

RSPCA response to the UK-Japan Comprehensive Economic Partnership Agreement

Summary

- a. The UK-Japan Comprehensive Economic Partnership Agreement (UK-Japan FTA) is essentially a rollover agreement to the EU-Japan Agreement with additional language in certain areas, though crucially not on animal welfare which is the same as EU-Japan. The language on animal welfare is weak and the UK-Japan FTA was a missed opportunity to improve on the EU-Japan Agreement. Other FTAs negotiated by the EU have stronger language on animal welfare and could have been used as a basis to incorporate such language.
 - b. Animal welfare standards in Japan are lower than the UK's on farm animals and cosmetics testing so there is potential for goods produced at lower standards to enter the UK. This will need to be monitored.
 - c. The Impact Assessment compiled by the Department for International Trade (DIT) is poor on its assessment of impacts on animal welfare and has been criticised by the Regulatory Policy Committee report. There need to be better specialised assessments by the Government in future FTAs on areas such as animal welfare, particularly as this the Government has said this is a red line for them.
 - d. The Government's agreement for the Trade and Agriculture Commission to provide such assessments is a welcome step forward but obviously too late for this FTA. The short time period for the International Trade Committee to assess the FTA and for the House of Commons to assess and approve the FTA highlights the lack of transparency under the Constitutional Reform Affairs and Governance Act (CRaG) process and this needs improvement.
1. The RSPCA welcomes the opportunity to set out its views on the implications for animal welfare from the UK-Japan Comprehensive Economic Partnership Agreement (UK-Japan FTA). The RSPCA has been working on trade issues for 25 years, attending seven World Trade Organisation (WTO) Ministerial meetings and advising the European Commission on six FTAs that the EU has negotiated or is negotiating that include animal welfare elements (Chile, South Korea, Canada, Japan, Mercosur and Mexico). The RSPCA also sits on the Consumer Working Group of the Trade and Agriculture Commission. The RSPCA sets the standards for the UK's only higher welfare farm assurance and food labelling scheme, RSPCA Assured, which has over 3,000 members and covers over half the UK's laying hens and a fifth of its pigs.
 2. The Secretary of State for International Trade has stated repeatedly that the UK's animal health and welfare standards are "not up for grabs¹" and this month stated to the

¹ Chatham House speech 29.10.20 <https://www.gov.uk/government/speeches/chatham-house-speech-liz-truss-sets-out-vision-for-values-driven-free-trade>

International Trade Select Committee that the UK will “use techniques like quotas, tariffs and safeguards to make sure that our farmers aren’t unfairly undercut by products that don’t follow the same high standards that we do in the United Kingdom”².

3. The UK legislative framework provides for higher animal welfare standards than Japan in virtually every area that is being negotiated, particularly with regard to farm animal welfare. According to World Animal Protection, Japan is rated E for its overall animal welfare standards compared to B for the UK and for farm animal standards G compared to the UK’s rating of D³. Although Japan does not use food production techniques banned in the UK such as hormones in beef and dairy cattle farming or washing chickens in chlorine, it does have lower standards in areas that could be sensitive to trade. For instance, Japan is the world’s fifth biggest producer of eggs, 90% of which are from caged hens, compared to around 40% in the UK, and the sixth largest producer of poultry meat. In addition it is not clear how many of the World Organisation for Animal Health’s (OIE) 14 farm animal welfare Guidelines Japan has put into law. So whilst trade in food products produced to lower standards than the UK is not an immediate concern, it is important to monitor and audit the impact of the reduction in tariffs agreed in the UK-Japan FTA, particularly in areas such as beef, eggs and chicken.
4. According to the UK Trade Policy Observatory⁴ the two countries have different interpretations on how different the UK-Japan FTA is to the EU-Japan Agreement. While the UK Government has presented the UK-Japan FTA as going “far beyond the EU-Japan Economic Partnership Agreement (EPA)” the Japanese Government’s evaluation is more downbeat. But it is clear that the main major differences are on e-commerce, rules of origin, and financial services rather than animal welfare.
5. On the animal welfare provisions the UK-Japan FTA is essentially a rollover agreement. The same text appears in the UK-Japan FTA under Article 18.17⁵ as under Article 18.17 in the EU-Japan Agreement⁶; namely that the UK and Japan will improve their mutual understanding of each country’s farm animal welfare laws and set up a Working Group to improve cooperation and agree priority issues to be discussed.
6. This is essentially a lost opportunity. Much more progressive language could have been included. There are ample examples in other FTAs. For instance, there is no language setting out that animals are sentient beings as there is in the EU-Mexico Agreement and in the UK’s draft FTA with the EU. There is no mention of the OIE’s guidelines and improving cooperation to meet those standards as there is in the EU-Mexico Agreement, or working together in international fora such as the OIE or WTO to improve understanding of animal welfare, also found in the EU-Mexico Agreement⁷. Neither is there any language on capacity building or

² Secretary of State evidence to Trade Committee 4/11/20

³ <https://api.worldanim.alprotection.org/country/japan>

⁴ <https://blogs.sussex.ac.uk/uktpo/2020/10/22/japan-uk-fta-what-is-missing/>

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/929181/CS_Japan_1.2_020_UK_Japan_Agreement_Comprehensive_Economic_Partnership_v1.pdf

⁶ http://trade.ec.europa.eu/doclib/docs/2018/august/tradoc_157228.pdf#page=135

⁷ https://trade.ec.europa.eu/doclib/docs/2018/april/tradoc_156799.pdf

technical assistance to improve animal welfare standards as there is in the EU-Vietnam Agreement⁸, or on regulatory cooperation as there is in the EU-Canada Agreement⁹. Finally there is no language on encouraging imports of goods produced from equivalent standards through conditional liberalisation, which is precisely what the Secretary of State said to the Trade Committee was the UK's preferred way of dealing with animal welfare. The silence on animal welfare standards is deafening.

7. The DIT's Impact Assessment (IA) on animal welfare in the UK-Japan FTA is short and not that insightful, stating that nothing in the the UK-Japan FTA prevents the UK from continuing to uphold its high animal welfare standards and that, without exception, imports into the UK will continue to meet the UK's stringent food safety standards¹⁰. It is true that under the UK-Japan FTA, Japan would have to show, if it was planning to export agri-food products, how its food safety regime met the UK's food safety standards, such as its ban on beef hormones, before exports could occur. However there is nothing to show how Japan would meet the UK's agri-food welfare standards before export is allowed.
8. The UK-Japan FTA language on animal welfare is very short and imprecise (see para 5). It does not, for instance, set out any equivalency tests to ensure Japanese agri-food exports meet UK farm animal welfare standards. Nor is there any new thinking, such as conditional liberalisation or preferential tariff access, in the Agreement which ensures imports would be favoured for those products that met UK welfare standards. Given this, it is difficult to understand how the DIT concluded in its IA that nothing in the UK-Japan FTA prevents the UK upholding its animal welfare standards. There is, for instance, no assessment on how future trade in sectors such as beef, eggs and chicken could change due to the new tariff rules. There is also no assessment on what opportunities in farm produce exports from Japan could have occurred if more progressive language such as improving regulatory cooperation or adherence to OIE standards had been inserted.
9. The Regulatory Policy Committee report¹¹ which assessed the DIT's IA agreed that it should have given more detail on the impact on animal welfare and identified animal welfare as an area to be improved in future impact assessments. This is particularly central to the impact of increased trade creating market pressures on animal welfare. Japan's farm welfare standards are much lower than the UK's and whilst there may be no immediate impact on trade in such products to the UK this cannot be ruled out in the future.
10. There need to be better specialised assessments by the Government in future FTAs on areas such as animal welfare, particularly as this is a red line for the Government. The Department of International Trade has no specialised expertise in animal welfare standards and there needs to be greater coordination with the lead agency on this issue, Defra. The Government's agreement this month for the Trade and Agriculture Commission to provide its own expert assessments is a useful addition to this process.

⁸ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L:2020:186:FULL&from=EN#page=154>

⁹ <https://ec.europa.eu/trade/policy/in-focus/ceta/ceta-chapter-by-chapter/>

¹⁰ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/929059/final-impact-assessment-UK-Japan-comprehensive-economic-partnership.pdf

¹¹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/929164/RPC-DIT-UK_JAPAN_CEP-IA_F_-Opinion.pdf

11. Under the UK-Japan FTA there is provision for setting up an animal welfare working group where more general concerns can be raised by the Parties. The UK must at least make full use of the language available and push for the setting up of a specific working group on animal welfare cooperation and for the adoption of an ambitious work plan to address Japan's biggest animal welfare challenges, such as the extensive use of barren cages for laying hens and the intensive conditions used to rear broiler chickens.
12. Although trade in farm products provides the greatest threat to UK's animal welfare standards, the UK should also put the use of animals in science on the agenda with Japan, notably in the testing of cosmetics. Japanese industry players from the cosmetic sector, currently using animals, have recently shown a willingness to consider alternatives, which offers a good opportunity for the UK to influence Japan's policy now¹².
13. The UK-Japan FTA does not contain explicit wording on whaling, but does call on each party to "effectively implement in its laws, regulations and practices the multilateral environmental agreements to which it is party." Japan should thus be reminded it has to respect the ruling rendered in 2014 by the International Court of Justice (ICJ) condemning the Japanese whaling practices as not being science-driven.
14. Enforcement of the UK-Japan FTA remains problematic as the only mechanism available is the establishment of a panel that will produce a report on the matter. If the violating party still refuses to change course, nothing more can be done, apart from possibly suspending the entire agreement.
15. As this FTA is not classified as a rollover but as a new FTA it will be the first to go through the new implementation process for trade agreements. The Constitutional Reform and Governance Act 2010 lays down the process for Parliament but crucially does not give it ratification veto, only a means of endlessly postponing ratification. This lack of transparency and oversight has been criticised by various Select Committees¹³. This is in contrast to jurisdictions such as the US and the EU where there is a ratification process for the Parliaments.
16. The RSPCA believes that there needs to be a democratic process for approving trade deals. This would ensure there was a Parliamentary vote before negotiations on the mandate, effective reporting on how the new deal complies with animal welfare standards and a final vote for Parliament before the FTA is ratified. The short time period for the Justice Committee to assess the FTA and for the House of Commons to assess and approve the FTA highlights the lack of transparency under the CRaG process and also highlights the importance of rigorous, transparent and expert impact assessments.

¹² <https://in.fashionnetwork.com/news/Japan-cosmetics-giant-shiseido-ditches-animal-testing,643503.html>

¹³ <https://publications.parliament.uk/pa/cm201719/cmselect/cmtrade/1043/1043.pdf>