



House of Commons
International Trade Committee

UK-Japan Comprehensive Economic Partnership Agreement

Second Report of Session 2019–21

*Report, together with formal minutes relating
to the report*

*Ordered by the House of Commons
to be printed 18 November 2020*

The International Trade Committee

The International Trade Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Department for International Trade and its associated public bodies.

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1 The Agreement and our scrutiny

1. The terms of trade between the UK and Japan are currently governed by the Japan-EU Economic Partnership Agreement (JEEPA). When the post-Brexit transition period ceases at the end of 2020, JEEPA will no longer apply to the UK. Consequently, in the absence of a replacement agreement, the terms of trade between the UK and Japan would default to those provided for under World Trade Organization (WTO) rules alone.

2. The UK Government published its objectives for a trade agreement with Japan on 13 May 2020. Negotiations took place between 9 June and 29 July (between officials in virtual format) and during 6–7 August (at ministerial level, in person in London). On 11 September, the two sides concluded an Agreement in Principle, with the Department for International Trade (DIT) stating that the UK-Japan Comprehensive Economic Partnership Agreement (CEPA) “is tailored to the UK economy and secures additional benefits beyond the EU-Japan trade deal”.¹

3. On 14 September the Secretary of State for International Trade, Rt Hon Elizabeth Truss MP, told the House of Commons that our Committee would be given advanced sight of the Agreement text prior to its being laid in Parliament as required under Section 20 of the Constitutional Reform and Governance Act 2010 (CRaG).² She indicated that this would be done to assist us in preparing a report on the Agreement.³ (At the same time, the Government confirmed it would be taking an equivalent approach to sharing the text with the House of Lords EU International Agreements Sub-committee.) On 17 September, we met in private with the Secretary of State to discuss the outlines of the Agreement and the Government’s intentions regarding parliamentary scrutiny of CEPA and future new trade agreements.

4. From 12 October, our Committee was given access to the text of the Agreement, along with drafts of supporting documents, namely the Parliamentary Report, Impact Assessment and Explanatory Memorandum. Ms Truss wrote to our Chair on 12 October that the Government would “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.” She also confirmed that “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.”⁴

1 Department for International Trade, [“UK and Japan agree historic free trade agreement”](#), 11 September 2020

2 CRaG provides for a statutory period of 21 sitting days following the laying of an international agreement before it is ratified. During that period, either House can resolve that the treaty should not be ratified.

3 HC Deb, 14 September 2020, [col 26](#). This followed various exchanges between the Committee and the Secretary of State on the Committee’s role in the scrutiny of Free Trade Agreements, including: Angus Brendan MacNeil MP to Rt Hon Elizabeth Truss MP, [18 June 2020](#); Rt Hon Elizabeth Truss MP to Angus Brendan MacNeil MP, [30 June 2020](#); Angus Brendan MacNeil MP to Rt Hon Elizabeth Truss MP, [31 July 2020](#); and Rt Hon Elizabeth Truss MP to Angus Brendan MacNeil MP, [7 September 2020](#). On 24 June, the Secretary of State had also indicated in oral evidence that she would work with us to facilitate our laying a report on any new trade agreement before it was laid under the CRaG provisions – Oral evidence taken on [24 June 2020](#), HC (2019–21) 534, Q47.

4 Rt Hon Elizabeth Truss MP to Angus Brendan MacNeil MP, [12 October 2020](#); see also Angus Brendan MacNeil MP to Rt Hon Elizabeth Truss MP, [21 October 2020](#)

5. CEPA was signed by the parties on 23 October, and laid before Parliament under the terms of CRaG (with the supporting documents) on the same day.⁵ Also on that day, we launched an adjunct to our main inquiry into UK trade negotiations, seeking evidence specifically on CEPA.⁶

6. The 21-day parliamentary scrutiny period under CRaG in respect of CEPA began on the return of the House of Commons from recess on 2 November and ends on 7 December (provided that current plans for parliamentary sittings do not change). In conducting scrutiny of the Agreement, we have been mindful of the need to produce our report before the end of this 21-day period under CRaG, so that it can inform the House's approach to the Agreement during that narrow statutory window of opportunity. In the brief time available to us, we took oral evidence in public from the Secretary of State, as well as from trade-policy experts and representatives of sectors with an interest in the terms of the Agreement. We were also briefed in private by the UK's Chief Negotiator for the Agreement, Graham Zebedee. We also received a private briefing on the CEPA Impact Assessment from DIT's Chief Economist and members of the Regulatory Policy Committee (RPC). In addition, we received 23 written evidence submissions, which were sent during the short time of a little under three weeks when we were able to accept such evidence. We are grateful to all those who provided us with oral and written evidence—including those who gave oral evidence on the negotiations with Japan, as part of our main inquiry into UK trade negotiations, on 8 July 2020. We also sought information in writing from DIT on various aspects of the Agreement, through a letter which our Chair sent to the Secretary of State on 2 November.⁷ The Secretary of State replied to this letter on 12 November.⁸

7. This, necessarily brief, report gives a summary analysis of issues that arose during our short inquiry into CEPA. **We welcome the signing of the Agreement and we congratulate DIT on its work to achieve this. Our evidence from a range of business sectors suggests that the Agreement has generally been welcomed as it brings much needed continuity and certainty to UK businesses involved in trade with Japan through the replication of many of the provisions in the EU-Japan Agreement. Of course, CEPA is only one factor affecting the future of UK-Japan trade and investment. We are conscious that that future will also be significantly influenced by whether or not the UK and EU succeed in concluding a trade agreement, and the terms of any such agreement.**

8. **The Government has been keen to present CEPA as much more than a simple roll-over of the EU-Japan trade agreement. While the differences between CEPA and JEEPA may not be as extensive as claimed, there are notable exceptions, particularly the provisions on digital and data, and financial services. *On the basis of the analysis we provide in this Report, we recommend that the House should be given the opportunity to debate the Agreement before the expiry of the period of 21 sitting days provided for under Section 20 of the Constitutional Reform and Governance Act 2010. As the Government has said, CEPA is the “first deal that the UK has struck as an independent trading***

5 Department for International Trade, [“UK-Japan Comprehensive Economic Partnership Agreement”](#); Rt Hon Elizabeth Truss MP to Angus Brendan MacNeil MP, [23 October 2020](#)

6 International Trade Committee, [“UK trade negotiations: Agreement with Japan”](#)

7 Angus Brendan MacNeil MP to Rt Hon Elizabeth Truss MP, [2 November 2020](#)

8 Rt Hon Elizabeth Truss MP to Angus Brendan MacNeil MP, [12 November 2020](#)

nation”; we consider that it is therefore critical that the House has the opportunity to debate it. We hope that this Report, and the evidence we have taken in our inquiry, is a helpful resource to the House in respect of this debate.

9. This is the first time that our Committee has conducted scrutiny of a Free Trade Agreement (FTA) text. This has been a comparatively straightforward case, since CEPA differs from JEEPA in only a few areas. Nevertheless, the Agreement is still a large and complex technical document, and our ability to scrutinise it has been constrained by the limits of both time and resources. **We have focused our scrutiny on where CEPA differs from JEEPA due to the nature of this Agreement, but will undertake scrutiny of future agreements on their own merits.**

10. **Future agreements will be much less of a known quantity than this one. Moreover, they are likely to be significantly more controversial. In order to give future agreements the rigorous scrutiny that they deserve, it is important that we have the time and access to expertise that this task requires. In respect of the process, we would welcome the opportunity to review with the Secretary of State the arrangements that have been in place for our scrutiny of CEPA, and to consider any improvements that may be necessary for our scrutiny of future agreements.**

2 Provisions of the Agreement

11. Our analysis is focussed on the provisions of CEPA that differ from JEEPA. We have not commented on all such provisions, but rather on those that received most attention in the evidence that we took during our inquiry.⁹ As noted above, we will consider future agreements on their own merits—and we expect the Government’s communications and documentation on future agreements to do the same.

Trade in goods

Tariffs

12. Tariff-liberalisation under CEPA, in terms of both scope and scheduling, differs only slightly from that under JEEPA.¹⁰ While it is true that the terms of JEEPA provide for a high degree of tariff-liberalisation, we have heard that there was still some scope for CEPA to have been more ambitious in this respect.¹¹

13. In respect of UK tariffs, duties on 21 industrial tariff lines which would have been eliminated over time under JEEPA will be eliminated under CEPA immediately in January 2021, on the Agreement’s entry into force (Article 2.8; Annex 2-A). It should be noted that these tariffs will in any case be removed in January 2021 under the UK Global Tariff schedule (the tariffs applied to goods from countries with which the UK has no trade agreement), which takes effect then.¹² Additionally, under CEPA there will be immediate withdrawal of UK duties on two tariff lines relating to electronic control panels for electric vehicles (Article 2.8; Annex 2-A). These duties would not have been eliminated until 2024 under JEEPA. No other UK tariffs will be phased out under CEPA on a date earlier than that which applies under JEEPA—meaning, for example, that UK auto tariffs will not be completely eliminated until 2026.

14. In respect of Japanese tariffs, the tariff lines on which duties are to be eliminated over time are the same under CEPA as under JEEPA. As regards scheduling, Japan will completely remove duties on nine tariff lines relating to leathers and hides in 2026, rather than in 2028 (Article 2.8; Annex 2-A). It will also remove duties on industrial ethanol immediately on entry into force, rather than in 2028—although this simply reflects the fact that, since JEEPA came into effect, Japan has set at zero its Most Favoured Nation tariff (that which applies to goods from countries with which Japan has no trade agreement) on industrial ethanol. The economic significance of these provisions in respect of Japanese tariffs has not been fully quantified.¹³

9 The Government’s Parliamentary Report provides a comprehensive summary of how the provisions of JEEPA and CEPA differ: [The UK’s trade relationship with Japan: parliamentary report](#) (October 2020).

10 [Qq18–19](#)

11 Honda Motor Europe ([UKJ0002](#))

12 Department for International Trade, [“UK Tariffs from 1 January 2021”](#)

13 [Q19](#)

Rules of Origin

15. CEPA provides for (extended) cumulation of EU inputs in both UK and Japanese goods, for trade between the UK and Japan, where those EU inputs are currently necessary to meet a Rules of Origin threshold (Article 3.5; Annex 3-C). It has been suggested that this arrangement may be liable to challenge under WTO rules (specifically Articles I and III of the General Agreement on Tariffs and Trade), but there are different views about whether this is the case. Although some US trade lawyers have argued that there may be grounds for a WTO complaint it is unclear which state or states would be sufficiently motivated to bring a case.¹⁴

16. In addition, more liberal product-specific Rules of Origin for some UK goods (including pet food, confectionery, baked goods and certain textiles) will make it easier for inputs from non-EU third countries to count as UK originating (Article 3.2; Annex 3-B). This will enable UK producers of these goods to diversify their supply chains, although it seems the scale of economic benefit involved is likely to be limited. It may also potentially present risks to UK suppliers of intermediate goods, which could lose out to overseas suppliers benefiting from these more liberal rules of origin.¹⁵

17. CEPA also provides for (diagonal) cumulation arrangements in EU-UK and EU-Japan trade—but achieving this will depend on securing the EU’s agreement (Article 3.10 and 3.11). We heard in evidence that, in the event of a UK-EU “tariff-free deal that accepts that cumulation will not be essential”, lack of such cumulation would not be problematic in the short term for UK automotive exporters. However, in the longer term, third-country cumulation could become crucial with the shift to electric vehicles, which use batteries that are manufactured in Japan and Korea.¹⁶ Witnesses were uniformly sceptical about the likelihood of the EU agreeing to third-country cumulation in an agreement with the UK.¹⁷ However, it was pointed out to us that JEEPA does state that, if the EU and Japan conclude similar agreements with the same third country, they should instigate a discussion on cumulation, specifically in relation to automotive products.¹⁸

18. CEPA differs from JEEPA in relation to the originating content threshold in respect of certain automotive products (Annex 3-B; Appendix 3-B-1). However, we were told that this provision involved a very specific product and only had a marginal effect, meaning it was unlikely to have a material effect on trade.¹⁹

19. Claiming preferences under CEPA is potentially easier than under JEEPA, by means of: clarification of provisions for self-certification of origin (using “importer’s knowledge”)—although the actual provisions are no different to the equivalent ones under JEEPA (Annex 3-B-1); changes to validity periods for statements of origin; and a change to the waiver limit, whereby origin does not need to be proved for goods below a certain value (Chapter 3, Section B).

14 [Qq9, 11](#)

15 [Qq12–14](#); see also National Farmers’ Union ([UKJ0011](#)), Confederation of British Industry ([UKJ0018](#))

16 [Q58](#); see also [Qq10, 11](#)

17 [Qq10, 11, 58](#)

18 [Qq10, 11](#)

19 [Q57](#)

Tariff Rate Quotas

20. Under CEPA, UK exporters will have access to 10 of the 25 Tariff Rate Quotas (TRQs) available under JEEPA, in respect of any surplus volume not utilised by EU exporters in each year (Annex 2-A, Part 3 Section B). In the UK's first agreement as an independent trading nation, its access to preferential duties under TRQs relies on the extent to which those quotas are utilised by the EU.

21. DIT states that, of the 15 TRQs under JEEPA to which the UK will no longer have access, 14 were not used by UK exporters in the 2019 financial year and one (TRQ23, relating to certain dairy products, including butter and milk powder) had minimal usage.²⁰ We heard in evidence that, while loss of access to this quota was detrimental to UK producers, its practical effect was likely to be modest.²¹ DIT has informed us that “For butter, milk and milk powders, where there was TRQ usage, UK exporters will continue to have access to the Japanese market via Japan's WTO TRQs.”²²

22. The TRQ scheme will be operated on a deferred-duty basis, with Japanese importers being able to import UK goods without paying duty in the first instance and duty being levied retrospectively on the basis of the amount of “headroom” that remains at the end of the year (Annex 2-A, Part 3 Section B). There would seem to be a risk that, these arrangements notwithstanding, Japanese importers may prefer to buy from EU suppliers rather than UK ones, because of uncertainty over whether UK goods will qualify for the preferential duty under the quota.²³

23. In a side-letter²⁴ (which is not legally binding),²⁵ Japan commits to take “all reasonable steps” to maximise the utilisation of the scheme, including by publicising it, responding to requests for information and providing data on imports under the scheme. In addition, if exports of UK cheese under the scheme (in relation to TRQ25) fall in any given year, Japan undertakes to participate in a review of the scheme in relation to cheese imports with a view to ensuring improved UK market access. It is not clear to what extent, if any, this guarantees continued UK market access.

24. The Secretary of State indicated to us that the TRQ scheme is intended as an interim arrangement only, pending UK accession to CPTPP, which would give access to CPTPP quotas. The Government expects adequate headroom under these quotas to last until 2024, by which time it expects the UK to have joined CPTPP.²⁶ This raises the question of the effect on the UK's access to quotas if accession to CPTPP takes longer than the Government is envisaging—or if accession to CPTPP, for whatever reason, ceases to be a high-priority objective of UK trade policy.

20 Rt Hon Elizabeth Truss MP to Angus Brendan MacNeil MP, [12 November 2020](#)

21 [Q44](#)

22 Rt Hon Elizabeth Truss MP to Angus Brendan MacNeil MP, [12 November 2020](#)

23 [Q44](#); Scottish Government ([UKJ0010](#)), National Farmers' Union ([UKJ0011](#)), Confederation of British Industry ([UKJ0018](#))

24 Department for International Trade, [The United Kingdom's Future Trading Relationship with Japan](#) (October 2020), pp 38–40

25 John Alty, Director General of the Trade Policy Group at DIT, told us: “Side letters are moral commitments rather than legal commitments, otherwise they would be in the legal agreement itself, but they are commitments by the Government of that country and they have been made public so they have a strong moral force” – Oral evidence taken on [4 November 2020](#), HC (2019–21) 534, Q128.

26 Oral evidence taken on [4 November 2020](#), HC (2019–21) 534, Qq92, 99, 106, 108

25. Ms Truss also told us that less documentation could be required to access the TRQ scheme than under JEEPA, involving two documents rather than potentially six.²⁷ It remains unclear to us which particular provision of CEPA was being referred to by the Secretary of State.

26. UK malt exports are not covered by a TRQ under CEPA. In a side-letter²⁸ (which is not legally binding), Japan states that UK exports will, though, continue to have access to Japan's global malt TRQ, which DIT has said is "more generous and easier to access than the EU quota".²⁹ Witnesses told the committee that this quota is open to all countries and operates on a non-discriminatory basis—meaning that the UK already has access to it and continuation of that access is not dependent on CEPA. The Department has pointed out that the global malt quota, unlike the EU malt quota, "does not require additional documentation providing evidence of originating status."³⁰ Unlike the EU malt quota (which Japan is obligated to maintain under the terms of JEEPA), the global malt quota can be unilaterally changed or removed by Japan without violating its legal obligations under either WTO rules or CEPA.³¹

Agricultural safeguards

27. While UK exports will not count towards the EU total for the purposes of triggering the Agricultural Safeguards provided for in JEEPA (in respect of a small number of products), under CEPA UK exports will be added to the EU total for the purpose of triggering the Safeguards (Article 2.5; Annex 2-A Part 3, Section C). Our evidence suggests that this gives EU producers a modest advantage compared to the UK.³²

Technical Barriers to Trade

Mutual Recognition of Assessment

28. The EU-Japan Agreement on Mutual Recognition is incorporated in the agreement as a protocol, rather than being rolled over as a standalone UK-Japan Mutual Recognition Agreement (Protocol on Mutual Recognition).³³ In her letter to our Chair of 12 November, the Secretary of State confirms that this has no effect on its legal status.³⁴

27 Oral evidence taken on [4 November 2020](#), HC (2019–21) 534, Qq102, 106; see also Department for International Trade, ["Agri-foods in the UK-Japan CEPA"](#) (November 2020)

28 Department for International Trade, [The United Kingdom's Future Trading Relationship with Japan](#) (October 2020), pp 34–35

29 Department for International Trade, ["UK and Japan agree historic free trade agreement"](#), 11 September 2020. DIT has also stated "Japan provided a Ministerial side letter guaranteeing that the UK will continue to have access to Japan's duty-free global TRQ. Other countries do not have this additional guarantee" – Rt Hon Elizabeth Truss MP to Angus Brendan MacNeil MP, [12 November 2020](#).

30 Department for International Trade, [The United Kingdom's Future Trading Relationship with Japan](#) (October 2020), para 54

31 [Q44](#); National Farmers' Union ([UKJ0011](#))

32 [Qq 46–47](#); National Farmers' Union ([UKJ0011](#))

33 Honda Motor Europe ([UKJ0002](#)), Confederation of British Industry ([UKJ0018](#))

34 Rt Hon Elizabeth Truss MP to Angus Brendan MacNeil MP, [12 November 2020](#)

Trade in services

Professional qualifications and licensing

29. Under CEPA's Domestic Regulation provisions, there are more transparent and streamlined procedures for processing licensing, authorisation and qualification requirements than under JEEPA (Articles 8.30 and 8.31).³⁵ These are drawn from the draft text of the WTO Joint Initiative on Services Domestic Regulation.³⁶ As is the case under JEEPA, the parties are required to encourage their respective professional bodies to provide joint recommendations on mutual recognition (including of professional qualifications) to the parties' joint Committee on Trade in Services, Investment Liberalisation and Electronic Commerce (Article 8.35).³⁷

Business mobility

30. In respect of visas, CEPA retains provisions on the temporary movement of business people from JEEPA with some improved commitments including:

- technical amendments to lengths of stay and sector-specific commitments;
- definitions of the intra-corporate transferee and investor categories have been expanded;
- Japan has expanded the scope of its intra-corporate transferee category and investor definition to focus on UK industry and jobs; and
- the UK has new commitments for Japanese investors coming to the UK and for entry and temporary stay of partners and dependent children of intra-corporate transferees.

CEPA states that requirements for visas will be clear and transparent, and that the parties will aim for visa applications to be processed within 90 days (Chapter 8, Section D).

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

32. Overall, these changes have been welcomed, and our evidence suggests they are likely to have a positive impact on trade in services between the two countries.

Financial services

33. We heard in evidence that there are three significant ways in which CEPA's provisions on financial services differ from those in JEEPA. Firstly, the terms under which UK suppliers can offer new financial services on the same basis as Japanese suppliers are such that they apply to all modes of supply (Article 8.60), whereas the equivalent provision in JEEPA only applies to one mode of supply, namely Mode 3 (commercial presence in the

35 [Qq24, 61](#); Law Society of England and Wales ([UKJ0003](#)); Dr Minako Morita-Jaeger ([UKJ0019](#))

36 Department for International Trade, [The United Kingdom's Future Trading Relationship with Japan](#) (October 2020), para 101

37 Law Society of England and Wales ([UKJ0003](#)), Dr Minako Morita-Jaeger ([UKJ0019](#))

host country).³⁸ Secondly, CEPA includes a ban on requiring services providers to store financial data in the host country (Article 8.63) which is absent from JEEPA.³⁹ Thirdly, CEPA contains provisions regarding regulatory cooperation on financial services, which provide for the creation of a Joint UK-Japan Financial Regulatory Forum (Article 8.67; Annex 8-A). While an equivalent was created under JEEPA, the UK has only been indirectly represented on this (through the EU).⁴⁰ DIT states that the Annex regarding the UK-Japan Forum contains “more comprehensive provisions” than under JEEPA, giving the Forum a wide mandate that includes the management of deference arrangements and collaborating “on emerging policy issues of interest (e.g. sustainable finance, diversity in finance and new financial services)”.⁴¹ Our evidence suggests that these improvements in relation to financial services have been welcomed by industry.⁴²

Audio-visual services

34. CEPA includes a commitment by the parties to cooperate on matters relating to audio-visual services; there is no equivalent to this in JEEPA (Article 8.4). There are no commitments to liberalise the UK audio-visual sector beyond JEEPA—although there is provision for this to be reviewed (Article 8.4.2(d)).⁴³ In our Chair’s letter to the Secretary of State, he asked why CEPA did not go beyond JEEPA in liberalising market access to the UK audio-visual sector. In her response, the Secretary of State said that the UK and Japan “agreed to discussing matters relating to trade in audio-visual services as a function of the Committee on Trade in Services, Investment Liberalisation and Electronic Commerce.” She confirmed that any change to the Agreement to include commitments on audio-visual services would be subject to parliamentary scrutiny under CRaG. Evidence submitted to our inquiry suggests clarity on the Government’s position on possible inclusion of audio-visual services in CEPA, and other future FTAs, would be welcome.⁴⁴

Digital and data

35. The main area in which CEPA differs from JEEPA is its provisions relating to digital trade and data. We heard that these provisions are ambitious and compare with provisions put forward in the US’s digital trade agreement with Japan.⁴⁵ We also heard that the provisions are significant in terms of precedent-setting for future agreements.⁴⁶ We plan to undertake a separate piece of work looking at the Government’s approach to digital and data provisions in Free Trade Agreements.

38 [Qq7, 21 \[Professor Quaglia\], 23](#); Dr Minako Morita-Jaeger ([UKJ0019](#))

39 [Qq7, 21 \[Professor Quaglia\], 25, 61](#); [techUK \(UKJ0015\)](#); Dr Minako Morita-Jaeger ([UKJ0019](#))

40 [Qq7, 21 \[Professor Quaglia\], 43 \[George Riddell\], 61](#)

41 Rt Hon Elizabeth Truss MP to Angus Brendan MacNeil MP, [12 November 2020](#)

42 [Qq7, 8, 21 \[Professor Quaglia\], 23, 25, 43 \[George Riddell\], 61](#); [techUK \(UKJ0015\)](#); Confederation of British Industry ([UKJ0018](#)); Dr Minako Morita-Jaeger ([UKJ0019](#))

43 Dr Minako Morita-Jaeger ([UKJ0019](#)), [Pact \(UKJ0022\)](#)

44 [Q20](#); Dr Minako Morita-Jaeger ([UKJ0019](#))

45 [Qq20, 25–6](#)

46 [Qq25–26](#)

36. The Government has indicated that the Agreement's digital and data provisions go beyond JEEPA on:

- encryption / products using cryptography (Article 8.86)
- Open Government Data initiatives (Article 8.82)
- net neutrality (Article 8.78)
- cross-border data flows / free movement of data (Article 8.84)
- ban on data localisation requirements (Article 8.85)
- The provisions on e-authentication and e-signatures also differ from JEEPA (Article 8.77).

37. Some provisions also go beyond CPTPP, for instance on protection of source code (specifically, algorithms) (Article 8.73). Issues of privacy and data protection are also addressed in the Agreement (Article 8.80).

38. Witnesses from the technology and services sectors strongly welcomed the digital and data provisions on the Agreement.⁴⁷ However, other evidence we received suggests that CEPA marks an unwelcome shift away from the EU's approach to data protection and could affect the EU's adequacy decision in respect of the UK.⁴⁸ Others, however, are of the view that the EU regime is restrictive, and possibly even protectionist, in this regard.⁴⁹ We also heard concerns that the provisions relating to cross-border data flows, and banning requirements in relation to data localisation and access to source code could have negative implications for the NHS.⁵⁰ Our evidence also raised issues concerning algorithm accountability in light of recent controversy around the potential for bias and unfairness in algorithms used by automated decision-making systems.⁵¹

39. It has been pointed out to us in evidence that consultation by the Government on its digital trade policy has been limited. Only business interests are represented on DIT's Telecoms and technology Trade Advisory Group; and other stakeholders, such as consumer groups, trade unions and policy experts, have had limited opportunities to put their views forward.⁵²

Investment

40. CEPA, like JEEPA, contains no comprehensive chapter on investment; and the investment liberalisation provisions in the two agreements are the same (Chapter 8, Section B). Consequently, there are no provisions in CEPA on investment protection, just as there are none in JEEPA.

47 [Qq43 \[Sabina Ciofu\]](#), [65](#), [66](#); [techUK \(UKJ0015\)](#); [Law Society of England and Wales \(UKJ0003\)](#)

48 [Q27](#); [Dr Emily Jones and Beatriz Kira \(UKJ0004\)](#), [Scottish Government \(UKJ0010\)](#), [Which? \(UKJ0013\)](#), [Open Rights Group \(UKJ0017\)](#), [Dr Minako Morita-Jaeger \(UKJ0019\)](#), [Javier Ruiz \(UKJ0020\)](#)

49 [Professor David Collins \(UKJ0005\)](#), [Confederation of British Industry \(UKJ0018\)](#)

50 [Keep Our NHS Public \(UKJ0008\)](#)

51 [Trade Justice Movement \(UKJ0001\)](#); [Dr Emily Jones and Beatriz Kira \(UKJ0004\)](#); [Keep Our NHS Public \(UKJ0008\)](#); [Which? \(UKJ0013\)](#); [Open Rights Group \(UKJ0017\)](#)

52 [Q20](#); [Dr Emily Jones and Beatriz Kira \(UKJ0004\)](#)

41. Our evidence suggests that investment is an area where the UK could have gone further in negotiations, but was unable to do so due to time constraints and the likelihood of public controversy over investment protection provisions.⁵³ The latter point is underlined by the fact that some of our evidence expressed concern at the prospect of Investor State Dispute Settlement provisions and welcomed their absence from CEPA. It is further notable that DIT continues to lack a fully worked-out position on this important aspect of trade policy.⁵⁴

Intellectual Property

42. CEPA goes beyond JEEPA as regards provisions to protect designs, trade marks and copyright (Articles 14.3, 14.16, 14.18, 14.24, 14.35 and 14.36). The Agreement also goes beyond JEEPA in respect of provisions that tackle online infringement of Intellectual Property rights, such as film and music piracy (Article 14.59). There are also provisions that go beyond JEEPA on access to justice and criminal enforcement (Articles 14.55 and 14.58).⁵⁵

Protected Geographical Indications

43. The seven existing UK protected Geographical Indications (GIs) under JEEPA will continue to be protected under CEPA (Annex 14-B). In addition, in a provision that is not contained in JEEPA, the parties commit “as soon as practically possible” to exchange lists of proposed new GIs and complete their respective domestic examination and opposition procedures (allowing relevant domestic producers the opportunity to object). The Committee on Intellectual Property constituted under the Agreement will then recommend to the parties’ Joint Committee names of new GIs to be added to the list of GIs protected under the Agreement (Article 14.34.5). The Joint Committee will have to agree to this new list before it is adopted, which may happen once the GIs listed in Annex 14-B have been considered by the Parties in accordance with their domestic GI processes (Articles 14.34.1 and 14.34.5) DIT states that, if an application is not opposed, it should take five months to be dealt with. The UK intends to put forward over 70 proposed new GIs as soon as the Agreement enters into force.⁵⁶

44. The Government states that this arrangement is “significantly better” than the GI provisions under JEEPA. However, there has been some dispute as to how far this is actually the case. Some communication by the Government on the provisions relating to GIs has not been sufficiently clear, giving the inaccurate impression that CEPA automatically and immediately provides protection to additional GIs.⁵⁷

53 [Q29–32](#)

54 Trade Justice Movement ([UKJ0001](#)), Which? ([UKJ0013](#)), Trades Union Congress ([UKJ0014](#)), Dr Markus W Gehring and Mario Tokas ([UKJ0016](#)), Dr Minako Morita-Jaeger ([UKJ0019](#))

55 [Qq63–64](#); Dr Emily Jones and Beatriz Kira ([UKJ0004](#)), Open Rights Group ([UKJ0017](#)), Confederation of British Industry ([UKJ0018](#)), The Restart Project ([UKJ0021](#)), Pact ([UKJ0022](#))

56 [Qq48–52](#); Scottish Government ([UKJ0010](#)), National Farmers’ Union ([UKJ0011](#)), British Veterinary Association ([UKJ0012](#)), Confederation of British Industry ([UKJ0018](#)), Department for the Economy – Northern Ireland Executive ([UKJ0023](#))

57 There was particular controversy over comments made by the Minister of State for Trade Policy, Rt Hon Greg Hands MP, about this aspect of CEPA on BBC Radio Four’s *PM* programme on 23 October 2020.

Agreement implementation and governance

45. The Agreement will be reviewed every five years. There will also be reviews on specific topics. As in JEEPA, there is no “sunset” clause. Committees will be established to monitor functioning of the agreement, but there will be no formal joint review of implementation.

46. Where there is an inconsistency between the Agreement and the Protocol on Ireland / Northern Ireland, a Party is not prevented from taking a step in relation to that inconsistency, even if it is inconsistent with the obligations of the Agreement (Article 1.9.5).⁵⁸

Customs and trade facilitation

47. The Agreement refers to “an agreement on cooperation and mutual administrative assistance in customs matters to be concluded between the Governments of the Parties” (Article 2.32.1). The equivalent of the EU-Japan Joint Customs Cooperation Committee which will be established pursuant to the Agreement between the European Community and the Government of Japan on Co-operation and Mutual Administrative Assistance in Customs Matters will be more narrowly constituted than its EU counterpart.⁵⁹

SMEs

48. The Agreement replicates the dedicated SMEs chapter in JEEPA regarding information-sharing and contact-points for SMEs (Chapter 20). An additional provision provides for cooperation between the parties to support SME trade and investment, giving examples of possible measures, including developing and promoting seminars for SMEs or exchanging best practices in supporting exporting SMEs (Article 20.2). Although inclusion of this Chapter sends a welcome signal about the importance of FTAs offering benefits to SMEs, some witnesses questioned the significance of the practical impact the SME-specific provisions will have.⁶⁰

CPTPP accession

49. CEPA uses text from the CPTPP agreement, where appropriate, to show the UK’s commitment to accepting CPTPP provisions. Japan formally states its support for UK accession in a side-letter⁶¹ (which is not legally binding). The side-letter states that Japan would enable the UK to have access (subject to views of other members) to its CPTPP TRQs at the time of the UK joining the Partnership.⁶²

58 Northern Ireland Assembly ([UKJ0006](#)), Department for the Economy – Northern Ireland Executive ([UKJ0023](#))

59 Department for International Trade, [The United Kingdom’s Future Trading Relationship with Japan](#) (October 2020), para 59

60 [Qq33–34](#)

61 Department for International Trade, [The United Kingdom’s Future Trading Relationship with Japan](#) (October 2020), 36–37

62 See also Oral evidence taken on [4 November 2020](#), HC (2019–21) 534, Qq99, 108, 124.

Competition, Subsidies and State-Owned Enterprises

50. The competition policy provisions in CEPA substantially replicate those in JEEPA (Chapter 11)—and there is added provision on consumer protection (Article 11.7). Subsidies provisions replicate those in JEEPA; they are “standard” ones—similar to those in the UK-Korea roll-over agreement and CETA (Chapter 12). They are “post facto”, meaning there is an arrangement to deal with subsidies afterwards—as opposed to having to ask permission to subsidise in the first place (as is the case in the EU).

Sustainability, labour and environment

51. The scope of the chapter on Trade and Sustainable Development is the same as that in JEEPA. The climate change commitments in CEPA are also the same as those under JEEPA (Chapter 16). However, the opportunity to review elements of the trade and sustainable chapter that existed under JEEPA has been removed in CEPA. While the review function was of uncertain impact, it has been suggested to us in evidence that this takes away a means of ensuring that joint action on climate change remains aligned with international developments.

52. The provisions on civil society dialogue have been slightly amended relative to those under JEEPA (Article 16.16). It has been suggested to us in evidence that this provision appears to have been slightly watered down in comparison with its equivalent under JEEPA.⁶³

Sanitary and Phytosanitary measures

53. The Agreement’s Sanitary and Phytosanitary (SPS) provisions are not subject to the main dispute resolution mechanism—unlike under JEEPA, where only some of the provisions were exempted (Article 6.16). The Chair asked about this in his letter to the Secretary of State of 2 November. In her response, she said that this change was “for simplicity and consistency”, and that the UK and Japan “have agreed to take all possible steps to ensure that any differences are resolved through regular conversations and technical consultations”. She said that where a resolution through these channels is not reached on “more fundamental issues that fall under the WTO SPS Agreement”, then the WTO dispute settlement process can be used. She stated that the changes are “are expected to have no economic impact”.⁶⁴

Cooperation in the Field of Agriculture

54. JEEPA provides for a Select Committee on Cooperation in the Field of Agriculture. CEPA provides instead for a Working Group on Cooperation in the Field of Agriculture (Article 19.5). The Chair asked about the impact of this change in his letter to the Secretary of State of 2 November. In her response, the Secretary of State said the new group would result in a reduction in administrative burdens and allow for greater flexibility, but would retain the decision-making powers of Committees.⁶⁵

63 Trade Justice Movement ([UKJ0001](#)), Trades Union Congress ([UKJ0014](#)), Dr Markus W Gehring and Mario Tokas ([UKJ0016](#))

64 Rt Hon Elizabeth Truss MP to Angus Brendan MacNeil MP, [12 November 2020](#)

65 Rt Hon Elizabeth Truss MP to Angus Brendan MacNeil MP, [12 November 2020](#)

Territorial application

55. There is the potential for the application of this Agreement to the Crown Dependencies or Overseas Territories (Article 1.3.5). The Secretary of State provided further information about plans in this regard in her letter of 12 November.⁶⁶

Women's economic empowerment

56. There is a chapter in CEPA on women's economic empowerment (Chapter 21); this is a new chapter which is not in JEEPA. Our evidence did not substantially address the possible impacts of this Chapter, which may well be limited, but it can be seen as a welcome statement of intent.⁶⁷

Anti-corruption

57. There are anti-corruption provisions in CEPA (Article 17.9) which are new compared to JEEPA. Our evidence did not address the possible impacts of these, but their inclusion can also be seen as a welcome statement of intent.

66 Rt Hon Elizabeth Truss MP to Angus Brendan MacNeil MP, [12 November 2020](#)

67 Dr Markus W Gehring and Mario Tokas ([UKJ0016](#))

3 Impact Assessment

58. While we did not take formal evidence on the Government’s Impact Assessment in relation to CEPA, we met with the Chief Economist at the DIT, Richard Price; and two members of the RPC, which undertook independent evaluation of the Impact Assessment, namely Stephen Gibson and Jonathan Cave. The RPC’s published Opinion on the Impact Assessment found that it was “fit for purpose”, but pointed to a number of areas where it could have been improved.

59. The Impact Assessment uses Computable General Equilibrium modelling to attempt to gauge the effect of CEPA against a baseline of there being no trade agreement between the UK and Japan, and, therefore, the two countries trading under WTO rules alone (which would be the default position from 1 January 2021 in the event of no new agreement being in place). The RPC accepted that the methodology and baseline used were both appropriate. In relation to the core baseline (measured against WTO trading), which assumes there will be a future relationship agreement between the UK and the EU, the Impact Assessment estimates that CEPA will have the effect of increasing UK annual GDP by 0.07% in the long run. However, measured against the current largely similar JEEPA arrangement, no GDP gain figure has been provided in the Impact Assessment. A sensitivity analysis in the Impact Assessment suggests that, in the case of there being no agreement on the UK-EU future relationship, CEPA would increase UK annual GDP by 0.09%. The Impact Assessment suggests this is due to “higher barriers to trade between the UK and the EU provid[ing] higher potential for gains from trade with Japan”.⁶⁸ *We would welcome clarification from the Government as to whether this increase is in part also attributable to negative impacts on UK GDP growth from the EU and UK not concluding a trade agreement.*

60. **Given that the Government has stated that CEPA secures benefits for the UK above and beyond those conferred under JEEPA, it is regrettable that DIT has not provided any assessment of the value of those additional benefits. We do, though, appreciate that carrying out such a comparison could have been difficult to achieve, given the limitations of the available data and the current modelling approach. *In producing its Impact Assessments on future Free Trade Agreements, the Government should give consideration as to whether using a variety of modelling scenarios would provide helpful information to experts, stakeholders and parliamentarians seeking to understand the impact of an agreement.***

68 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](#) (October 2020), p 75

Formal minutes

Wednesday 18 November 2020

Members present

Angus Brendan MacNeil, in the Chair

Mark Garnier

Lloyd Russell-Moyle

Anthony Mangnall

Martin Vickers

Mark Menzies

Craig Williams

Taiwo Owatemi

Neil Parish also attended under the provisions of paragraph (1)(e) of Standing Order No 137A (Select committees: power to work with other committees).

Draft Report (*UK-Japan Comprehensive Economic Partnership Agreement*) proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 60 agreed to.

Resolved, That the Report be the Second Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[Adjourned till Wednesday 25 November at 2.00 p.m.]

Witnesses

The following witnesses gave evidence. Transcripts can be viewed on the [inquiry publications page](#) of the Committee's website.

On 4 November the Committee also took oral evidence from the Secretary of State on the provisions of UK-Japan Comprehensive Economic Partnership Agreement as part of its inquiry into the work of the Department for International Trade.

Wednesday 11 November 2020

Dr Anna Jerzewska, International Trade and Customs Consultant, Trade & Borders; **Sam Lowe**, Senior Research Fellow, Centre for European Reform; **Lucia Quaglia**, Professor of Political and Social Science, University of Bologna; **Dr Minako Morita-Jaeger**, International Trade Policy Consultant and Fellow at UK Trade Policy Observatory, University of Sussex

[Q1–41](#)

Mike Hawes, Chief Executive Officer, Society of Motor Manufacturers and Traders (SMMT); **Sabina Ciofu**, Head of EU and Trade Policy, techUK; **George Riddell**, Director of Trade Strategy, Ernst & Young LLP, Co-Chair, Professional and Business Services Council (PBSC); **Nick von Westenholz**, Director of EU Exit and International Trade, National Farmers' Union (NFU)

[Q42–68](#)

Published written evidence

The following written evidence was received and can be viewed on the [inquiry publications page](#) of the Committee's website.

UKJ numbers are generated by the evidence processing system and so may not be complete.

- 1 Blavatnik School of Government, University of Oxford (Dr Emily Jones, Associate Professor; Beatriz Kira, Senior Research and Policy Officer) ([UKJ0004](#))
- 2 British Veterinary Association ([UKJ0012](#))
- 3 Confederation of British Industry ([UKJ0018](#))
- 4 Centre for International Sustainable Development Law (Marios Tokas, Associate Fellow) ([UKJ0016](#))
- 5 City, University of London (Professor David Collins, Professor of International Economic Law) ([UKJ0005](#))
- 6 Department for the Economy – Northern Ireland Executive ([UKJ0023](#))
- 7 Honda ([UKJ0002](#))
- 8 Keep Our NHS Public ([UKJ0008](#))
- 9 The Law Society of England and Wales ([UKJ0003](#))
- 10 National Farmers' Union ([UKJ0011](#))
- 11 Northern Ireland Assembly ([UKJ0006](#))
- 12 Open Rights Group ([UKJ0017](#))
- 13 Pact ([UKJ0022](#))
- 14 The Restart Project ([UKJ0021](#))
- 15 RSPCA ([UKJ0007](#))
- 16 Ruiz Diaz, Javier ([UKJ0020](#))
- 17 Scottish Government ([UKJ0010](#))
- 18 techUK ([UKJ0015](#))
- 19 Trade Justice Movement ([UKJ0001](#))
- 20 Trades Union Congress ([UKJ0014](#))
- 21 University of Cambridge (Markus W Gehring, Director of Studies) ([UKJ0016](#))
- 22 University of Strathclyde (Professor Paul James Cardwell, Professor of Law) ([UKJ0009](#))
- 23 University of Sussex (Dr Minako Morita-Jaeger, Fellow UK Trade Policy Observatory) ([UKJ0019](#))
- 24 Which? ([UKJ0013](#))

List of Reports from the Committee during the current Parliament

All publications from the Committee are available on the [publications page of the Committee's website](#). The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

Session 2019–21

| | | |
|----------------------|--|--------|
| First Report | The COVID-19 pandemic and international trade | HC 286 |
| First Special Report | The COVID-19 pandemic and international trade: Government Response to the Committee's First Report of Session 2019–21 | HC 815 |