



Angus Brendan MacNeill MP  
Chair  
International Trade Committee

10 November 2020

Dear Angus,

**UK Trade Negotiations: Agreement with Japan**  
**Scottish Government response to the International Trade Committee inquiry**

1. Thank you for the opportunity to contribute to the International Trade Committee's inquiry into the recently signed trade agreement between the UK and Japan: the UK-Japan Comprehensive Economic Partnership Agreement (CEPA). I have set out the position and interests of the Scottish Government below.

**Scotland's trade with Japan**

2. Japan is an important market for Scotland and our exports to Japan in 2018 were valued at £540M, or 1.6% of our total international exports. Between 2013 and 2018, Scottish exports to Japan grew on average by 9% per year.
3. Scotland has a consistent and substantial goods surplus with Japan, with power generating machinery and equipment and beverages dominating our exports to Japan. Beverages, principally Scotch whisky but also gin, account for 23% of Scotland's goods exports to Japan (2% of UK exports). In industrial goods, power generating machinery and equipment account for 24% of Scotland's goods exports to Japan (17% for the UK). Nearly half of those exports are parts of turbojets or turbopropellers.
4. Japan represents around 1.6% of Scotland's international services exports: this is dominated by financial and business services, where we have particular strengths, which accounted for £90M of our £195M of services exports to Japan in 2018.

## **Importance of trade agreement continuity with Japan**

5. I am keen that we create more opportunities for trade between Scotland and Japan. Businesses in Scotland already benefit from the Economic Partnership Agreement (EPA) between the EU and Japan, which entered into force in February 2019. I know that many businesses were concerned at losing the benefits of this agreement as a result of leaving the EU. They will be reassured that a UK-Japan agreement has now been signed, which will provide continuity and some degree of certainty at this very challenging time.
6. As you are aware, the Scottish Government has consistently been clear that the best option for the future wellbeing and prosperity of Scotland, and the UK as a whole, would have been to remain in the EU. Membership of the EU provides not just the trading advantages of being part of the Single Market and Customs Union, but also preferential trading arrangements with around 40 third countries. Scotland stands to lose the benefits of these trade agreements at the end of the transition period unless continuity arrangements are put in place. To date, only 21 out of these 40 agreements have been concluded. While we welcome the agreement with Japan, businesses will be keen to ensure that there are continuity agreements with all of their export markets in place by the end of the year. The fact that the UK Government is having to spend so much time and effort trying to put in place these agreements demonstrates the futility of leaving the EU in the first place.

## **Scottish Government's role in trade agreement negotiations**

7. We have consistently made the case for the Scottish Government and the Scottish Parliament to have a meaningful role in all stages of the formulation, negotiation, agreement and implementation of future trade deals to identify, protect and promote Scotland's interests and priorities.
8. The UK Government consulted the Scottish Government and other devolved administrations on those sections of CEPA that it considered of relevance to devolved competence. This consultation involved discussions between officials of both governments on the content and progress of negotiations as well as sharing some draft chapter text. While this engagement was useful and appreciated, it fell short of the full engagement that we consider to be necessary and appropriate. The UK Government only provided devolved administrations with the full text of the agreement following Agreement in Principle between the UK and Japanese Governments, once it had been finalised and very shortly before it was published.
9. The distinction between devolved and reserved areas of interest used by the Department for International Trade (DIT) to restrict the information it shared with the Scottish Government is a false one in terms of the legitimate interests of the Scottish Government. The nature of modern trade agreements means that these areas frequently overlap and interact. For example, intellectual property and tariff rate quotas (TRQs) may be reserved matters, however the UK Government's approach on Geographical Indications (GIs) or TRQs has an impact on the Scottish Government's devolved responsibilities for the agricultural sector. Therefore meaningful engagement requires devolved administrations to be able to see and comment on the entire text. As we have made clear to the UK Government, it is essential that devolved administrations are fully involved at all stages of the process and across all areas of the proposed agreement, whether reserved or devolved.

## Scottish Government's views on the UK-Japan CEPA

10. We recognise the signing of this agreement as a means of providing continuity of the current trading arrangements with Japan. This provides certainty for exporters, who are also facing the challenges of EU exit and the Covid-19 pandemic.
11. The UK Government has emphasised in its [news releases](#) that the agreement provides “strong tariff reductions on key agricultural products”, such as beef. CEPA in fact provides the same pace of tariff reduction as the EPA and so exporters currently benefit from preferential tariff reductions as a result of the EPA and will be no better off under the UK-Japan CEPA.
12. We also note the agreement seeks to replicate the current situation regarding rules of origin, where Scottish exporters can use EU content in their exports to Japan. The potential loss of this was a significant concern, so we welcome the agreement that EU content can be used in exports to Japan for the majority of products.
13. The UK Government has been keen to highlight the ways in which CEPA went further than the EPA, although in our view some of these enhancements, such as with rules of origin mentioned above, are simply necessary to replicate the current trading arrangements that we have with Japan. Where the agreement has gone beyond the EPA in terms of tariff reduction, we do not consider that these changes will make a significant impact on Scotland's trade.

## Economic impact

14. The [UK Government's impact assessment](#) shows the agreement would increase UK GDP by 0.07% (£1.5bn) relative to no agreement by 2035. It says that UK exports to Japan could increase by 17.2% (£2.6bn) and imports by 79.9% (£13.0bn). Scotland's economy is also estimated to grow by 0.07% on the same basis.
15. This supposed positive impact for Scotland is driven by expansion of the business services and energy sectors. Any impact on the energy sector, however, is likely to be due to derived demand for energy, a sector disproportionately based in Scotland. However, the modelling also suggests that ‘chemicals, rubber and plastic products’ could be impacted negatively, with a reduction of 0.5% or more. This is a broad sector and without more disaggregated results it is difficult to ascertain the true impact on Scotland in this sector.
16. It is important to note that this modelling does not reflect the fact that the UK is currently part of the EU-Japan agreement, so does not compare the impact of CEPA with the current situation. It might have been more helpful if the modelling had demonstrated the difference in economic impact between CEPA and EPA, which would reveal whether there is any additional benefit – or indeed detriment – as a result of this agreement. It is perhaps telling that the UK Government has chosen not to do this. It is also worth putting this into the context of EU exit, where our analysis suggests that Scotland will experience a 6.1% loss in GDP as a result of the proposed downsized trade relationship with the EU. Securing trade agreements with Japan, or

indeed the USA, Australia and New Zealand, will not make up for this economic damage.

## Specific concerns

### Geographical Indications (GIs)

17. Ensuring continued protection of Geographical Indications (GIs) was one of our priorities for this agreement and while we welcome the inclusion of Scotland's existing EU-Japan GIs (Scotch Whisky and Scottish Farmed Salmon) within the UK-Japan CEPA, we are disappointed that other Scottish GIs, in particular Scotch Beef and Scotch Lamb were not included. The Scottish Government, in partnership with Quality Meat Scotland, made a strong and detailed argument to the UK Government for their inclusion earlier in the year.
18. The [DIT news release](#) of 23 October said that: *"Iconic Scottish products, including Scotch beef, native Shetland wool and Stornaway black pudding are to be protected in Japan for the first time under a new agreement on Geographical Indicators (GIs)"*. This could be considered to be misleading as these products are not included in the list of protected products in CEPA and would need to go through an approval process in Japan (established under the agreement) in order to secure protection in the CEPA. This has already caused some confusion among stakeholders in Scotland and we have raised our concerns about this statement with the UK Government and asked them to correct it.
19. The Scottish Government would like to see all 14 Scottish GIs included in CEPA in the future as this would go some way to addressing the failure of the UK Government to secure protection for them in the original EU-Japan agreement. The ability to add new GIs to the agreement is not a new development as the existing EU-Japan agreement already allows for the opportunity for more GIs to be protected. The Scottish Government has urged the UK Government to ensure that all of our GIs are protected in all future trade agreements and to involve us in discussions with the Japanese Government.

### Data

20. The DIT news release also referred to CEPA as "enabling the free flow of data", however personal data flows between the EU (including the UK) and Japan are currently in place, based on an EU adequacy decision. While the UK Government has provided reassurances that the UK's data protection standards will not be lowered, the Scottish Government is still concerned that provisions in CEPA have the potential to limit the UK's flexibility in taking future action to maintain and establish data protection safeguards. We have asked the UK Government for assurances on policy flexibility and clarity on how these provisions will be interpreted, including a clear and simple process by which the four-step exception can be justified.
21. Given the importance of the EU market, the Scottish Government is opposed to any moves to facilitate the free flow of data that would prevent alignment with the EU's high standards of data protection. There are interactions, notably related to onward transfers, between EU data flows to the UK and data flows from the UK to the rest of

the world. Maintaining an ongoing data adequacy assessment with the EU, which is a priority for the Scottish Government, will depend on the careful management of these interactions, whether through the International Data Transfers Framework, or through provisions in free trade agreements.

### Antimicrobial resistance

22. The Scottish Government called on the UK Government to work with Japan to include a commitment to tackling Antimicrobial Resistance (AMR) in the Sanitary and Phytosanitary Measures chapter of the agreement. The lack of any mention of concerted action between the UK and Japan on controlling AMR in the CEPA is a cause of real concern. AMR is affected by trade and migration, and it is worth noting that each year AMR infections cause on average 700,000 deaths globally. We are all acutely aware of the impact that a global health crisis can have on every aspect of our lives. The Scottish Government will continue to press the UK Government to commit to including AMR in the FTAs that it will conclude in the future.

### Tariff Rate Quotas

23. The Parliamentary Report on the agreement highlighted that the UK will continue to have access to 10 of the 25 tariff rate quotas (TRQs) for any surplus TRQ volume not used by the EU in the previous year. The UK Government has provided assurance that for the 15 TRQs not included in the CEPA, 14 had no utilisation in the 2019 financial year and one had minimal usage. However we still have some concerns around how much surplus TRQ volume will be available to Scottish exporters and whether this arrangement will have any unforeseen negative impacts on companies. Scottish Government officials have raised these issues with DIT and Defra and are awaiting further details.

24. I hope that this provides a useful explanation of the Scottish Government's views on this agreement and the important overarching issue about the involvement of devolved administrations in UK trade agreement negotiations. Should your Committee have any further questions, please do not hesitate to contact my office.

Yours sincerely,



**IVAN McKEE**

