Dr Minako Morita-Jaeger ([JTN0029](#))

35 Written evidence from Food and Drink Federation ([JTN009](#))

36 Written evidence from the National Office of Animal Health ([JTN0016](#))

37 Written evidence from the National Farmers Union ([JTN0015](#))

38 Supplementary written evidence from the National Sheep Association ([JTN0044](#))

39 *Parliamentary report*, para 67

40 Supplementary written evidence from the Food and Drink Federation ([JTN0041](#))

32. For some sectors, it was important for CEPA to maintain the same RoOs as those in JEEPA, in order to be eligible for cumulation (discussed further below). The Society of Motor Manufacturers and Traders (SMMT) recommended during negotiations that CEPA maintain JEEPA's RoOs for automotive vehicles and parts.⁴¹ The North East England Chamber of Commerce noted that “allowing Japanese parts to count towards local content from the UK to EU” was “crucial for automotive industries”, particularly regarding electric vehicles (EVs), because the EU was “not well developed in EV production” and “many parts” came from Japan.⁴² We discuss this further below, but in short this will remain uncertain until a UK trade deal with the EU is concluded.
33. CEPA's origin procedures are also “more flexible”,⁴³ for example allowing importing parties to specify longer single shipment origin statements (i.e. to certify the origin of those products for longer than the 12 months allowed in JEEPA) (Article 3.3.17). The FDF said this would probably help reduce costs for businesses.⁴⁴
34. **The rules of origin for some products, such as baked goods and textiles, are more liberal in CEPA than in the EU-Japan agreement, and this could be beneficial for some manufacturers seeking more flexibility in sourcing inputs. Continuity in the rules of origin for automotive vehicles and parts has been welcomed by the sector. We also welcome the increased flexibility of origin procedures in CEPA.**

Cumulation

35. Cumulation is a mechanism through which trade agreements may allow inputs sourced or processed in a country outside the relevant agreement to count towards meeting the origin requirements for preferential treatment. There are several types of cumulation, with varying levels of flexibility.
- (a) Bilateral cumulation allows originating products of one country in a FTA to be further processed or added to products in another country in the FTA, as if they had originated in the latter country. It is the most basic type of cumulation.
 - (b) Diagonal cumulation allows for materials originating in a defined country to be used as if they had originated in the home country, as long as the respective countries all have FTAs with each other and the product-specific RoOs are identical.
 - (c) Full cumulation allows the countries in a FTA to process non-originating products.
 - (d) Extended cumulation is an even more flexible approach, in which there is no requirement for the countries involved to have FTAs with each other or for any FTAs to have identical RoOs.

41 Society of Motor Manufacturers and Traders, *SMMT Position Paper: UK-Japan Trade Negotiations* (July 2020), p 4: https://www.smmt.co.uk/wp-content/uploads/sites/2/SMMT-Position-Paper-on-UK-Japan-Trade_Final.pdf [accessed 11 November 2020]

42 Written evidence from the North East England Chamber of Commerce ([JTN0017](#)); see also [Q 2](#) (James Ramsbotham).

43 *Parliamentary report*, para 66

44 Supplementary written evidence from the Food and Drink Federation ([JTN0041](#))

36. During the negotiations, many witnesses advocated diagonal cumulation between the UK, Japan and the EU to maintain trilateral trade flows.⁴⁵ As noted above, this need is particularly acute for some sectors, like the automotive industry. SMMT told us: “because we are part of a European industry, we need to see that recognition and be able to cumulate parts and components from Europe”.⁴⁶ Dr Anna Jerzewska noted the difficulty in achieving diagonal cumulation because all parties must have FTAs with each other and meet the highly restrictive requirement of having identical RoOs. She suggested that extended cumulation between the parties might be more achievable.⁴⁷
37. Any trilateral cumulation relationship requires a UK-EU trade agreement. Under CEPA, cumulation will be allowed for products that are “economically significant for the UK”, “ensur[ing] continuity for those businesses that currently use inputs from the EU in their exports to Japan”.⁴⁸ This extended cumulation for EU inputs and processing to be cumulated has been welcomed by stakeholders,⁴⁹ and it represents the first leg of a triangular cumulation agreement, alongside a provision that “seeks to ensure continuity for UK exports to the EU which contain Japanese inputs”, subject to a UK-EU agreement being reached (Article 3.5).⁵⁰ With that further agreement in place, UK manufacturers could continue to use Japanese components to meet RoOs requirements for onward export to the EU.
38. However, press reports in September suggested that, with regards to the automotive industry, the EU was unwilling to allow extended cumulation for Japanese inputs.⁵¹ This would be seriously disadvantageous to the UK. We note the evidence given to us by the SMMT that the cost to the industry of no-deal with the EU “could be as much as £110 billion”, split between the UK and the EU and “cost[ing] the European side slightly” but “not a huge amount” more.⁵² The North East England Chamber of Commerce also told us that “around 80% of finished products for the automotive sector” exported from the North East went to the EU,⁵³ while “export trade to Japan” represented “only 2%” of the North East’s regional economy.⁵⁴
39. **CEPA alone cannot secure diagonal cumulation between the UK, Japan and the EU, which many industries have recommended, but it does take an important first step in extending cumulation to the EU for most products listed in the UK Global Tariff, with some exceptions, like some cereals and spices. This is particularly valuable for food and drink manufacturers and will help to ensure business continuity for UK exporters to Japan and Japanese exporters to the UK if they incorporate EU content to meet value-added thresholds.**

45 See written evidence from the National Farmers’ Union ([JTN0015](#)) and the Food and Drink Federation ([JTN0009](#)), and the Society of Motor Manufacturers and Traders’ *Position Paper*.

46 [Q 12](#) (Mike Hawes)

47 [Q 12](#)

48 *Parliamentary report*, para 63. Annex 3-C of CEPA provides a list of the chapters and headings in the UK Global Tariff which contain products for which cumulation will be extended to the EU.

49 Supplementary written evidence from Food and Drink Federation ([JTN0041](#))

50 *Parliamentary report*, para 64

51 Faisal Islam, ‘Brexit: Blow to UK car industry in search for EU deal’, (30 September 2020): <https://www.bbc.com/news/business-54345882> [accessed 11 November 2020]

52 [Q 8](#) (Mike Hawes)

53 Written evidence from the North East England Chamber of Commerce ([JTN0017](#))

54 [Q 3](#) (James Ramsbotham)

40. **To secure existing trilateral trade flows between the EU, UK and Japan, the UK and EU would need to extend cumulation to Japan through their own trade agreement. It appears that the EU does not intend to so. Such uncertainty affects certain sectors, such as automotive manufacturing, particularly acutely.**

CHAPTER 4: TRADE IN SERVICES, INVESTMENT LIBERALISATION AND ELECTRONIC COMMERCE (CEPA CHAPTER 8)

41. This chapter of CEPA provides the greatest improvements on JEEPA, including improvements to provisions on financial services and digital trade, and may be where the most gains can be made by UK businesses. Those changes may, however, have implications for data protection.

Financial services

42. One of the key advances for the financial services sector is on regulatory cooperation, given that, as TheCityUK and the City of London Corporation told us, “most barriers to trade in services are regulatory in nature”.⁵⁵ CEPA replicates the Financial Regulatory Forum established under JEEPA in Annex 8-A, but as a bilateral agreement will be more tailored to UK interests. While the JEEPA Forum was between the European Commission and the Financial Services Agency of Japan, meaning that the UK was one step removed, the CEPA Forum will directly include HM Treasury, the Bank of England and Financial Conduct Authority. The language used in the mandate for the Forum has also been modified, referring to “regulatory deference” rather than mutual “reliance”,⁵⁶ which TheCityUK and the City of London Corporation have welcomed.⁵⁷
43. DIT’s press release stated that the UK had achieved “improved market access for UK financial services”, including “greater transparency and streamlined application processes for UK firms seeking licences to operate in Japan”.⁵⁸ While the section on market access is largely the same as that in JEEPA, there is an expansion of the terms under which UK financial services suppliers can offer new financial services on the same basis as Japanese companies (Article 8.60).
44. **Stakeholders welcome the fact that CEPA replicates and expands financial services provisions in the EU-Japan deal. CEPA’s forum on regulatory cooperation is similar to the forum under the EU-Japan deal, but allows UK financial regulators to be directly involved. The change in language from “reliance” to “deference” indicates a potential shift in approach to regulatory cooperation and has been welcomed by representatives of the financial services industry. Provisions on greater transparency and streamlined application processes for UK firms seeking licenses in Japan are also an improvement.**

Investment liberalisation

45. TheCityUK and the City of London Corporation welcomed the fact that investment liberalisation provisions in CEPA cover similar ground to

55 Supplementary written evidence from TheCityUK and the City of London Corporation ([JTN0045](#))

56 The JEEPA forum has a mandate to provide “guidelines on reliance on each other’s regulatory and supervisory framework”. The CEPA forum has a mandate to provide “guidelines on deference to each other’s regulatory and supervisory framework”.

57 Supplementary written evidence from TheCityUK and the City of London Corporation ([JTN0045](#))

58 Department for International Trade, ‘UK and Japan agree historic free trade agreement’, (11 September 2020): <https://www.gov.uk/government/news/uk-and-japan-agree-historic-free-trade-agreement> [accessed 11 November 2020]

JEEPA, though they had hoped they would have gone further.⁵⁹ Dr Minako Morita-Jaeger, Fellow at the UK Trade Policy Observatory at the University of Sussex, has described the lack of a comprehensive investment chapter as potentially a missed opportunity, and a “major shortcoming”, as it would have sent a signal to Japanese investors regarding the UK Government’s strong commitment to future Japanese investment.⁶⁰ We note that, in the future, the UK will no longer be a gateway to the EU, and so a dedicated investment chapter would have helped to signal the UK Government’s continued commitment to future Japanese investment.

Movement of natural persons for business purposes (Mode 4)

46. The Government’s Parliamentary Report indicates that improvements have been made on the temporary movement of highly skilled professionals (Annexes 8-B-III, 8-B-IV and 8-C of CEPA). Investor definitions have been amended to focus on investment in UK industry and jobs, instead of the amount of capital.⁶¹ DIT’s press release states that “requirements for visas will be clear, transparent, and with an aim that they be processed in 90 days”, and “a worker transferring from their UK HQ to the Tokyo office will be able to bring their spouse and dependents and stay for up to five years”.⁶²
47. TheCityUK and City of London Corporation welcomed these additions, in particular the expansion of the scope of Japan’s intra-corporate transferee category to allow more UK service suppliers to be eligible, as well as the adjustment in the investor definition.⁶³
48. The CBI had recommended an additional provision to allow the temporary presence of businesspeople for longer than the three-month period allowed under JEEPA, but this was not agreed under CEPA. The CBI argued that this could have benefited businesses in the digital sector, such as fintech companies needing to send staff to Japan for longer periods.⁶⁴
49. **While CEPA does not extend the three-month period allowed for the temporary presence of businesspeople in the EU-Japan deal, there are some welcome if minor improvements to mobility provisions. These include the amendment to investor definitions and the provisions allowing intra-corporate transferees to bring their spouse and children and stay for up to five years.**

Mutual recognition of professional qualifications

50. The Law Society of England and Wales welcomed the replication of existing provisions in JEEPA relevant to the legal sector and new commitments to greater transparency, such as publicising details regarding fees and timeframes for licensing applications. During the negotiations, it had argued that Japan should provide reciprocal recognition of legal qualifications and a more streamlined registration process for foreign lawyers. It recognised

59 Supplementary written evidence from TheCityUK and the City of London Corporation ([JTN0045](#))

60 Dr Minako Morita-Jaeger, ‘Japan-UK Free Trade Agreement—What is missing?’, UK Trade Policy Observatory (22 October 2020): <https://blogs.sussex.ac.uk/uktpo/2020/10/22/japan-uk-fta-what-is-missing/> [accessed 11 November 2020]

61 *Parliamentary report*, para 103

62 Department for International Trade, ‘UK and Japan agree historic free trade agreement’, (11 September 2020): <https://www.gov.uk/government/news/uk-and-japan-agree-historic-free-trade-agreement> [accessed 11 November 2020]

63 Supplementary written evidence from TheCityUK and the City of London Corporation ([JTN0045](#))

64 [Q 29](#) (Andy Burwell)

the challenge, given the lack of time to complete negotiations, in addressing these issues directly within the text of the agreement, but hoped that there could be further discussions on regulatory cooperation.⁶⁵

51. TheCityUK and the City of London Corporation also noted that regulatory dialogue on the mutual recognition of professional qualifications should be an ongoing discussion and should not end with the conclusion of the agreement.⁶⁶
52. **The mutual recognition of professional qualifications in the legal and the financial and related professional services sectors was not achieved in CEPA, which is unfortunate. The Government should pursue future opportunities for continuing regulatory dialogue.**

Digital and data

53. DIT's objectives stated that the UK would aim to "secure cutting-edge provisions which maximise opportunities" and "promote a world leading eco-system for digital trade that supports businesses of all sizes across the UK".⁶⁷ One challenge in presenting the merits of digital trade is quantifying the economic benefits that it can bring for both businesses and consumers. This is one area that DIT's review of economic modelling may help clarify and improve.⁶⁸
54. New provisions on data have been agreed, with the most significant departure from JEEPA being the provision facilitating cross-border data flows (Article 8.84). Other prominent new provisions include a ban on data localisation requirements (Article 8.85) and a provision on open government data to encourage the publishing of anonymised datasets and cooperation on expanding publicly available government datasets (Article 8.82).
55. Stakeholders across a range of sectors had advocated such provisions. techUK stated that enabling data flows was "key" and avoiding data localisation requirements "an opportunity for UK and Japan to go further than the EU was able to go".⁶⁹ The Motion Picture Association also highlighted the importance of such provisions for their sector.⁷⁰ With specific relevance to the financial services sector, CEPA includes additional provisions on the ability to use, store and process financial data on a cross-border basis (Article 8.63).⁷¹ TheCityUK and the City of London Corporation agreed that data localisation requirements should not be adopted by the UK and Japan, and therefore welcomed this provision.⁷²
56. On the other hand, we also note that concerns have been raised that the cross-border data provisions (Article 8.84), might weaken the UK's data

65 Supplementary written evidence from the Law Society of England and Wales ([JTN0040](#))

66 Supplementary written evidence from TheCityUK and the City of London Corporation ([JTN0045](#))

67 *Strategic approach*, p 10

68 This review was announced on 1 July with the news that Professor Tony Venables would lead an expert external advisory panel. The other members of that panel were announced on 24 September. (Department for International Trade, 'New expert panel established to support UK trade negotiations', (24 September 2020): <https://www.gov.uk/government/news/new-expert-panel-established-to-support-uk-trade-negotiations> [accessed 11 November 2020])

69 Oral evidence taken before the House of Commons International Trade Committee, 8 July 2020 (Session 2019–21), [Q 148](#) (Antony Walker, techUK)

70 Written evidence from the Motion Picture Association ([JTN0026](#))

71 *Parliamentary report*, para 106

72 Supplementary written evidence from TheCityUK and the City of London Corporation ([JTN0045](#))

protection regime.⁷³ Consumer rights group Which? raised the questions of how UK consumers' personal data might be shared with other countries that Japan has agreements with, and what might happen if the UK were to move away from EU data protection standards in the future.⁷⁴

57. However, the Information Commissioner pointed to the fact that Japan has received an adequacy decision from the EU, which recognises that there is an effective data protection regime in Japan.⁷⁵ CEPA does make commitments to adopt or maintain a legal framework that provides for the protection of personal information of e-commerce users (Article 8.80), but Dr Emily Jones and Dr Beatriz Kira, of the Blavatnik School of Government at the University of Oxford, noted that this was a general commitment, and the details were less clear. They argued for the need to analyse whether the UK's existing standards met the requirements specified in CEPA.⁷⁶ This call was echoed by the Trade Justice Movement, which stated that digital trade provisions “deserve[d] more thorough scrutiny and research particularly in terms of how digital trade provisions affect individuals' data privacy, health services, [and] the ability of governments to regulate emergent technology”.⁷⁷
58. Other changes have been made in CEPA to strengthen or clarify provisions in JEEPA, including concerning customs duties on electronic transactions (Article 8.72), online consumer protection (Article 8.79), e-authentication and e-signatures (Article 8.77), source code protections (Article 8.73) and mechanisms for future cooperation (Article 8.83). These have been welcomed by the legal, financial and related professional services sectors.⁷⁸
59. **We largely welcome CEPA's new provisions related to digital and e-commerce. The provision banning data localisation requirements will have cross-cutting benefits for many sectors, including the financial services sector. However, we note that some questions remain regarding the protection of personal data.**
60. **Quantifying the economic benefits of these new and strengthened provisions remains a challenge, and may require time and new economic modelling methods. Moreover, as digital and data become more important in trade agreements, there needs to be greater scrutiny of the impact of digital trade provisions, particularly as the UK develops its own data protection standards, which may diverge from the EU's.**

73 Written evidence from the Open Rights Group ([JTN0042](#)) and the Trade Justice Movement ([JTN0035](#))

74 Written evidence from Which? ([JTN0049](#))

75 Written evidence from the Information Commissioner ([JTN0025](#))

76 Written evidence from Dr Emily Jones and Beatriz Kira ([JTN0046](#)); Jones and Kira also point to the fact that the UK has not yet received an adequacy decision from the EU and the wider issue of the UK's post-Brexit data protection standards being unclear.

77 Written evidence from the Trade Justice Movement ([JTN0035](#))

78 Supplementary written evidence from the Law Society of England and Wales ([JTN0040](#)), and TheCityUK and the City of London Corporation ([JTN0045](#))

CHAPTER 5: INTELLECTUAL PROPERTY (CEPA CHAPTER 14)

Protection for creative industries

61. The Government's objectives said that the creative industries in the UK "could benefit and be supported by copyright provisions that link to an effective and balanced global system" via CEPA.⁷⁹ After reaching agreement in principle, DIT stated in its press release that the UK had gained "new protections for UK creative industries", helping to protect "brands and innovations" by "go[ing] beyond the EU on provisions that tackle online infringement of IP rights, such as film and music piracy".⁸⁰
62. CEPA has a new article on criminal remedies for certain intellectual property (IP) rights infringement (Article 14.58), which stipulates that the parties will apply criminal procedures and penalties, "at least in cases of wilful trademark counterfeiting or copyright or related rights piracy on a commercial scale", and apply criminal penalties "to wilful importation or exportation of counterfeit trademark goods or pirated copyright goods on a commercial scale".⁸¹ The Producers Alliance for Cinema and Television (PACT) welcomed this addition.⁸²
63. CEPA also contains a new article on enforcement in the digital environment and public awareness (Article 14.59), which, according to the Government, "sets out a requirement for Parties to ensure that existing enforcement procedures can allow action against online IP infringement", that is to say that they allow "effective action" to be taken. The Government indicates that the new article is also focused on awareness raising and voluntary initiatives.⁸³ This seems to suggest that the UK would be reliant upon existing enforcement procedures in Japan to take any action against IP infringement and does not commit Japan to any specific changes to those procedures. Some witnesses have expressed disappointment that CEPA did not include injunctive relief measures (to enable web blocking of sites with illegal content) along the lines contained in the Digital Economy Act 2017.⁸⁴ Nevertheless, we welcome the inclusion of this new language on enforcement in the digital environment.
64. Two particular areas where witnesses had hoped that CEPA would go beyond JEEPA were artists' resale rights for visual artists⁸⁵ and public performance rights for musicians.⁸⁶ CEPA adds to Article 14.12 of JEEPA the commitment to continue a discussion on measures to ensure adequate remuneration for performers and producers of phonograms,⁸⁷ but the Parliamentary Report notes that, while there might be "economic benefits from fair remuneration" for artists, "this is likely to be minimal and depends on the outcome of discussions".⁸⁸

79 *Strategic approach*, p 7

80 Department for International Trade, *UK and Japan agree historic free trade agreement* (11 September 2020): <https://www.gov.uk/government/news/uk-and-japan-agree-historic-free-trade-agreement> [accessed 11 November 2020]

81 *Parliamentary report*, para 144

82 Supplementary written evidence from PACT ([JTN0036](#))

83 *Parliamentary report*, para 142

84 Written evidence from British Phonographic Industry ([JTN0030](#))

85 Supplementary written evidence from DACS ([JTN0039](#))

86 Written evidence from British Phonographic Industry ([JTN0030](#)) and UK Music ([JTN0007](#))

87 Phonograms are exclusively aural recordings, whatever their form (e.g. disc or tape). So, for example, a record would be a phonogram, but the soundtrack of a film would not be.

88 para 125

65. CEPA does not have a chapter or section dedicated to audio-visual (AV) services, and the only provisions specifically on AV relate to open dialogue and cooperation.⁸⁹ Witnesses have expressed conflicting views regarding the inclusion of the AV sector in trade deals. PACT has argued for the exclusion of the AV sector here and in the subsidies chapter (CEPA Chapter 12), to avoid setting a precedent for any future UK-US trade agreement.⁹⁰ On the other hand, the Alliance for Intellectual Property and the Motion Picture Association argued for the inclusion of the AV sector, highlighting significant growth opportunities for UK exports.⁹¹
66. **We welcome CEPA’s additional language, compared with the EU-Japan deal, on ensuring adequate rights protections and, including additional provision on enforcing criminal remedies for certain intellectual property rights infringement and on enforcement in the digital environment. We note, though, that many of the additions focus on future discussions and awareness raising about existing enforcement procedures in both countries, rather than securing new, concrete protections.**

Geographical Indications

67. During negotiations, the NFU had recommended the expansion of GIs,⁹² noting that “market opportunities in Japan in the future” would “probably be for that higher-value produce where markets will not be huge but could be valuable in themselves”, and that “protected names in agriculture” were particularly relevant to those markets.⁹³
68. DIT’s press release stated that the “measures in [CEPA] include: ... new protection for more iconic UK goods”, with the number of geographical indications (GIs) “increasing ... from just seven under the terms of [JEEPA] to potentially over 70” under CEPA, which “would lead to improved recognition of key UK brands in the Japanese market”.⁹⁴ However, as that “potentially” hints, this is an area where the UK’s gains are not yet concrete; there is no guarantee that any new protections will, in fact, be granted. The Government indicates that “it is anticipated that a significant number of additional UK GIs will have the opportunity to be protected in Japan in the future” but does not state whether there is a deadline for Japan to accept these new GIs.⁹⁵ Nor does it refer to the steps required for the GIs to be approved through the Japanese domestic process.⁹⁶
69. Subsequently, the Government has published an ‘explainer’ regarding the GIs process, which provides a little more information, including that the UK Government will make applications on producers’ behalf, and that it

89 *Parliamentary report*, para 104

90 Written and supplementary written evidence from PACT ([JTN0019](#) and [JTN0036](#))

91 Written evidence from the Alliance for Intellectual Property ([JTN0027](#)) and the Motion Picture Association ([JTN0026](#))

92 Written evidence from National Farmers’ Union ([JTN0015](#))

93 [Q 23](#) (Nick von Westenholz)

94 Department for International Trade, ‘UK and Japan agree historic free trade agreement’, (11 September 2020): <https://www.gov.uk/government/news/uk-and-japan-agree-historic-free-trade-agreement> [accessed 11 November 2020]

95 *Parliamentary report*, para 137

96 The Japanese Ministry of Agriculture, Forestry and Fisheries (MAFF) provides a note regarding the application procedure on its website: Ministry of Agriculture, Forestry and Fisheries of Japan, *Explanation note for GI application process* (June 2019), p 5: <https://www.maff.go.jp/e/policies/intel/gi-act/attach/pdf/index-4.pdf> [accessed 11 November 2020].

intends to provide Japan with a list of the further GIs sought in January. That ‘explainer’ also includes an acknowledgment that this process has been agreed because there was insufficient time during the CEPA negotiations to complete discussions on all the GIs the UK was seeking.⁹⁷

70. DIT has also stated on Twitter that, “notwithstanding exceptional circumstances”, such as “a Japanese producer of Cornish clotted cream opposing that GI”, the Japanese approval process “should only take about 5 months”,⁹⁸ and Mr Zebedee reinforced this message that five months would be “a conservative estimate”.⁹⁹ Lord Grimstone also emphasised that the process would be smoother, as no political negotiations were needed, thanks to CEPA, and the process was only “administrative”.¹⁰⁰ We note, however, that it is not only Japanese producers of rival products who might object, as the CPTPP member countries can raise objections to proposed UK GIs, adding another layer to the process.¹⁰¹
71. **It is welcome that CEPA maintains the Geographical Indications (GIs) under the EU-Japan deal, and that the UK has taken steps to make it easier to obtain further GIs in the future. But given the uncertainty regarding whether UK producers will gain the additional sixty or so GIs that the Government has advertised, it is not yet possible to state that the UK has won new protection for more UK goods. This is another area in which the Government’s promotion of CEPA has oversold the actual provisions of the deal. The Government should swiftly provide clarity for stakeholders by setting out in detail the process and timeframe for obtaining approval of new GIs from Japan.**

97 Department for International Trade, ‘*Geographical indications (GIs) in the UK-Japan CEPA*’, (4 November 2020): https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/933988/uk-japan-cepa-additional-geographical-indications-explainer.pdf [accessed 11 November 2020]

98 Department for International Trade statement on Twitter (26 October 2020): <https://twitter.com/tradegovuk/status/1320842032487620608> [accessed on 11 November 2020]

99 [Q 35](#)

100 *Ibid.*

101 [Q 35](#) (Graham Zebedee)

CHAPTER 6: TRADE AND WOMEN'S ECONOMIC EMPOWERMENT (CEPA CHAPTER 21)

72. Chapter 21 is new and does not have an analogue in JEEPA. The impact assessment (IA) notes that Chapter 21 “agrees the importance of enhancing opportunities to women to participate equitably in the global economy”, and establishes a Working Group to lead the cooperation activities listed in Article 21.2, which “may include providing advice or training, and exchanging information and experience”.¹⁰² However, Chapter 21 does not include any binding commitments, and Article 21.4 excludes it from CEPA’s dispute settlement mechanism.
73. In the most recent Global Gender Gap Report by the World Economic Forum, Japan was ranked 121st, and the UK 21st.¹⁰³ The Government’s objectives for CEPA do not mention women’s economic empowerment, but the theme was raised in its response to submissions to the Call for Input, where it was bundled as “Sustainability, Labour, Gender Equality and Environment”. In response to calls for CEPA to “protect and promote” “gender equality and women’s economic empowerment” and “recognise and address the impacts of trade policy on different genders”, the Government said it “recognise[d] that gender equality [wa]s an important issue and that women continue[d] to face barriers in accessing the opportunities of free trade”, and noted that it was “exploring domestic and international best-practice” to “develop [its] own approaches on how to best support women in trade”.¹⁰⁴ The Secretary of State for International Trade has recently set out her vision for “values-driven free trade”, but she did not highlight women’s economic empowerment as one of the core values that might drive UK trade policy.¹⁰⁵
74. We are therefore left in some doubt as to whether, given its inclusion in CEPA, this area will be central for the UK as an independent trading nation. We have not received extensive evidence on how trade deals should promote objectives like women’s economic empowerment, but in its 2018 report *Trade and the Commonwealth: developing countries*, the Commons International Trade Committee took evidence on gender chapters in trade deals and called for the UK to “actively promote gender equality”, “ensur[e] that women can ‘move up the value chain’”, and “develop a truly gender-responsive approach to trade policy”.¹⁰⁶
75. **We agree with the Commons International Trade Committee that the UK should use trade deals proactively to promote gender equality. CEPA does not reflect a significant step towards that goal. We would welcome further clarity from the Government about how central this issue will be for the UK in future trade negotiations.**

102 Department for International Trade, *Final Impact Assessment of the Agreement between the United Kingdom of Great Britain and Northern Ireland and Japan for a Comprehensive Economic Partnership* (23 October 2020) p 24: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/929059/final-impact-assessment-UK-Japan-comprehensive-economic-partnership.pdf [accessed 11 November 2020]. See also *Parliamentary report*, paras 164–166.

103 World Economic Forum, *Global Gender Gap Report 2020* (16 December 2020): http://www3.weforum.org/docs/WEF_GGGR_2020.pdf [accessed 11 November 2020]

104 *Strategic approach*, p 21

105 Department for International Trade, ‘Chatham House speech: Liz Truss sets out vision for values-driven free trade’ (29 October 2020): <https://www.gov.uk/government/speeches/chatham-house-speech-liz-truss-sets-out-vision-for-values-driven-free-trade> [accessed 11 November 2020]

106 International Trade Committee, *Trade and the Commonwealth: developing countries* (Fifth Report, Session 2017–19, HC 667), para 89

76. **We welcome the introduction of a chapter on women’s economic empowerment in CEPA, but we note the non-binding nature of the text. While this is common for such chapters in trade deals, we were disappointed at the absence of any reference to this issue in the Government’s outline objectives and the Secretary of State’s recent speech about “values-driven” trade.**

CHAPTER 7: CHAPTERS WITH NO OR FEW CHANGES

77. Although negotiations with Japan were launched as if they were wholly new, in practice the lack of time meant that there was always going to be substantial replication of the underlying EU agreement, JEEPA. As we have noted elsewhere, there is benefit in such continuity, which has given stakeholders greater certainty about the trading relationship.
78. The following chapters in CEPA mirror the corresponding chapters in JEEPA, often with changes only made to replace the EU as a party with the UK. Important though these chapters are, they show no improvement over JEEPA:
- Customs matters and trade facilitation (CEPA Chapter 4)
 - Trade remedies (CEPA Chapter 5)
 - Sanitary and phytosanitary measures (CEPA Chapter 6)
 - Technical barriers to trade (CEPA Chapter 7)
 - Capital movements, payments and transfers and temporary safeguard measures (CEPA Chapter 9)
 - Government procurement (CEPA Chapter 10)
 - Competition policy (CEPA Chapter 11)
 - Subsidies (CEPA Chapter 12)
 - State-owned enterprises, enterprises granted special rights or privileges and designated monopolies (CEPA Chapter 13)
 - Corporate governance (CEPA Chapter 15)
 - Trade and sustainable development (CEPA Chapter 16)
 - Transparency (CEPA Chapter 17)
 - Good regulatory practices and regulatory cooperation (CEPA Chapter 18)
 - Cooperation in the field of agriculture (CEPA Chapter 19)
 - Small and medium-sized enterprises (CEPA Chapter 20)
 - Dispute settlement (CEPA Chapter 22)
 - Institutional provisions (CEPA Chapter 23)
 - Final provisions (CEPA Chapter 24)
79. We discuss the final three of these (CEPA Chapters 22–24) in Chapter 10, as they relate to the operation of CEPA once in force. The other 15 rolled over chapters featured heavily in the Government’s overview of its objectives, covering at least a third of the text.¹⁰⁷ In addition to rolling over these chapters, CEPA incorporates the provisions of the separate EU-Japan

107 *Strategic approach*, pp 9–12

Mutual Recognition Agreement¹⁰⁸ in a Protocol, eliminating the need for a further UK-Japan agreement.

80. **It appears that the Government felt that JEEPA adequately achieved its goals in areas such as competition policy, technical barriers to trade, and trade remedies, where it has rolled over JEEPA's provisions almost entirely. We do not underestimate the value of this continuity, but we note that it does not represent any material advance to what has been agreed in JEEPA.**
81. The remainder of this chapter highlights those minor changes to rolled over chapters that in our view merit attention.

Sanitary and phytosanitary measures (CEPA Chapter 6)

82. The chapter covering sanitary and phytosanitary standards (SPS) shows how a small textual change may limit CEPA's scope, compared with JEEPA. Article 6.16 excludes Chapter 6 entirely from CEPA's dispute settlement mechanism. The equivalent article in JEEPA's SPS chapter excludes only certain portions of the chapter (risk assessment and some provisions around equivalence and import procedures).
83. The Department was unwilling to tell us how this change came about.¹⁰⁹ Rather, the Government simply notes that WTO dispute settlement procedures will apply and that "both parties want to take all possible steps to ensure that any differences are resolved in an amicable and expedient way through regular conversations and technical consultations, as provided for within the SPS Chapter".¹¹⁰
84. The Government's objectives included "uphold[ing] the UK's high levels of public, animal, and plant health including food safety" and "securing commitments to improve the timeliness and transparency of Japanese approval processes for UK goods".¹¹¹
85. **We have concerns about the exclusion of the entire chapter on sanitary and phytosanitary measures (Chapter 6) from CEPA's dispute mechanism. We urge the Government to explain the possible consequences of this change.**

Subsidies (CEPA Chapter 12)

86. The provisions relating to subsidies (often referred to as state aid) were covered by the press in advance of the publication of CEPA, suggesting that they committed the UK to "tougher restrictions in state aid than the ones it is currently offering the EU in the Brexit talks".¹¹² In reality, CEPA largely

108 Agreement on mutual recognition between the European Community and Japan, [OJ L 284](#), 29 October 2001

109 [Q 41](#) (Graham Zebedee)

110 *Parliamentary report*, para 86; Mr Zebedee told us that WTO dispute settlement mechanisms were used more commonly than those in trade agreements, in any event ([Q 41](#)).

111 *Strategic approach*, p 9

112 Alan Beattie, Jim Pickard and Peter Foster, 'Japan trade deal commits UK to stricter state aid curbs than in EU talks', *Financial Times* (13 September 2020): <https://www.ft.com/content/edb7d155-56b4-4065-9f83-31b2247fa178> [accessed 11 November 2020]

replicates the restrictions on subsidies contained in JEEPA, and there is no evidence to suggest that they have undermined negotiations with the EU.¹¹³

87. Under CEPA, subsidies may be granted where necessary to achieve public policy objectives, with various exemptions, such as for audio-visual services or subsidies “granted temporarily to respond to a national or global economic emergency” (Article 12.3(6)). Each party commits, “in principle”, not to grant subsidies where they have, or could have, a significant negative effect on bilateral trade or investment, and to notify the other every two years of details of any specific subsidy it has granted or maintained, but notifications do not have to be made public. Other than Article 12.6(5), which relates to a regime of “sympathetic consideration”, the remainder of the provisions would be subject to CEPA’s dispute settlement regime and would therefore be subject to consultation, mediation and arbitration.
88. **CEPA has largely replicated the EU-Japan provisions for subsidies, or state aid. Insofar as CEPA might serve as a model for other UK bilateral agreements, the absence of any practical enforcement mechanism and of an ability for companies to launch a complaint in the other party’s jurisdiction means that the agreement adds only modestly to the WTO subsidy control provisions.**¹¹⁴

Trade and sustainable development (CEPA Chapter 16)

89. Some witnesses highlighted the importance of including objectives related to sustainability and climate policy, particularly when they can be tied to strengths in UK industry. For example, Cornwall Council told us that the objectives related to the services sector could include services in renewable energy and sustainable practices.¹¹⁵ Sustainable development was not mentioned specifically in the Government’s outline objectives, but was referred to in its lengthy response to the Call for Input, which noted that “for the environment, climate, labour, and human rights, the key message” of the consultation was to “maintain the provisions already set” in JEEPA.
90. This is largely achieved by rolling over JEEPA’s sustainable development chapter. CEPA Chapter 16 thus covers international commitments on labour standards (Article 16.3), the environment (Article 16.4), and biological diversity (Article 16.5), as well as sustainable management of natural resources (Articles 16.7 and 16.8). There are also some changes, with CEPA offering “greater flexibility” so that the Joint Dialogue with Civil Society need not be convened within one year of entry into force (as with JEEPA),

113 George Peretz QC has argued that, while the provisions go further than the initial offer on state aid that the UK made to the EU, such provisions would not satisfy the EU in any event since “the subsidies prohibited under the chapter do not include the vast majority of harmful subsidies (including hand-outs or tax-breaks to favoured but solvent businesses)”, and there is no requirement for an independent subsidy regulator, nor a mechanism for third parties to enforce prohibitions in the courts. (George Peretz QC, ‘Subsidy provisions in the UK/Japan Comprehensive Economic Partnership Agreement: what are they, and what do they mean for the UK/EU negotiations?’, *UK State Aid Law Association* (24 October 2020): <https://uksala.org/subsidy-provisions-in-the-uk-japan-comprehensive-economic-partnership-agreement-what-are-they-and-what-do-they-mean-for-the-uk-eu-negotiations/> [accessed 11 November 2020])

114 We consider CEPA’s overarching dispute mechanism in Chapter 10.

115 Written evidence from Cornwall Council ([JTN0021](#))

but within two years (Article 16.16).¹¹⁶ JEEPA's explicit review article (Article 16.19) is removed, which the Government says was done "because there are equivalent functions" elsewhere in CEPA.¹¹⁷

91. **We welcome the rolling over of the EU-Japan chapter on trade and sustainable development, maintaining bilaterally commitments to international agreements on labour, the environment and biodiversity, and the importance of sustainable management of natural resources. The small changes introduced in CEPA, however, seem to require less swift action to work on these issues. We urge the Government to maintain its focus in this area, through this and other agreements.**

Small and medium-sized enterprises (CEPA Chapter 20)

92. The Government's objectives noted that it would "seek a dedicated SME chapter, and SME-friendly provisions throughout", which would involve "knocking down trade barriers".¹¹⁸
93. CEPA's SMEs Chapter (Chapter 20) replicates JEEPA's, except for an additional provision (Article 20.2) to strengthen bilateral cooperation and involve the private sector in this. The text provides some illustrative examples of potential cooperation activities, but is not prescriptive. The Government notes that this "may bring some economic benefits, for example by further reducing trade barriers for SMEs, but the magnitude of these benefits will depend on the specific cooperation activities that are undertaken".¹¹⁹
94. **The SMEs chapter of CEPA, while welcome, does not in and of itself offer significant benefits to UK SMEs. Like SMEs chapters in many trade deals, including the EU-Japan agreement, it simply offers facilitation. Advantages for SMEs are more likely to emerge from work done by the two parties, and others, to encourage the utilisation of the agreement by such businesses. This should be the subject of regular review by the Government.**

116 A similar extension is arranged in CEPA for the adoption of the rules of procedure and terms of reference for the parties' respective Panels of Experts involved in the resolution of disagreements about the interpretation of the chapter (Article 16.18), which now must take place within two years, rather than one.

117 *Parliamentary report*, paras 162–3

118 *Strategic approach*, p 6

119 *Parliamentary report*, para 173; see also *Impact assessment*, p 7.

CHAPTER 8: APPLICATION OF THE DEAL (CEPA CHAPTER 1)

Territorial application

95. The Government’s objectives included ensuring “application ... to all four constituent nations”, “taking into account the effects of the Northern Ireland Protocol”, and provisions for the “further application of the agreement to the Crown Dependencies and Overseas Territories [(CDOTs)] as appropriate”.¹²⁰ Article 1.3 of CEPA sets out its territorial application, and these stated objectives have apparently been achieved.
96. While application to the CDOTs has not been explicitly negotiated, Article 1.3.4 of CEPA envisages the possibility of such an extension, and the Parliamentary Report indicates that the Government is working to understand what extension might be possible and how.¹²¹
97. **We welcome the fact that CEPA includes provisions to extend its territorial application to cover the Crown Dependencies and Overseas Territories. Should they wish to be included and CEPA prove of benefit to them, the agreement should be extended to these areas as soon as practicable.**

Compliance with the Protocol on Ireland/Northern Ireland

98. CEPA also includes a provision (Article 1.9.5) intended to ensure “legal coherence” with the Protocol on Ireland/Northern Ireland.¹²² The EU Select Committee, in its June 2020 report on the Protocol, questioned how future trade deals would apply to Northern Ireland.¹²³ CEPA provides some initial indications.
99. The unusually worded provision in CEPA provides that, in the event of an inconsistency between it and the Protocol, CEPA “shall not prevent a party from taking a particular measure not consistent with the obligations under this Agreement”, provided that such a measure is not applied in “a manner that would constitute a means of arbitrary or unjustified discrimination against the other Party or a disguised restriction on trade”. In such an event, the parties would “hold consultations, on request of either Party, in relation to the effects of the measure on this Agreement, and seek a mutually acceptable solution”.
100. Such a provision has not featured in other rollover agreements that we have scrutinised. We asked Lord Grimstone to clarify why it had been included here, which party had sought its inclusion, and whether such provisions would be needed in existing, or future, rollover agreements. He told us that “at the time of negotiations, not all decisions regarding the implementation of the Protocol ... had been made”, and that the provision in CEPA reflects one of “various approaches through which [the UK] can reach” a “shared understanding with partner countries” about how continuity agreements will be implemented alongside the Protocol.¹²⁴

120 *Strategic approach*, p 12

121 para 30

122 *Parliamentary report*, para 41

123 European Union Committee, *The Protocol on Ireland and Northern Ireland* (9th Report, Session 2019–21, HL Paper 66), pp 17–19

124 See letter of 10 November, set out in Appendix 4.

101. **We have concerns about how CEPA's new provision relating to the Protocol on Ireland/Northern Ireland will work in practice, as well as how modified rollover trade agreements, such as CEPA, will interact with that Protocol, and might affect access to goods in Northern Ireland. Without clarity on the UK-EU relationship, it is impossible to comment further, but we note the uncertainty this has caused for Northern Ireland citizens and businesses.**

CHAPTER 9: EXPLANATORY DOCUMENTS AND GOVERNMENT PRESENTATION OF CEPA

102. CEPA was published with an array of explanatory documents, and we comment briefly here on some of them, especially the Impact Assessment (IA) and the Government’s promotional materials. In the next chapter we consider how DIT has worked with us to facilitate scrutiny of CEPA during and at the end of negotiations.

The Government’s Impact Assessment

Economic impact

103. We are grateful to DIT’s Chief Economist, Mr Richard Price, for making time to speak to us in private about the Government’s IA and its modelling.
104. The bulk of the Government’s initial strategic approach was taken up by a scoping assessment, in which the Government set out its preliminary assessment of the potential long-run effects of a deal with Japan. The final IA builds on that scoping assessment, covering much of the same ground and reflecting the agreed provisions of CEPA.
105. The Government estimates that CEPA will drive an increase in UK exports to Japan by just over 17% (£2.6bn per annum) and UK imports from Japan by almost 80% (£13bn per annum). The Government modelling suggests that there will be increased trade in both goods and services, increased certainty for investors, and increases both to GDP (at 0.07% or £1.5bn per annum) and real wages (at 0.09% or £800mn per annum).¹²⁵ Although the IA states that “all occupation types are estimated to benefit from higher wages” as a result of CEPA,¹²⁶ there will also be contractions as the UK market adjusts to trade under CEPA, and the IA notes that these may affect in particular the chemical sector in the North of England and automotive manufacturing in the West Midlands.¹²⁷ Overall, the Government estimates that London and the South East, the East Midlands, and Scotland will benefit most from CEPA.
106. While the IA helps to answer the policy question before Ministers—whether CEPA should be signed—it sheds less light on what benefits CEPA brings over and above those already enjoyed by the UK as a party to JEEPA. The IA’s assumptions are set out in section 5.2.1, which notes that the chosen baseline is no-deal with Japan, not trade under JEEPA. That comparison has been the subject of exchanges on social media between DIT officials and commentators, who have also questioned whether the comparison provides a full sense of CEPA’s results.¹²⁸ Dr Morita-Jaeger also noted that the UK has enjoyed the benefits of JEEPA since 2019, so the Government’s “estimates do not represent the net benefit of the CEPA relative to [JEEPA]”.¹²⁹

125 All figures are compared to 2019 levels and are given “in the long run”, that is to say they estimate increases 15 years or so after CEPA’s entry into force.

126 p 10

127 p 46

128 See, for example, exchanges between journalists for the *Financial Times* and DIT’s Director General for Trade Policy and Chief Economist (12 September 2020): <https://twitter.com/JohnAlty1/status/1304837408953950212> [accessed 11 November 2020]

129 Supplementary written evidence from Dr Minako Morita-Jaeger ([JTN0050](#))

107. In May 2018, the Government published an IA of JEEPA, which suggested that JEEPA would increase GDP by £2.1–3bn per annum in the long run (compared to the estimated increase under CEPA of £1.5bn per annum in the long run), with UK bilateral exports to Japan increasing in the range of £3.3–5.6bn and imports increasing in the range of £5.5–8.5bn.¹³⁰ We acknowledge that the global economy has changed significantly since early 2018, and that there are differences in how this modelling was conducted by the EU Commission, and then calculated for the UK on an apportionment basis, compared with DIT’s bilateral modelling for CEPA. Nevertheless, Parliament and the public could benefit from analysis of the variations between these figures and those calculated for CEPA, in particular the headline figure of a long-run increase to GDP of £1.5bn under CEPA. We also note that some commentators have sought to compare how the new provisions of CEPA serve the UK and Japan respectively.¹³¹
108. **Modelling of trade deals is complex, and we commend the Department’s efforts to get it right, including through its ongoing review with the support of an expert panel led by Professor Tony Venables.**
109. **The Government’s impact assessment (IA) fails to provide the information that Parliament and the public need if they are to evaluate how well the Government has done in its negotiations with Japan, as it does not identify what extra benefit, if any, CEPA might generate over JEEPA. Instead the IA considers only one alternative scenario: trading on WTO terms with Japan (in effect, a ‘no deal’ option). We note that the Government’s IA of CEPA projects lower increases in GDP, imports and exports than its previous assessment of JEEPA’s benefits for the UK, and would have welcomed more information to help explain this change.**
110. The IA also assumes a UK-EU deal that includes zero tariffs and average costs arising from non-tariff barriers. We understand why such an assumption has been necessary, though the North East England Chamber of Commerce warned that “it seems a risk to base economic estimates on the assumption that there will be no tariffs between these markets”, given that the EU is the destination for 60% of the North East’s exports.¹³²
111. We also note that, at some specific points, the data deployed in the IA do not answer key questions. For example, in evaluating how many jobs export trade with Japan supports—167,000—the IA refers to data from an OECD database last updated in March 2019, only a month after JEEPA was implemented.¹³³ The IA also takes some steps to provide clear statistics about how CEPA will affect various segments of the workforce, including women, but this approach is not mainstreamed and seems to provide only a partial picture of CEPA’s effects on women’s economic empowerment.¹³⁴

130 Department for International Trade, *Impact assessment of the EU-Japan Economic Partnership Agreement (EPA) on the UK* (24 May 2018), para.7.20: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/716166/CCS0618802374-1_EU-Japan_Impact_Assessment_Approved_Web_Accessible-7.pdf [accessed 11 November 2020]

131 This point was raised, for example, by Lord Purvis of Tweed in a recent question on the floor of the House regarding parliamentary scrutiny of continuity trade agreements ([HL Deb, 18 November 2020, col 1427](#)).

132 Written evidence from North East England Chamber of Commerce ([JTN0017](#))

133 p 7

134 See, for example, Table 44 (p 94).

112. **While we appreciate that the Government is constrained by the availability of data, and the fact that JEEPA only recently came into force, its IA leaves many questions unanswered. In particular, in the context of CEPA’s new chapter on women’s economic empowerment, we welcome the inclusion of statistics about the impacts of CEPA on women in the workforce, but note that the IA fails to answer fully the question of whether CEPA will actively promote women’s economic empowerment in the UK or in Japan.**

Environmental impact

113. IAs are not only about economics, and Chapter 8 considers the environmental impact of CEPA. It includes assessments of CEPA’s implications for greenhouse gas emissions, energy usage, trade-related transport emissions, and wider environmental impacts. The UK Government has, domestically, set itself ambitious targets for decarbonising the economy.
114. The IA indicates that CEPA will result in a small increase in domestic greenhouse gas emissions (by 0.028%) and that it could increase energy consumption of fossil fuels (by the same percentage), although the IA notes that domestic policy decisions, such as phasing out coal power stations, might affect these estimates. It also notes uncertainty about whether trade-related maritime emissions will increase due to CEPA. Globally, shipping of freight accounts for at least 3% of greenhouse gas emissions.¹³⁵
115. The IA also notes uncertainty about CEPA’s potential to increase investment and the export potential of low-carbon goods and services.¹³⁶ The North East England Chamber of Commerce wanted to see more attention paid to such sectors, including renewable energy, and Cornwall Council told us: “The UK plans to become carbon neutral by 2050, yet there is not one mention of green technology.”¹³⁷ We asked Mr Zebedee, the Chief Negotiator, how CEPA would support environmental goods, and he told us that there were “benefits” via the investment chapter and mutual recognition, although there was no specific chapter on the issue.¹³⁸
116. **We note that while the full environmental impacts of CEPA are hard to assess, and there is uncertainty about some of the potential benefits and disbenefits, overall it may result in a small increase in greenhouse gas emissions.¹³⁹ We urge the Government to set out more detail, in future Impact Assessments or other explanatory documents, on how trade deals will support environmental goods.**

Government’s presentation of CEPA

117. Throughout this report we have touched on specific areas where the Government’s presentation of CEPA has oversold some of its benefits.
118. DIT’s use of social media to promote CEPA has been criticised by trade experts and commentators. For example, the Department promoted CEPA as having “made [soy sauce] cheaper” for UK consumers—when in fact it rolls over the existing tariffs under JEEPA. We put this to the Minister on

135 p 67

136 p 68

137 Written evidence from the North East England Chamber of Commerce ([JTN0017](#)) and Cornwall Council ([JTN0021](#))

138 [Q 37](#)

139 We note that the agreement thus does not contribute to the Government’s net-zero policy objective.

4 November, who told us: “It was an error ... Sometimes, in a display of exuberance these things happen.”¹⁴⁰ The misleading statement appears to have been rooted in the Government’s insistence on comparing CEPA with a baseline scenario in which the UK and Japan traded on WTO terms, rather than the existing terms of UK-Japan trade under JEEPA.

119. **Some of the Government’s promotional statements and materials do not reflect the substance of the deal that has been reached. We urge the Government to be careful not to oversell its achievements, especially in contexts where nuance is hard to convey, such as on social media.**
120. Underlying some of these issues is the Government’s presentation of CEPA as a new deal, which contrasts with the approach of the Japanese government, which has emphasised the deal as providing continuity and retaining JEEPA provisions. Japanese Foreign Minister Toshimitsu Motegi said in a press conference: “In terms of the significance, the end of the transition period following Brexit is the end of this year, and concluding the EPA by then is important in the sense of enabling continuance of the benefits Japan has acquired under the Japan-EU EPA”.¹⁴¹ While the UK Government highlighted “strong tariff reductions”, the Japanese government’s press release stated: “the tariff reduction rates and timeframes are largely the same as those agreed under JEEPA”.¹⁴² As Dr Morita-Jaeger has commented: “the Japanese Government’s evaluation is more downbeat” in comparison to the UK Government’s presentation.¹⁴³
121. In his most recent letter to us, Lord Grimstone noted that after the Prime Ministers of the UK and Japan agreed in January 2019 that there should be bilateral negotiations for a new agreement to replace JEEPA, a detailed UK consultation process was launched, running from September to November 2019, which led to the outline approach and scoping assessment published in May 2020.¹⁴⁴ As we have noted previously, this meant that the UK-Japan talks were initiated in the UK in the same way as talks for entirely new bilateral agreements. Nonetheless, the fact that the UK would cease to benefit from the provisions of JEEPA on 31 December 2020 meant that it was always clear that CEPA would largely be a rollover agreement. Indeed, the fact that the CEPA talks were launched as though they were entirely new itself generated delay, removing any possibility of primary legislation in either country,¹⁴⁵ and thereby further limiting the ambitions on both sides.
122. The Government’s approach also generated uncertainty about the process by which CEPA would be scrutinised by Parliament, as rollover agreements have been subject to a distinct process, involving the preparation of Parliamentary Reports, separate from other international agreements. This was compounded by the Government’s reluctance to reiterate the commitments made by the

140 [Q 36](#)

141 Ministry of Foreign Affairs of Japan, *Press Conference by Foreign Minister Motegi Toshimitsu*, (23 October 2020): https://www.mofa.go.jp/press/kaiken/kaiken4e_000861.html#topic1 [accessed 12 November 2020]

142 Ministry of Foreign Affairs of Japan, *The Japan-UK Comprehensive Economic Partnership Agreement* (October 2020): <https://www.mofa.go.jp/mofaj/files/100092224.pdf> [accessed 12 November 2020]

143 Dr Minako Morita-Jaeger, *Japan-UK Free Trade Agreement—What is missing?* (22 October 2020): <https://blogs.sussex.ac.uk/uktpo/2020/10/22/japan-uk-fta-what-is-missing/> [accessed 11 November 2020]

144 See letter dated 10 November, set out in Appendix 4.

145 [Q 40](#) (Lord Grimstone of Boscobel)

previous Government in its February 2019 Command Paper, *Processes for making free trade agreements*.¹⁴⁶

123. This is particularly notable because, as part of promoting CEPA, the Secretary of State and her Department heavily promoted the UK's system of parliamentary scrutiny of trade deals on social media and elsewhere. This has included somewhat partial summaries of the UK and other national systems.¹⁴⁷ We have reported on treaty scrutiny more broadly, including but not exclusively scrutiny of trade deals, and note that the effectiveness of treaty scrutiny is often more a matter of practice than of formal procedures.¹⁴⁸
124. **Despite the detailed consultation and scoping exercise conducted by the Government, it was clearly always the case that CEPA would replicate most of the existing EU-Japan deal. Framing talks for CEPA as entirely new, by further compressing the timetable, only reduced ambition on both sides.**
125. **We welcome the Government's enthusiasm for engaging with stakeholders on the UK-Japan talks, but by presenting the negotiation as one for a wholly new FTA it risked misleading both stakeholders and the public. We also note that it contributed to confusion, apparently within the Department as well as in Parliament, about the process by which scrutiny would be conducted.**
126. **The UK Government and we in Parliament are still developing our own processes for treaty scrutiny, and we will need to keep these under review to ensure that Parliament is able to provide effective scrutiny in practice.**

146 Department for International Trade, *Processes for making free trade agreements once the UK has left the EU*, CP 63, February 2019: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/782176/command-paper-scrutiny-transparency-27012019.pdf [accessed 11 November 2020]

147 Secretary of State for International Trade on Twitter (9 October 2020): <https://twitter.com/trussliz/status/1314491252956696577/photo/1> [accessed 11 November 2020]

148 European Union Committee, *Treaty scrutiny: working practices* (11th Report, Session 2019–21, HL Paper 97)

CHAPTER 10: LOOKING AHEAD

127. In concluding, we provide some observations about the process by which CEPA will be implemented, and its effectiveness monitored and improved.

Implementing legislation

128. Section 5 of the Government’s Explanatory Memorandum (EM) sets out the legislation, specifically secondary legislation, needed to implement CEPA once it is ratified. For example, the agreed tariffs will be implemented via regulations under the Taxation (Cross-border Trade) Act 2018. That section also notes where primary legislation will be necessary, although in this case that primary legislation has already been introduced in the shape of the Trade Bill. The EM does not give a likely timetable for this legislative programme of implementation. Nor does it provide information about how the devolved administrations will need to legislate to implement CEPA, in those areas where it touches on devolved competences.
129. **We recommend that in future the Government should provide a detailed table of planned implementing legislation, including the powers being used for secondary legislation and the expected timetable for that legislation to be introduced and to come into force. This should also indicate where the devolved legislatures will need to legislate in areas of devolved competence.**

CEPA’s governance

Dispute settlement (CEPA Chapter 22)

130. CEPA replicates the effects of the dispute settlement provisions in JEEPA, but we offer a short analysis of the dispute settlement mechanism here, as it forms part of the governance of CEPA post-implementation. The dispute settlement mechanism applies unless a chapter or part of a chapter is expressly excluded. For example, the standards and phytosanitary standards chapter (Chapter 6) is excluded from the dispute settlement mechanism (Article 6.16), as we note above.
131. In short, CEPA provides for dispute settlement by way of consultations, mediation and arbitration, depending on the nature of the dispute. The parties should endeavour to resolve any disputes through “consultations in good faith with a view to reaching a mutually agreeable solution” (Article 22.5). Where measures adversely affect trade or investment between the UK and Japan, either may request that the other enter a mediation process (Article 22.6). Where consultations are attempted but are unsuccessful, CEPA provides for an arbitration procedure (Article 22.7) with an arbitration panel whose decisions are “final and binding” (Article 22.15). The dispute settlement mechanism also provides for temporary remedies in the event of non-compliance, such as the suspension of concessions or other obligations under CEPA (Article 22.22).

Joint Committee and other bodies (CEPA Chapter 23)

132. As is typical for trade agreements, CEPA provides for the establishment of a Joint Committee, comprising representatives of the parties, which is designed to ensure that the Agreement operates “properly and effectively” (Article 23.1). The Joint Committee will have powers to review and monitor the implementation and operation of CEPA and resolve disputes between

the parties. The Joint Committee will make decisions and recommendations by consensus, and its decisions will be binding on the parties (Article 23.2).

133. In addition, CEPA establishes nine specialised committees (Article 23.3), four working groups (Article 23.4), and a Joint Committee on Mutual Recognition, with responsibility for specific areas as set out in the relevant portions of CEPA. For example, the Committee on Trade in Goods has specific functions, as well as the general requirements to “review and monitor” the implementation and operation of Chapter 2 and report its findings to the Joint Committee (Article 2.33). These specialised bodies all operate under the supervision and coordination by the Joint Committee, which may also establish (and dissolve) further specialised committees, working groups or other bodies as needed (Article 23.1.5(a)).

Amendments to CEPA (CEPA Chapter 24)

134. CEPA’s amendment provisions (Article 24.2) also replicate those of JEEPA. The main amendment procedure is via Exchange of Notes, which would be subject to the scrutiny provisions set out in the Constitutional Reform and Governance Act 2010. However, Article 24.3 provides that certain amendments (as set out in Article 24.2.4) can be adopted by the Joint Committee, and so would not be subject to further parliamentary scrutiny. The Parliamentary Report contends that this is in order to ensure that “technical amendments can be done efficiently.”¹⁴⁹ The EM accompanying CEPA also notes that any amendment that would require changes to UK law would require the changes to be implemented domestically, and so be subject to parliamentary scrutiny.
135. We have previously considered this issue as part of our report on *Treaty scrutiny: working practices*. Where amendments do not require specific legislation, there is a risk of a scrutiny gap.¹⁵⁰
136. **The governance procedures established under CEPA are largely as expected, following those already established in the EU-Japan deal. While the operation of CEPA is a matter for the parties’ respective governments, we would urge the UK Government to be transparent about the deal’s operation and impacts on the UK. In particular, we encourage the Government to produce and publish detailed monitoring and evaluation reviews, to assess the economic and other impacts of CEPA post-implementation. These should include details of the steps it has taken domestically to support UK businesses and stakeholders to realise fully the benefits of CEPA’s provisions, as well as steps that have been taken in cooperation with Japan.**
137. **Both the UK and Japan have committed to working together to review and enhance CEPA wherever possible through its governance structure. We welcome this commitment to achieving enhancements post-implementation.**
138. **As we recommended in our report on Treaty scrutiny: working practices earlier this year, the Government should ensure that amendments to CEPA are notified to Parliament even when they fall below the threshold for activating the scrutiny process of the**

149 para 38

150 *Treaty scrutiny: working practices*, para 107

Constitutional Reform and Governance Act 2010. We are grateful to officials for confirming that this is the Government’s intention and look forward to hearing soon how this will be delivered in practice.

Negotiations to join the CPTPP

139. We noted at the beginning of this report that the Government sees CEPA as a stepping-stone towards the UK’s potential accession to the Comprehensive and Progressive Trans-Pacific Partnership (CPTPP), and that in some instances the Government looks to the CPTPP to resolve some of the less satisfactory elements of CEPA, such as UK access to tariff rate quotas (see Chapter 2).¹⁵¹
140. Some witnesses stated that UK accession would benefit industry by reducing barriers and making investment easier in particular for the services sectors,¹⁵² but others expressed concern that the CPTPP adopts US-style regulation for agricultural products and that consequently the UK might be asked to increase market access for sensitive agricultural products in order to join the CPTPP,¹⁵³ or modify its regulatory framework away from the existing EU model.¹⁵⁴
141. **We will follow closely the Government’s bid to accede to the CPTPP, which we expect to be launched in the new year. We note the Government’s focus on some bilateral talks—including with Japan, and the ongoing talks with Australia and New Zealand for new FTAs—as stepping-stones to CPTPP membership. In preparing for, and then conducting, accession negotiations, we hope the Government will engage constructively with all other members of the CPTPP.**

Other lessons for working practices

142. The negotiations with Japan were conducted as a ‘sprint’, rather than in successive rounds. As a result, there were no regular updates to Parliament via Written Ministerial Statements. However, we spoke to, and corresponded with, the Secretary of State and Lord Grimstone at several points during negotiations. Those letters are set out in Appendix 4.
143. Overall, as we noted in our recent report on working practices, DIT has been a constructive partner in helping to determine the right processes by which parliamentary scrutiny of the Government’s new function of negotiating trade deals can be facilitated. For example, recognising the significant challenges that the scrutiny deadline under the Constitutional Reform and Governance Act 2010 poses for select committees, DIT made the CEPA text available to us in confidence prior to its being laid.¹⁵⁵
144. Scrutiny of CEPA was thus a test case for establishing how, practically, to handle the sharing of confidential trade deal texts whilst they are being finalised and prepared for publication. The approach taken by the Government—a large number of lengthy PDFs shared directly by the Department, viewable only in a computer browser without any ability to

151 We also note that 15 Asian nations, including China, have signed the Regional Comprehensive Economic Partnership during the annual summit of the Association of Southeast Asian Nations.

152 Written evidence from the City of London Corporation ([JTN0031](#))

153 Written evidence from National Farmers’ Union ([JTN0015](#))

154 Written evidence from Dr Minako Morita-Jaeger ([JTN0029](#))

155 The Secretary of State’s letter, dated 12 October 2020, set out in Appendix 4, outlines the process that was followed, including the text of a Written Ministerial Statement from her on the subject.

annotate or print—was not ideal given the length and complexity of CEPA. Nevertheless, taken as a test case, it has illustrated how the process could be improved for the future.

145. **We welcome the Secretary of State’s commitment to ensuring that we and other scrutiny committees can review final deals in confidence. We recommend the following process for the Government sharing confidential documents with Parliament before laying them formally in accordance with the provisions of the Constitutional Reform and Governance Act 2010:**
- (a) **That staff of the relevant scrutiny committees be provided with documents by the Department to disseminate to members, in numbered hard-copy or electronic form, as appropriate;**
 - (b) **That password-protection be used to secure electronic documents; and**
 - (c) **That numbered hard copies be collected and destroyed after the final deal has been published, in line with Parliament’s existing process for handling confidential waste.**
146. **None of this should detract from the constructive work relationship we have experienced with the Department so far. We look forward to working constructively on scrutinising future deals.**

SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

Introduction

1. We draw special attention to the UK-Japan Comprehensive Economic Partnership Agreement on the grounds that:
 - It is politically important and gives rise to issues of public policy that the House may wish to debate prior to ratification. (Paragraph 13)

Trade in goods (CEPA Chapter 2)

2. We welcome CEPA's tariff reductions keeping pace with EU-Japan reductions, protecting UK competitiveness in the Japanese market. However, the Government's presentation of tariff liberalisation on products like UK pork and beef exports as though they were new to CEPA is just the first instance of what will be a theme of this report: the Government presenting as a new gain the retention of EU-negotiated provisions. Except for a faster tariff reduction for leather and hide goods in the Japanese tariff schedule, the UK does not seem to have secured significant improvements in this area. (Paragraph 18)
3. The arrangements in CEPA for the UK's continued access to some tariff rate quotas are sub-optimal. It is better to have access to these TRQs than not, but uncertainty around how much of the TRQ will be left for UK exporters is likely to disincentivise their use. EU exporters are likely to use the TRQs more as they become more familiar with them, potentially limiting UK exporters' opportunities. Further, as it will not be clear at the time of ordering goods whether they will in fact benefit from the lower tariff, we have been told that this will make British goods less attractive vis-à-vis EU goods. The streamlining of the process that the UK and Japan have agreed, with less paperwork required for UK exporters to use the TRQ, is welcome in principle but unlikely to mitigate this uncertainty. (Paragraph 24)
4. As Japan's autonomous TRQ for malt has always been available to UK exporters, we fail to see how CEPA has secured "more generous market access", as the Government claims. Nonetheless, we welcome the assurance provided to UK exporters by the side-letter on malt. (Paragraph 27)

Rules of origin and origin procedures (CEPA Chapter 3)

5. The rules of origin for some products, such as baked goods and textiles, are more liberal in CEPA than in the EU-Japan agreement, and this could be beneficial for some manufacturers seeking more flexibility in sourcing inputs. Continuity in the rules of origin for automotive vehicles and parts has been welcomed by the sector. We also welcome the increased flexibility of origin procedures in CEPA. (Paragraph 34)
6. CEPA alone cannot secure diagonal cumulation between the UK, Japan and the EU, which many industries have recommended, but it does take an important first step in extending cumulation to the EU for most products listed in the UK Global Tariff, with some exceptions, like some cereals and spices. This is particularly valuable for food and drink manufacturers and will help to ensure business continuity for UK exporters to Japan and Japanese exporters to the UK if they incorporate EU content to meet value-added thresholds. (Paragraph 39)

7. To secure existing trilateral trade flows between the EU, UK and Japan, the UK and EU would need to extend cumulation to Japan through their own trade agreement. It appears that the EU does not intend to do so. Such uncertainty affects certain sectors, such as automotive manufacturing, particularly acutely. (Paragraph 40)

Trade in services, investment liberalisation and electronic commerce (CEPA Chapter 8)

8. Stakeholders welcome the fact that CEPA replicates and expands financial services provisions in the EU-Japan deal. CEPA's forum on regulatory cooperation is similar to the forum under the EU-Japan deal, but allows UK financial regulators to be directly involved. The change in language from "reliance" to "deference" indicates a potential shift in approach to regulatory cooperation and has been welcomed by representatives of the financial services industry. Provisions on greater transparency and streamlined application processes for UK firms seeking licenses in Japan are also an improvement. (Paragraph 44)
9. While CEPA does not extend the three-month period allowed for the temporary presence of businesspeople in the EU-Japan deal, there are some welcome if minor improvements to mobility provisions. These include the amendment to investor definitions and the provisions allowing intra-corporate transferees to bring their spouse and children and stay for up to five years. (Paragraph 49)
10. The mutual recognition of professional qualifications in the legal and the financial and related professional services sectors was not achieved in CEPA, which is unfortunate. The Government should pursue future opportunities for continuing regulatory dialogue. (Paragraph 52)
11. We largely welcome CEPA's new provisions related to digital and e-commerce. The provision banning data localisation requirements will have cross-cutting benefits for many sectors, including the financial services sector. However, we note that some questions remain regarding the protection of personal data. (Paragraph 59)
12. Quantifying the economic benefits of these new and strengthened provisions remains a challenge, and may require time and new economic modelling methods. Moreover, as digital and data become more important in trade agreements, there needs to be greater scrutiny of the impact of digital trade provisions, particularly as the UK develops its own data protection standards, which may diverge from the EU's. (Paragraph 60)

Intellectual property (CEPA Chapter 14)

13. We welcome CEPA's additional language, compared with the EU-Japan deal, on ensuring adequate rights protections and, including additional provision on enforcing criminal remedies for certain intellectual property rights infringement and on enforcement in the digital environment. We note, though, that many of the additions focus on future discussions and awareness raising about existing enforcement procedures in both countries, rather than securing new, concrete protections. (Paragraph 66)
14. It is welcome that CEPA maintains the Geographical Indications (GIs) under the EU-Japan deal, and that the UK has taken steps to make it easier to obtain further GIs in the future. But given the uncertainty regarding

whether UK producers will gain the additional sixty or so GIs that the Government has advertised, it is not yet possible to state that the UK has won new protection for more UK goods. This is another area in which the Government's promotion of CEPA has oversold the actual provisions of the deal. The Government should swiftly provide clarity for stakeholders by setting out in detail the process and timeframe for obtaining approval of new GIs from Japan. (Paragraph 71)

Trade and women's economic empowerment (CEPA Chapter 21)

15. We agree with the Commons International Trade Committee that the UK should use trade deals proactively to promote gender equality. CEPA does not reflect a significant step towards that goal. We would welcome further clarity from the Government about how central this issue will be for the UK in future trade negotiations. (Paragraph 75)
16. We welcome the introduction of a chapter on women's economic empowerment in CEPA, but we note the non-binding nature of the text. While this is common for such chapters in trade deals, we were disappointed at the absence of any reference to this issue in the Government's outline objectives and the Secretary of State's recent speech about "values-driven" trade. (Paragraph 76)

Chapters with no or few changes

17. It appears that the Government felt that JEEPA adequately achieved its goals in areas such as competition policy, technical barriers to trade, and trade remedies, where it has rolled over JEEPA's provisions almost entirely. We do not underestimate the value of this continuity, but we note that it does not represent any material advance to what has been agreed in JEEPA. (Paragraph 80)
18. We have concerns about the exclusion of the entire chapter on sanitary and phytosanitary measures (Chapter 6) from CEPA's dispute mechanism. We urge the Government to explain the possible consequences of this change. (Paragraph 85)
19. CEPA has largely replicated the EU-Japan provisions for subsidies, or state aid. Insofar as CEPA might serve as a model for other UK bilateral agreements, the absence of any practical enforcement mechanism and of an ability for companies to launch a complaint in the other party's jurisdiction means that the agreement adds only modestly to the WTO subsidy control provisions. (Paragraph 88)
20. We welcome the rolling over of the EU-Japan chapter on trade and sustainable development, maintaining bilaterally commitments to international agreements on labour, the environment and biodiversity, and the importance of sustainable management of natural resources. The small changes introduced in CEPA, however, seem to require less swift action to work on these issues. We urge the Government to maintain its focus in this area, through this and other agreements. (Paragraph 91)
21. The SMEs chapter of CEPA, while welcome, does not in and of itself offer significant benefits to UK SMEs. Like SMEs chapters in many trade deals, including the EU-Japan agreement, it simply offers facilitation. Advantages for SMEs are more likely to emerge from work done by the two parties, and

others, to encourage the utilisation of the agreement by such businesses. This should be the subject of regular review by the Government. (Paragraph 94)

Application of the deal (CEPA Chapter 1)

22. We welcome the fact that CEPA includes provisions to extend its territorial application to cover the Crown Dependencies and Overseas Territories. Should they wish to be included and CEPA prove of benefit to them, the agreement should be extended to these areas as soon as practicable. (Paragraph 97)
23. We have concerns about how CEPA's new provision relating to the Protocol on Ireland/Northern Ireland will work in practice, as well as how modified rollover trade agreements, such as CEPA, will interact with that Protocol, and might affect access to goods in Northern Ireland. Without clarity on the UK-EU relationship, it is impossible to comment further, but we note the uncertainty this has caused for Northern Ireland citizens and businesses. (Paragraph 101)

Explanatory documents and Government presentation of CEPA

24. Modelling of trade deals is complex, and we commend the Department's efforts to get it right, including through its ongoing review with the support of an expert panel led by Professor Tony Venables. (Paragraph 108)
25. The Government's impact assessment (IA) fails to provide the information that Parliament and the public need if they are to evaluate how well the Government has done in its negotiations with Japan, as it does not identify what extra benefit, if any, CEPA might generate over JEEPA. Instead the IA considers only one alternative scenario: trading on WTO terms with Japan (in effect, a 'no deal' option). We note that the Government's IA of CEPA projects lower increases in GDP, imports and exports than its previous assessment of JEEPA's benefits for the UK, and would have welcomed more information to help explain this change. (Paragraph 109)
26. While we appreciate that the Government is constrained by the availability of data, and the fact that JEEPA only recently came into force, its IA leaves many questions unanswered. In particular, in the context of CEPA's new chapter on women's economic empowerment, we welcome the inclusion of statistics about the impacts of CEPA on women in the workforce, but note that the IA fails to answer fully the question of whether CEPA will actively promote women's economic empowerment in the UK or in Japan. (Paragraph 112)
27. We note that while the full environmental impacts of CEPA are hard to assess, and there is uncertainty about some of the potential benefits and disbenefits, overall it may result in a small increase in greenhouse gas emissions. We urge the Government to set out more detail, in future Impact Assessments or other explanatory documents, on how trade deals will support environmental goods. (Paragraph 116)
28. Some of the Government's promotional statements and materials do not reflect the substance of the deal that has been reached. We urge the Government to be careful not to oversell its achievements, especially in contexts where nuance is hard to convey, such as on social media. (Paragraph 119)

29. Despite the detailed consultation and scoping exercise conducted by the Government, it was clearly always the case that CEPA would replicate most of the existing EU-Japan deal. Framing talks for CEPA as entirely new, by further compressing the timetable, only reduced ambition on both sides. (Paragraph 124)
30. We welcome the Government's enthusiasm for engaging with stakeholders on the UK-Japan talks, but by presenting the negotiation as one for a wholly new FTA it risked misleading both stakeholders and the public. We also note that it contributed to confusion, apparently within the Department as well as in Parliament, about the process by which scrutiny would be conducted. (Paragraph 125)
31. The UK Government and we in Parliament are still developing our own processes for treaty scrutiny, and we will need to keep these under review to ensure that Parliament is able to provide effective scrutiny in practice. (Paragraph 126)

Looking ahead

32. We recommend that in future the Government should provide a detailed table of planned implementing legislation, including the powers being used for secondary legislation and the expected timetable for that legislation to be introduced and to come into force. This should also indicate where the devolved legislatures will need to legislate in areas of devolved competence. (Paragraph 129)
33. The governance procedures established under CEPA are largely as expected, following those already established in the EU-Japan deal. While the operation of CEPA is a matter for the parties' respective governments, we would urge the UK Government to be transparent about the deal's operation and impacts on the UK. In particular, we encourage the Government to produce and publish detailed monitoring and evaluation reviews, to assess the economic and other impacts of CEPA post-implementation. These should include details of the steps it has taken domestically to support UK businesses and stakeholders to realise fully the benefits of CEPA's provisions, as well as steps that have been taken in cooperation with Japan. (Paragraph 136)
34. Both the UK and Japan have committed to working together to review and enhance CEPA wherever possible through its governance structure. We welcome this commitment to achieving enhancements post-implementation. (Paragraph 137)
35. As we recommended in our report on Treaty scrutiny: working practices earlier this year, the Government should ensure that amendments to CEPA are notified to Parliament even when they fall below the threshold for activating the scrutiny process of the Constitutional Reform and Governance Act 2010. We are grateful to officials for confirming that this is the Government's intention and look forward to hearing soon how this will be delivered in practice. (Paragraph 138)
36. We will follow closely the Government's bid to accede to the CPTPP, which we expect to be launched in the new year. We note the Government's focus on some bilateral talks—including with Japan, and the ongoing talks with Australia and New Zealand for new FTAs—as stepping-stones to CPTPP membership. In preparing for, and then conducting, accession negotiations,

we hope the Government will engage constructively with all other members of the CPTPP. (Paragraph 141)

37. We welcome the Secretary of State's commitment to ensuring that we and other scrutiny committees can review final deals in confidence. We recommend the following process for the Government sharing confidential documents with Parliament before laying them formally in accordance with the provisions of the Constitutional Reform and Governance Act 2010:
 - (a) That staff of the relevant scrutiny committees be provided with documents by the Department to disseminate to members, in numbered hard-copy or electronic form, as appropriate;
 - (b) That password-protection be used to secure electronic documents; and
 - (c) That numbered hard copies be collected and destroyed after the final deal has been published, in line with Parliament's existing process for handling confidential waste. (Paragraph 145)
38. None of this should detract from the constructive work relationship we have experienced with the Department so far. We look forward to working constructively on scrutinising future deals. (Paragraph 146)

APPENDIX 1: LIST OF MEMBERS, DECLARATIONS OF INTEREST AND SUB-COMMITTEE STAFF

Members of the European Union Select Committee

The report was approved by the Chair of the EU Select Committee, Lord Kinnoull, as authorised under paragraph 11.55 of the Companion to the Standing Orders and Guide to the Proceedings of the House of Lords.

Declarations of interest

The Earl of Kinnoull (Chair)

Farming interests as principal and as charitable trustee, in receipt of agricultural subsidy

Chairman, Culture Perth and Kinross, in receipt of governmental subsidy

Chairman, United Kingdom Squirrel Accord, in receipt of governmental monies

Shareholdings as set out in the register

International Agreements Sub-Committee Members and staff

Lord Foster of Bath

No relevant interests

Lord Fraser of Corriegrath (until 4 September 2020)

No relevant interests

Lord Gold

David Gold & Associates LLP

Lord Goldsmith QC (Chair)

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 QC

No relevant interests

Lord Oates

Chair, Advisory Committee, Weber Shandwick UK

Non-Executive Director, Centre for Countering Digital Hate

Director, H&O Communications

Lord Risby (from 3 November 2020)

No relevant interest

Lord Robathan

No relevant interests

Earl of Sandwich

No relevant interests

Lord Watts

No relevant interests

The Committee staff are Dr Dominique Gracia (Clerk), Alexander Horne (Legal Adviser), Andrea Ninomiya (Policy Analyst), and George Stafford (Committee Assistant).

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-financial-interests/house-of-lords-commissioner-for-standards-/register-of-lords-interests/>

APPENDIX 2: LIST OF WITNESSES

Evidence is published online at <https://committees.parliament.uk/work/405/ukjapan-trade-negotiations/publications/> and available for inspection at the Parliamentary Archives (020 7219 3074).

Evidence received by the Committee is listed below in chronological order of oral evidence session and in alphabetical order. Those witnesses marked with ** gave both oral and written evidence. Those marked with * gave oral evidence and did not submit any written evidence. All other witnesses submitted written evidence only.

Oral evidence in chronological order

*	Mike Hawes, CEO, Society of Motor Manufacturers and Traders	QQ 1–16
**	James Ramsbotham, CEO, North East England Chamber of Commerce	QQ 1–16
*	Dr Anna Jerzewska, International Trade Policy Consultant	QQ 1–16
*	Andy Burwell, Director for International Trade, Confederation of British Industry	QQ 17–32
**	Nick von Westenholz, Director of EU Exit and International Trade, National Farmers' Union	QQ 17–32
**	Dr Minako Morita-Jaeger, Fellow, UK Trade Policy Observatory, University of Sussex	QQ 17–32
**	Lord Grimstone of Boscobel KT, Minister for Investment	QQ 33–44
	Graham Zebedee, Chief Negotiator for Japan, Department of International Trade	QQ 33–44

Alphabetical list of all witnesses

	Alliance for Intellectual Property	JTN0027
*	Dr Anna Jerzewska, International Trade Policy Consultant (QQ 1–16)	
	The Association of the British Pharmaceutical Industry	JTN0018
	Beatriz Kira, Senior Research and Policy Office, Blavatnik School of Government, University of Oxford	JTN0046
	British Children Abducted to or within Japan	JTN0006 JTN0032
	British Phonographic Industry (BPI)	JTN0030
	British Veterinary Association	JTN0014 JTN0038
*	Andy Burwell, Director for International Trade, Confederation of British Industry (QQ 17–32)	

	City of London Corporation	JTN0031 JTN0045
	Cornwall Council	JTN0021 JTN0033
	Cruelty Free International	JTN0008
	DACS (The Design and Artists Copyright Society)	JTN0022 JTN0039
	Dairy UK	JTN0013 JTN0043
**	Department for International Trade (Lord Grimstone of Boscobel)	JTN0002
	Dr Emily Jones, Associate Professor, Blavatnik School of Government, University of Oxford	JTN0046
	Food and Drink Federation (FDF)	JTN0009 JTN0041
	GR Japan	JTN0028 JTN0047
	Grain and Feed Trade Association (Gafta)	JTN0011
	Lord Grimstone of Boscobel KT, Minister for Investment (QQ 33-44)	
	Mike Hawes, CEO, The Society of Motor Manufacturers and Traders (QQ 1-16)	
*	Information Commissioner	JTN0025
	Law Society of England and Wales	JTN0005 JTN0040
	The Maltsters' Association of Great Britain	JTN0037
	Dr Minako Morita-Jaeger UK Trade Policy Observatory, University of Sussex (QQ 17-32)	JTN0029 JTN0050
	Motion Picture Association (MPA)	JTN0026
	National Farmers' Union (NFU)	JTN0015 JTN0048
**	National Office Animal Health (NOAH)	JTN0016
	National Sheep Association	JTN0001 JTN0044
**	North East England Chamber of Commerce	JTN0017
	Open Rights Group	JTN0042
	PACT (Producers Alliance for Cinema and Television)	JTN0019 JTN0036
**	James Ramsbotham, CEO, North East England Chamber of Commerce (QQ 1-16)	JTN0017
	TheCityUK	JTN0024 JTN0045

	Trade Justice Movement	JTN0035
**	UK Music	JTN0007
	Nick von Westenholz, Director of EU Exit and International Trade, National Farmers' Union (QQ 17- 32)	JTN0015 JTN0048
**	Which?	JTN0049
	Graham Zebedee, Chief Negotiator for Japan, Department of International Trade (QQ 33-44)	

APPENDIX 3: CALLS FOR EVIDENCE

Submission period: 25 June 2020–7 September 2020

The new House of Lords EU International Agreements Sub-Committee (IAC), chaired by Lord Goldsmith, has launched an inquiry into the ongoing UK-Japan trade negotiations towards a free trade agreement.

This is a public call for written evidence to be submitted to the Committee. The Committee's scrutiny of these negotiations will consider a wide range of issues, and we expect this call for evidence to remain open during the course of the negotiations, and that the Committee's scrutiny of these negotiations will consider a wide range of issues, but we would be grateful for submissions on one, some or all of the points set out below by Monday 31 August, in the first instance.

A revised call for written evidence may be issued in due course, as negotiations progress, and all those who have previously made written submissions will be notified of this and invited to make an additional submission, if they wish.

When preparing your response, please bear in mind that short, concise submissions are preferred, and responses must not be any longer than six sides of A4. Bullet points are acceptable. You do not need to address every question below. Equally, if there are any crucial issues not captured by the questions we pose, please highlight what they are and explain their salience.

The process for making submissions is set out in Annex 1, but if you have any questions or require any adjustments to enable you to respond, please contact the staff of the Committee at HLIntlAgreements@parliament.uk.

Background

The Government has made agreeing a comprehensive free trade agreement ("FTA") with Japan an early priority. Japan is the UK's 4th largest non-EU export market, accounting for just over 2% of the UK's total exports in 2018. Total UK trade with Japan was worth over £29.5bn in 2018. The UK is currently a part of the EU-Japan Economic Partnership Agreement (EPA), which entered into force on 1 February 2019, but will leave the agreement when the transition period ends on 31 December 2020. The Government aims to agree an ambitious and comprehensive Free Trade Agreement (FTA) with Japan that builds on the EU-Japan EPA.

Trade negotiations between the UK and Japan were officially launched on Tuesday 9 June 2020. The UK Secretary of State for International Trade, Liz Truss, and Japanese Foreign Affairs Minister, Toshimitsu Motegi, began the first round of negotiations.

The International Agreements Committee is responsible for scrutinising how the Government conducts international agreements, including trade treaties, and the final content of those agreements. The UK-Japan trade deal is one of the first major trade agreements pursued by a post-Brexit UK, and the Government seeks to build on the EU-Japan EPA. This inquiry will focus on the Government's aims and objectives, the progress of negotiations, and the possible impacts of a final deal for people and businesses across the UK. It is not yet known when the talks will conclude, but this inquiry will run for the duration of those talks.

Inquiry focus

The Committee is interested in submissions on any and all aspects of a new UK-Japan trade agreement, but the inquiry will focus at first on some key areas that have been raised as priority areas by the UK and Japan. In the first instance, the Committee is particularly seeking evidence on the impacts of a potential deal on the automotive industry and digital goods and services trade, as well as the implications for other areas including the agriculture and food sectors and possible UK accession to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP).

The Japanese Government and businesses have made clear that one of its priorities is the early elimination of UK import tariffs on Japanese automobiles and auto parts. The inquiry will seek evidence on the impact of a trade deal with Japan on the UK automotive industry.

The inquiry will also seek evidence on digital goods and services in the trade negotiations, including the consequences the negotiations may have for UK rules—such as data protection, copyright, and consumer protection—and how any deal might affect the UK’s digital goods and services industries, including but not limited to FinTech, games, and other innovative digital products.

Although both countries have expressed aspiration for reaching a comprehensive FTA, they face significant time constraints in concluding an agreement before the end of the Brexit transition period. This inquiry will consider what a limited version of a trade agreement might include and what the implications of a limited agreement might be for UK stakeholders.

Additionally, evidence is sought on the potential impacts of a trade deal on regions in the UK and how different areas, regions and nations across the country might either benefit from the deal or miss out.

The Sub-Committee seeks evidence on the following areas of interest, which are phrased as questions for the ease of respondents. Submissions need not address all questions.

*Areas of interest**General*

We welcome broad responses to these general questions, as well as specific responses in relation to one or more of the key themes set out below (for example, covering the DIT’s objectives on automotive or digital trade specifically).

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?
6. The UK Government has expressed a strong interest in using a potential FTA with Japan as a stepping stone to joining to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP). How might a trade deal with Japan help the UK to join the CPTPP and what benefits would there be in joining?
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

Under the EU-Japan EPA, tariffs on automotive imports from Japan to the EU will gradually be reduced from 10% prior to the implementation of the agreement, to zero in the eighth year of implementation. The Japanese Government has made clear that it wishes to go beyond the EU-Japan EPA and seeks an early elimination of tariffs on Japanese automobile and auto part imports to the UK.

The UK Government has not stated its position on removing tariffs on Japanese automotive imports. It has stated in its negotiating objectives, “Cars are one of our top goods exports to Japan, worth around £1.1bn. Our automotive exporters could benefit from reduced non-tariff barriers in an FTA”, and “the UK-Japan FTA should retain the EPA automotive annex.”

14. How might an early removal of tariffs on Japanese automobile and auto part imports, which is faster than the timescale agreed in EU-Japan EPA, impact the UK automotive industry? How might the UK automotive industry approach any new competition that might arise? We would be particularly interested in any detailed economic analyses on these points.
15. Considering the important role of supply chains in the automotive sector, what rules of origin and cumulation requirements should be included in a UK-Japan trade agreement? How might they play into the UK’s trading arrangements with the EU?
16. Would there be a significant economic benefit to UK consumers if there was an early removal of tariffs on Japanese automotive imports? How large would the economic benefit be?
17. How might negotiated provisions on reducing tariff and non-tariff barriers for UK automotive exports to Japan benefit UK businesses?
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?
21. Japan and the US signed a ‘mini-deal’ on digital trade last year. Considering that the UK is negotiating trade deals with both the US and Japan at the same time, how might this impact the UK’s negotiating leverage in this area?

Agriculture and Food

The UK Government's scoping assessment suggests that UK agriculture could benefit from an FTA with Japan through a combination of reduced tariffs and red tape for food and drink exports.

Meanwhile, Japanese agriculture groups have strongly opposed further access to its markets and agriculture was one of the most challenging areas in negotiations leading up to the EU-Japan Economic Partnership Agreement.

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?
23. If the UK and Japan agreed a limited version of a trade deal, which either eliminated or reduced provisions related to agriculture and food, what might be some of the impacts on UK agriculture and food industries?

Submission period: 23 October 2020–6 November 2020

The House of Lords EU International Agreements Sub-Committee (IAC), chaired by Lord Goldsmith QC, has been taking evidence on UK-Japan trade talks since 25 June. The UK Government has now published the final text of the deal agreed, and the Committee continues its scrutiny work by gathering views on the text.

This is a public call for written comments on the UK-Japan Agreement to be submitted to help inform detailed scrutiny of the text. Owing to the short time available for scrutiny under the Constitutional Reform and Governance Act 2010, which limits the Committee to doing its work within 21 sitting days after a deal has been laid before Parliament, responses are sought by 5pm on 6 November.

When preparing your response, please bear in mind that short, concise submissions are preferred, and responses should ideally not be longer than two sides of A4. Bullet points are acceptable. Submissions should be made through the link at the end of this page.

Further details about the process for making submissions are set out in Annex 1, but if you have any questions or require any adjustments to enable you to respond, please contact the staff of the Committee at HLIntlAgreements@parliament.uk.

Background

The International Agreements Committee is responsible for scrutinising how the Government conducts international agreements, including trade treaties, and the final content of those agreements.

The UK is currently a part of the EU-Japan Economic Partnership Agreement (EPA), which entered into force on 1 February 2019, but will leave the agreement when the transition period ends on 31 December 2020. The UK Government made securing a free trade agreement with Japan one of its early priorities and trade negotiations between the UK and Japan began on Tuesday 9 June 2020. The UK-Japan Comprehensive Economic Partnership Agreement was agreed in principle on Friday 11 September 2020 by International Trade Secretary Liz Truss and Japan's Foreign Minister Motegi Toshimitsu.

Areas of interest

We welcome broad responses to the published deal, as well as specific responses about how it might affect specific industries, groups and regions in the UK. We would also welcome commentary on whether the published deal meets both the objectives set out by the Government when it launched the talks and the expectations raised by the Government when it announced the agreement in principle.

APPENDIX 4: MINISTERIAL CORRESPONDENCE

Letter from Lord Goldsmith QC to the Secretary of State for International Trade on trade negotiations between the UK and Japan, dated 31 July 2020

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”¹⁵⁶ with Japan or “a deal that is EPA-plus in many areas”.¹⁵⁷ 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

¹⁵⁶ Oral evidence taken on 23 July 2020 (Session 2019–21) [Q 55](#)

¹⁵⁷ Oral evidence taken on 23 July 2020 (Session 2019–21) [Q 57](#)

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.**

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.¹⁵⁸

158 Society of Motor Manufacturers and Traders, 'Japan-UK auto trade as strong as ever as third more British car buyers choose Japanese brands', (24 October 2017): <https://www.smmmt.co.uk/2017/10/japan-uk-auto-trade-strong-ever-third-british-car-buyers-choose-japanese-brands/> [accessed 19 November 2020]

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”.¹⁵⁹ 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”.¹⁶⁰ **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 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.¹⁶¹ 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.¹⁶² 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.”¹⁶³ **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.¹⁶⁴ Considering the possible increased competition from Japanese automotive companies, stakeholders have noted that a support scheme would be helpful for the UK auto sector.¹⁶⁵ In its written response, DIT acknowledged it was aware of Japan’s demands and stated, “The UK wants to secure broad liberalisation

159 Oral evidence taken on 23 July 2020 (Session 2019–21) [Q 57](#)

160 Ibid.

161 Oral evidence taken before the Commons International Trade Committee, 17 June 2020 (Session 2019–21), [QQ 61-62](#) (Dr Meredith Crowley)

162 Society of Motor Manufacturers and Traders, *SMMT Position Paper UK-Japan Trade Negotiations*, (July 2020): <https://www.smmt.co.uk/wp-content/uploads/sites/2/SMMT-Position-Paper-on-UK-Japan-Trade-Final.pdf> [accessed 19 November 2020] ; SMMT and the Japan Automobile Manufacturers Association (JAMA), ‘JAMA-SMMT Joint Position Paper UK-Japan Free Trade Agreement Negotiations’, (July 2020): <https://www.smmt.co.uk/wp-content/uploads/sites/2/JAMA-SMMT-position-paper-on-UK-Japan-FTA.pdf> [accessed 19 November 2020]. On the cumulation point, see also oral evidence by Honda taken before the Commons International Trade Committee, 8 July 2020 (Session 2019–21), [Q 146](#)

163 Oral evidence taken on 23 July 2020 (Session 2019–21) [Q 67](#)

164 Written evidence submitted to the Commons International Trade Committee from Honda ([UKT0001](#))

165 Society of Motor Manufacturers and Traders, *SMMT Position Paper UK-Japan Trade Negotiations*, (July 2020): <https://www.smmt.co.uk/wp-content/uploads/sites/2/SMMT-Position-Paper-on-UK-Japan-Trade-Final.pdf> [accessed 19 November 2020]

of tariffs on a balanced and mutually beneficial basis, taking into account UK product sensitivities”.¹⁶⁶ 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?**

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.¹⁶⁷ The agri-food sectors have identified potential opportunities for exporting to Japan¹⁶⁸ 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”.¹⁶⁹ **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.¹⁷⁰ 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.¹⁷¹ 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”.¹⁷² **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?**

166 Written evidence from the Department for International Trade ([JTN0002](#))

167 Oral evidence taken before the Commons International Trade Committee, 8 July 2020 (Session 2019–21), [Q 127](#) (Dr Anna Jerzewska)

168 Written evidence from the National Sheep Association ([JTN0001](#))

169 Written evidence from the Department for International Trade ([JTN0002](#))

170 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), [Q 12](#)

171 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]

172 Oral evidence taken on 23 July 2020 (Session 2019–21) [Q 57](#)

The Government's negotiating objectives state that an FTA with Japan represents significant opportunities for UK agriculture¹⁷³ and you have highlighted potential opportunities for British beef.¹⁷⁴ 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.¹⁷⁵ 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.¹⁷⁶ The investment chapter of the EU-Japan EPA did not include investment protection mechanisms,¹⁷⁷ 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."¹⁷⁸ 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

173 Department for International Trade, *UK-Japan Free Trade Agreement: The UK's Strategic Approach*, (13 May 2020) p 6: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/885176/UK_Japan_trade_agreement_negotiations_approach.pdf [accessed 19 November 2020]

174 Rt Hon Liz Truss MP, '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]

175 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](#)

176 Dr 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): <https://blogs.sussex.ac.uk/uktpo/files/2020/07/Briefing-paper-46.pdf> [accessed 19 November 2020] and Dr Minako Morita-Jaeger, 'The Japan-UK FTA: Three fundamental issues to consider when assessing its value', UK Trade Policy Observatory, (8 July 2020): <https://blogs.sussex.ac.uk/uktpo/2020/07/08/the-japan-uk-fta-three-fundamental-issues/> [accessed 19 November 2020]

177 Oral evidence taken before the Commons International Trade Committee, 8 July 2020 (Session 2019–21), [Q 108](#) (Jappe Eckhardt)

178 Oral evidence taken on 23 July 2020 (Session 2019–21) [Q 69](#)

already been negotiated by its current members and has entered into force, it seems clear what provisions the UK would be asked to sign up to.¹⁷⁹ 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.¹⁸⁰

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.

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'?

179 Oral evidence taken before the Commons International Trade Committee, 8 July 2020 (Session 2019–21), [Q_113](#) (Dr Anna Jerzewska)

180 Oral evidence taken on 23 July 2020 (Session 2019–21) [Q_56](#)

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?

Letter from Lord Grimstone of Boscobel to the Lord Goldsmith QC in response to the letter on the UK-Japan trade negotiations, dated 7 September 2020

Thank you for your letter dated 31 July concerning the trade agreement with Japan.

I am aware that you will be holding an evidence session on 14 September. As you will be aware, events are moving quickly, as such this letter will provide you with an update on the current state of negotiations.

We are in the final stages of negotiations and are optimistic about reaching an agreement. Both the UK and Japan are committed to a deal that will enter into force by the end of 2020.

We have reached broad agreement on the vast majority of the UK-Japan Comprehensive Economic Partnership Agreement (EPA) which goes even further than this agreement in key areas, including digital and financial services.

Negotiations always cover a range of exporting interests rather than any single good or product. Nothing is agreed until everything is agreed, so the deal never really just comes down to one particular export. Both sides have to make efforts to reach a balanced agreement respecting each other's interests and sensitivities. We are confident we can resolve the very few outstanding matters in time for the end of the transition period.

We will publish a parliamentary report for the UK-Japan agreement prior to ratification, clearly highlighting any areas where there are specific material differences between the existing EPA and this deal. Both the International Trade Committee and the International Agreements Sub-Committee will have the opportunity to report on the final agreement. This will enable the public and parliamentarians to understand clearly how we have worked to secure a better deal for the UK.

I look forward to providing further detail when I can and to further discussions with the Committee on 30 September and 28 October.

Letter from the Secretary of State for International Trade to the Rt Hon Lord Goldsmith QC regarding confidential provision of the CEPA text, dated 12 October 2020

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.

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.

Letter from Lord Grimstone of Boscobel to Lord Goldsmith QC with further responses following an oral evidence session, dated 10 November 2020

Thank you for hosting me at the EU International Agreements Sub-Committee oral evidence session hosted on the 4th November.

In response to the follow up questions that were sent regarding the UK-Japan Comprehensive Economic Partnership Agreement (CEPA), please find attached answers addressing your questions.

I hope that this, alongside the oral evidence I provided to the Committee on 4 November, will help to inform your report on the CEPA.

Additional questions on the UK-Japan Comprehensive Economic Partnership Agreement from the International Agreements Sub-Committee

Which products where the tariff reductions under CEPA would benefit the UK?

Commitments on tariffs for both the UK and Japan have largely been transitioned without changes. This deal sees tariffs for UK exports to Japan fall relative to trade on WTO terms on products including beef (MFN 38.5% reducing gradually to 9% by 2033), higher value pork (MFN 4.3% reducing gradually to 0% by 2027), cheddar cheese (MFN 29.8% reducing gradually to 0% by 2033) and salmon (MFN 3.5% continued reduction to 0% at entry into force).

The UK and Japan have gone further than the tariff elimination schedules in the EU deal. For example, the UK agreed to eliminate tariffs at entry into force for two tariff lines covering electrical control units often used in cars. By bringing in reductions on tariffs on car parts this means UK-based auto manufacturers (like Nissan and Toyota) will benefit from lower costs of production.

The UK-Japan CEPA not only provides continuity of tariff treatments and protects established supply chains, it also allows more UK goods to access preferential tariffs than the EU-Japan Agreement, thanks to new and more liberal rules of origin provisions around certain food and textile products. This will allow up to £88.2m more of UK exports to receive preferential tariffs in Japan.

Are you able to give any indication of the sorts of areas Article 1.9.5 was intended to cover?

As Article 1.3 of the Agreement and Article 4 of the Protocol on Ireland/Northern Ireland clearly state, Northern Ireland is included within the territorial scope of UK FTAs. At the time of negotiations, not all decisions regarding the implementation of the Protocol on Ireland/Northern Ireland had been made. We therefore included this clause, which makes clear that the UK-Japan CEPA is legally coherent with the Protocol and the UK's commitments under the Protocol.

Would a similar article to 1.95, covering NI protocol potential issues, appear in other continuity agreements?

Northern Ireland is clearly included in the territorial scope of the UK's continuity agreements. Therefore, the implementation of the agreements alongside the NI Protocol, and in a way that is fully consistent with parties' obligations under the Protocol, is an interpretative and operational matter.

We are working with partners to reach a shared understanding of how our continuity agreements will be implemented in Northern Ireland alongside the Protocol, and do not consider that this requires in-treaty provisions. This is especially the case as the Protocol pertains mostly to trade in goods, and reference to specific arrangements are therefore unnecessary. But there are various approaches through which we can reach such a shared understanding with partner countries. A general provision, as agreed in the UK-Japan Comprehensive Economic Partnership Agreement, is one such approach.

Mr Zebedee seemed to suggest at one point that objections to GI applications in Japan could be made by CPTPP countries/companies in CPTPP countries. It was not quite clear precisely which he meant, so it might be useful to have clarity on that?

Japan's domestic opposition process for the addition of GIs to the agreement for protection allows any person to submit a written opinion about that application, this includes both third countries and private companies. This is provided for in Japan's domestic law regarding agricultural GIs at Article 23-25 of Japan's Act on Protection of Names of Specific Agricultural, Forestry and Fishery Products and Foodstuffs. Additionally, Japan is a party to the CPTPP, and Article 18.36.1 requires a CPTPP party to take certain steps where it is looking to protect another country's GI through an international agreement. This includes running an opposition process on any proposed GIs to be protected through the international agreement and permitting interested persons to oppose the proposed GI for protection. It also includes informing other CPTPP parties when these opposition processes are to begin.

Why negotiations with Japan were not started earlier?

When the UK left the EU, we followed a technical replication approach with all partners where there was an existing agreement.

In January 2019, the Prime Ministers of the UK and Japan agreed to negotiate a new bilateral agreement using the EPA as a basis, ensuring the new agreement is as ambitious, high standard and mutually beneficial as the EPA and enhanced in areas of mutual interest. The EU-Japan Economic Partnership Agreement (the EPA) entered into force on 1 February 2019.

The Department for International Trade (DIT) sought input from members of the public, businesses, and any other interested parties to inform DIT of specific areas where new and additional provisions could be pursued. DIT ran a call for input on 20th September 2019 which closed on 4 November 2019. DIT published its response to the call for input on gov.uk, including an outline approach and scoping assessment on 13 May 2020. Both sides committed to an ambitious timeline for negotiations to secure a deal to enter into force by the end of 2020. DIT launched formal negotiations with Japan on 8 June 2020. DIT secured Agreement in Principle with Japan on 11 September 2020, and signature on 23 October 2020.