



BRIEFING PAPER

Number 8340, 15 June 2018

EU-Japan Economic Partnership Agreement

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Summary

This note has been prepared in advance of the debate in the House of Commons on the EU-Japan Economic Partnership Agreement (EPA) on Tuesday 26 June 2018.¹

The EU-Japan EPA is described by the European Commission as the largest bilateral trade deal it has negotiated. Negotiations started in 2013, agreement in principle was reached in 2016 and the agreement finalised in 2017. The agreement is expected to be signed at the EU-Japan summit in July and come into force before the UK leaves the EU.

The EPA aims to boost trade between the EU and Japan by reducing tariff and non-tariff barriers. These reductions in trade barriers are estimated to increase UK exports to Japan by between £3.2 billion and £5.4 billion. Imports are expected to increase by between £5.5 billion to £8.4 billion.

The EPA is an “EU only” agreement. As such, it does not require ratification by individual EU Member States. The agreement of the Council of the European Union and the European Parliament is required.

The European Scrutiny Committee recommended a debate on the EPA on the floor of the House for the following reasons:

- The EPA raises complex legal and policy issues for the UK
- As, the EPA is an “EU only” agreement, this debate provides the only opportunity for the House of Commons as a whole to scrutinise the agreement before it is signed and concluded
- It is necessary to understand how the Government will ensure more transparency and scrutiny of trade negotiations.

¹ The debate had originally been scheduled for 18 June.

1. Introduction

1.1 Background

Negotiations for the EU-Japan Economic Partnership Agreement (EPA) started in 2013. Agreement was reached in principle in July 2016 with final agreement being reached in December 2017. The Agreement is expected to be voted on at the EU General Affairs Council on 26 June and signed at the EU-Japan summit in July.

This agreement is the largest ever bilateral trade agreement negotiated by the EU. A separate political agreement, the EU-Japan Strategic Partnership Agreement, was negotiated alongside the EPA.²

1.2 Timeline

2011	The EU and Japan agree to start preparations for a bilateral free trade agreement (FTA).
2013	EU governments instruct the European Commission to start negotiations with Japan. In the following years, the EU and Japan hold 18 rounds of negotiations.
6 July 2016	The EU and Japan reach an agreement in principle on the main elements of the EU-Japan Economic Partnership Agreement (EPA).
8 December 2017	The EU-Japan EPA is finalised.
26 June 2018	The House of Commons debates the EPA ³ .
26 June 2018	The Council of the EU expected to adopt EPA.
July 2018	Signature of agreement at EU-Japan summit
2019	The EU-Japan EPA comes into effect.

The European Commission aims for the agreement to come into effect before the end of its mandate in 2019, after the approval of the Council of the EU and the European Parliament. However, negotiations with Japan on investment protection standards and investment protection dispute resolution will continue.⁴

² Details of the Strategic Partnership Agreement are in European Scrutiny Committee, [Twenty-ninth Report of 2017-19](#), 23 May 2018, HC 301-xxviii, p58

³ The debate had previously been scheduled for 18 June.

⁴ For more information on the investment protection agreement see section 2.8 of this note.

1.3 Why is this debate taking place?

The European Scrutiny Committee [recommended](#) that a debate on the agreement take place on the floor of the House for the following reasons:

- the EU-Japan EPA raises complex legal and policy issues for the UK, both while it is a Member of the EU and after its withdrawal from the EU, which the Government must address before the agreement's expected adoption by the Council on 26 June;
- as this is an EU-only trade agreement (that does not require ratification by individual Member States in accordance with their own domestic procedures), such a debate would provide the only opportunity for the House of Commons as a whole to scrutinise and have a say on the Government's position on the EU-Japan trade agreement before it is signed and concluded; and
- the need to understand what steps this Government will take to ensure more transparency in and scrutiny of trade negotiations, both as a member of the EU and after UK withdrawal (when it is able to operate an independent trade policy) is fundamental to ensuring the democratic accountability of trade deals that the UK is or intends to become party to⁵

1.4 Statistics on UK-Japan trade

UK exports to Japan totalled £14.3 billion in 2017, with services accounting for more than half. Imports were £13.3 billion. The UK therefore had a surplus of £1.0 billion. A deficit of £3.5 billion on trade in goods was outweighed by a surplus of £4.5 billion on trade in services.

In 2016, Japan was the UK's 11th largest export market, accounting for 2.3% of UK exports of goods and services.⁶

UK TRADE WITH JAPAN			
£ billion, 2017			
	Exports	Imports	Balance
Goods	6.1	9.6	-3.5
Services	8.2	3.7	+4.5
Total	14.3	13.3	+1.0

Source: UK Economic Accounts, March 2018, Table B6B

⁵ European Scrutiny Committee, [Twenty-ninth Report of 2017-19](#), 23 May 2018, HC 301-xxviii, para 2.21

⁶ Source: ONS Pink Book 2017, Table 9.3, counting EU member states separately.

2. What is in the agreement?

2.1 Removal of tariffs and other obstacles to trade

At entry into force of the EU-Japan EPA, 91% of customs duties paid by EU companies entering the Japanese market will be removed, and the level of liberalisation will rise to 99% at the end of the final liberalisation step. The remaining imports (1%) will be partly liberalised through quotas and tariff reductions (in agriculture). At present, Japanese rules and regulations tend to differ from international standards and practices, resulting in high compliance costs for EU firms who export to Japan. Therefore the EPA will remove a number of regulatory barriers, for example by improving access to the Japanese car market and giving better market access for European agricultural products. The EU estimates the agreement will save its exporters €1 billion (£870 million) in customs duties per year.

The Government's Explanatory Memorandum on the EPA said:

"The [EU-Japan EPA] will enable UK firms to export and import at a lower cost and give more opportunity for UK businesses to bid for public procurement contracts in Japan. Furthermore, the [EU-Japan EPA] will increase the welfare of UK households by lowering the price of final goods and services and increase consumer choice due to greater competition. [...]

From the UK perspective, priority areas such as agricultural products, processed foods, beer, wine, and whisky exports will enjoy lower tariffs. In the automotive sector, Japan and the EU agree to follow the United Nations Economic Commission for Europe standards on product safety and the protection of the environment. The deal includes a seven-year staged elimination of EU import tariffs on cars and car parts, a key EU concession in exchange for Japanese concessions on agricultural imports."⁷

Non-tariff barriers

In order to reduce technical barriers to trade, Japan and the EU have agreed to ensure that their standards and technical regulations are based on international standards to the greatest possible extent. Negotiations addressed various non-tariff measures, as some Japanese technical requirements and certification procedures often make it difficult to export European products to Japan. Examples of non-tariff measures, which were successfully addressed, include product safety standards, the protection of the environment for motor vehicles, and textiles labelling. Both sides have also agreed on an international standards based system for quality management of medical devices. In addition, the EPA creates a more predictable regulatory environment for EU agricultural products exported to Japan by addressing sanitary and phytosanitary measures.⁸

⁷ European Scrutiny Committee, *Twenty-ninth Report of 2017-19*, 23 May 2018, HC 301-xxviii, para 2.3 and 2.27

⁸ [Key elements of the EU-Japan Economic Partnership Agreement](#), Commission MEMO/18/3326, 18 April 2018

2.2 Goods

The Government expects that the reduction of tariff and non-tariff barriers will boost UK exports to Japan. On customs processes, the Minister notes that there is “a dedicated Chapter aimed at the modernisation and simplification of rules, requirements, formalities and procedures related to import, export and other regimes, including transit, in order to ensure efficiency and proportionality”.⁹

Tariffs on industrial products will be fully abolished, for instance in sectors where the EU is very competitive, such as chemicals, plastics, cosmetics as well as textiles and clothing.¹⁰ Import quotas and tariffs will no longer be applied to fisheries on both sides, meaning better prices for UK consumers and bigger export opportunities for UK fisheries. Tariffs on all wood products will be fully eliminated over a period of 10 years.

Agriculture

Over time, around 85% of agri-food products exported by the EU will enter Japan duty-free. In the case of pork, duties will be eliminated or significantly reduced, and for beef, tariffs will be cut over time. Hard cheese tariffs will be phased out, while for soft and fresh cheese, annual duty-free tariff-rate quotas will be opened. Some processed agricultural products, such as pasta and chocolate, will enjoy duty-free entry to the Japanese market over a transitional period. The EPA will also remove Japanese tariffs on several processed agricultural products which the UK produces, including: chocolates, cocoa powder, candies, confectionary, biscuits, and starch derivatives.

Regarding sanitary and phytosanitary measures, the EU and Japan have agreed to simplify approval and clearance processes and facilitate smooth and timely import procedures. The agreement does not affect domestic policies on the use of hormones or genetically modified organisms.¹¹

The EU is a major producer of distinctive regional food and drink products such as Parma ham, Parmesan cheese and Scotch Whisky. These products enjoy a special status known as a 'Geographical Indication' (GI) which informs consumers about the genuine origins of an article. The EPA covers more than 200 European GIs on the Japanese market so that only products with this status will be allowed to be sold in Japan under the corresponding name.

Automotive industry

As part of the trade-offs, the EU will open its markets to Japanese cars and car parts after certain transition periods expire. This period is seven years for Japanese cars. For Japanese car parts, the period varies from immediate tariff elimination to seven years.

⁹ [Letter](#) from Greg Hands to Chair of European Scrutiny Committee, 11 June 2018

¹⁰ [Key elements of the EU-Japan Economic Partnership Agreement](#), Commission MEMO/18/3326, 18 April 2018

¹¹ *ibid.*

The removal of tariffs will make imports of Japanese cars and components cheaper. However, more than two-thirds of all Japanese-brand vehicles sold in the EU are manufactured in the EU. Another 240,000 Japanese-brand vehicles made in the EU are exported to third countries. Japanese car makers have 14 production plants in the EU and 16 research and development centres. These employ 34,000 people in the EU and a further 127,000 indirectly. So the EU hopes that removing tariffs will boost production and jobs in Japanese-owned car plants in Europe.¹²

2.3 Services

The EU-Japan EPA is intended to make it easier for EU companies to provide services on the Japanese market, while safeguarding the right to regulate and protect public services. The UK exported around £8bn worth of services to Japan in 2017. The Government has stated that for the UK, "...the agreement secures fairer treatment of UK service suppliers operating in Japan so that it is comparable to that of Japanese suppliers. This includes UK priority sectors such as finance, postal, telecommunications, and maritime."¹³

2.4 Opening up public procurement market

On procurement, Japan will offer non-discriminatory access for EU companies to government contracts in 48 large Japanese cities, which represent about 15% of the Japanese population. State-owned enterprises in Japan will not be allowed to treat EU companies, services or products differently to their Japanese counterparts when buying and selling on commercial markets. The agreement also removes existing obstacles to procurement in the railway sector.

2.5 Small businesses

The EPA includes a chapter dedicated to small businesses to make it easier for them to export. Lack of access to information can represent a trade barrier, particularly for smaller firms. Both the EU and Japan therefore have committed to setting up a specific website which will provide information to smaller companies on how to access their markets. Almost 65% of UK companies trading with Japan are small companies (0-50 employees) and around 20% are medium sized (50-250 employees). However, their share in the total UK exports to Japan in 2016 represented roughly 22% and their share of imports was 25%. The government expects small business to experience a net gain from the EPA when accounting for the elimination of tariffs and reduction of non-tariff measures between the UK and Japan.¹⁴

¹² <http://ec.europa.eu/trade/policy/in-focus/eu-japan-economic-partnership-agreement/agreement-explained/> 15 June 2018

¹³ European Scrutiny Committee, *Twenty-ninth Report of Session 2017-19*, 23 May 2018, para 2.29

¹⁴ Department for International Trade, *Impact assessment of the EU-Japan Economic Partnership Agreement (EPA) on the UK*, 24 May 2018

2.6 Sustainable development

The EU-Japan EPA includes a chapter on trade and sustainable development. The latter, among other things, sets out civil society's involvement in the monitoring of this chapter through consultation of 'domestic advisory groups'. Moreover, it states that labour and environmental standards cannot be relaxed or lowered to attract trade and investment. It also includes the parties' commitment to take action towards achieving the objectives of the Paris Agreement on climate change.

2.7 Data protection

According to the European Commission the fundamental rights of EU citizens regarding data protection and privacy are non-negotiable. Dialogues with third countries on data protection and negotiations of trade and investment agreements should follow separate tracks.¹⁵

The EU and Japan are in a dialogue on how to facilitate the transfers of personal data for commercial exchanges, while ensuring the highest level of data protection. The EU-Japan EPA includes a specific clause whereby the parties will review the issue of the free flow of personal data within three years of the entry into effect of the agreement. Negotiations between both sides will continue outside the framework of the FTA with the aim of bridging the gap in data protection laws through a so called "mutual adequacy decision". By taking an adequacy decision, the Commission would establish that Japan provides a comparable level of protection of personal data to that in the European Union, through its domestic laws or its international commitments.¹⁶

2.8 Investment protection

The EPA does not contain investment protection measures or investor to state dispute settlement (ISDS) provisions. These aspects are the subject of a separate EU-Japan investment agreement, and the negotiation process on this has not been finalised. The EU is pursuing the setting up of the Investment Court System (ICS) – a new approach it wants to include in all its new trade agreements. This approach has already been introduced in the Comprehensive Economic and Trade Agreement (CETA) which the EU concluded with Canada, and the EU-Vietnam FTA. Japan favours arbitration for the investor-state dispute settlement (ISDS) system.¹⁷

¹⁵ [Key elements of the EU-Japan Economic Partnership Agreement](#), Commission MEMO/18/3326, 18 April 2018

¹⁶ 'Communication from the Commission to the European Parliament and the Council on Exchanging and Protecting Personal Data in a Globalised World: (38493), 5191/17, COM (17) 7

¹⁷ European Parliament Research Service, [EU-Japan trade deal finalised](#), December 2017

3. Ratification

This agreement is being put forward as an “EU-only” agreement. This means that it requires the agreement of the Council and the European Parliament and not separate ratification by individual EU Member States. As the European Scrutiny Committee point out, this debate will therefore provide the “only opportunity for the House of Commons as a whole to scrutinise and have a say on the Government’s position on the EU-Japan trade agreement before it is signed and concluded”.¹⁸

3.1 Mixed vs EU only agreements

Where the EU enters into an international agreement, it has either exclusive competence (only the EU can act) or competence which is shared or parallel with that of Member States. Many EU external agreements contain elements of both EU exclusive and shared competence. These are known as mixed agreements and must be signed and concluded/ratified by all Member States individually. The EU’s trade agreement with Canada (CETA) is a mixed agreement. Ratification by all Member States can cause problems for mixed agreements. For a time, CETA appeared to be in the balance due to objections raised by the Walloon Parliament, although these concerns were addressed in the end. For more information on this, see [EU External Agreements: EU and UK procedures](#), Commons Library Briefing Paper, CBP-7192, 28 March 2016.

3.2 The European Commission’s new approach to trade agreements

The European Scrutiny Committee explains that the EU-Japan agreement is one of the first EU-only agreements. The EU is hoping to separate EU only agreements from mixed agreements:

as one of the first ‘EU only’ trade agreements to be presented by the Commission as part of its new approach to the ‘architecture’ of free trade agreements (FTAs)⁽ⁱ⁾, following the Court of Justice judgment of 16 May 2017 on the balance of competences in the EU FTA with Singapore.⁽ⁱⁱ⁾ The Commission’s aim is to separate out the ‘exclusive EU’⁽ⁱⁱⁱ⁾ competence provisions of external agreements from the ‘mixed’ competence elements.^(iv) As EU-only agreements do not require formal ratification by individual Member States, the Commission hopes that this will avoid the delays recently seen in the implementation of mixed agreements such as CETA, where national or regional parliament have a direct veto. The EU-Japan EPA therefore excludes provisions on non-direct foreign (portfolio) investment and investment dispute mechanisms (mixed competence elements), in line with the Commission’s new approach (which will be negotiated under a separate mixed investment agreement).¹⁹

¹⁸ European Scrutiny Committee, [Twenty-ninth Report of 2017-19](#), 23 May 2018, HC 301-xxviii, p5

¹⁹ European Scrutiny Committee, [Twenty-ninth Report of 2017-19](#), 23 May 2018, HC 301-xxviii, para 2.2

(i) See draft Council conclusions on the negotiation and conclusion of EU trade agreements of 8 May 2018.

(ii) See the Minister's summary of the Court of Justice Opinion in his letter of 13 July 2017.

(iii) EU external competence can be 'exclusive', in which case only the EU can exercise the competence and Member States may not.

(iv) A mixed agreement means that there are parts for which the EU is exercising competence and other parts for which Member States are exercising their competence. Mixed agreements must be agreed by each Member State, creating a requirement for consensus. They must also be ratified by each Member State.

4. Continuity of trade agreements after Brexit

The Government is seeking continuity after Brexit with respect to EU trade agreements with third countries, such as Japan. The International Trade Committee published a [report](#) on the issue of the continuity of trade agreements.²⁰ The Government [responded](#) to this report in May 2018.

4.1 During the transition/implementation period

During the transition/implementation period, the [draft Withdrawal Agreement](#) says that “the United Kingdom shall be bound by the obligations stemming” from EU international agreements.²¹ A footnote to the agreement says that the EU “will notify the other parties to these agreements that during the transition period, the United Kingdom is to be treated as a Member State for the purposes of these agreements.”

The ESC asked the Government whether the explicit agreement of third countries, and Japan specifically, was required for these trade agreements to continue to apply during the transition period. In response, the Government pointed to the draft Withdrawal Agreement:

The Government is committed to securing continuity of existing EU free trade agreements and other EU preferential arrangements as we leave the EU. We have held discussions on continuity of in-force existing EU trade agreements with more than 70 partner countries, and all have agreed in principle to seek to ensure continuity. As outlined above, Article 124 of the draft Withdrawal Agreement, and the notification proposed in the footnote to that article, will serve as the basis for the continued application of EU international agreements to the UK during the implementation period, including the EUJPEPA [EU-Japan EPA]. HMG is engaged in ongoing discussions with counterparts in the Japanese Government in relation to article 124 of the draft Withdrawal Agreement.²²

Baroness McIntosh of Pickering asked whether the Government had secured continued recognition from any third countries that the UK will be treated as an EU Member State for trade purposes during transition. Baroness Fairhead answered:

The UK and EU have agreed that the UK is to be treated as a Member State for the purposes of international agreements during the Implementation Period. This is a positive and significant step to secure continuity in our international trading relationships as we leave the EU.

²⁰ International Trade Committee, *Continuing application of EU trade agreements after Brexit*, 28 February 2018, HC520

²¹ Article 124 (1)

²² [Letter](#) from Rt Hon Greg Hands MP, Minister of State for Trade Policy to Sir William Cash MP, Chair of the European Scrutiny Committee, 11 June 2018

Discussions on this approach are taking place with our trading partners, and many have already issued public statements in support of the approach.²³

4.2 After the transition period

After the transition period, the UK will not be covered by the EU's trade agreements. The Government is seeking to provide continuity by agreeing separate UK agreements with the third countries with whom the EU has agreements. The *Trade Bill* has been introduced to facilitate this.

In a [written statement](#) on 11 June 2018, the Secretary of State for International Trade, Dr Fox, said that the UK and Japan had agreed to "work quickly to establish a new economic partnership between Japan and the UK based on the final terms of the EPA' as the UK leaves the EU."²⁴

In its [response](#) to the International Trade Committee's report on the continuing of trade agreements, the Government said:

It remains the case that all partner countries are committed to ensuring there is no disruption to our trading relationship. We have a mature relationship with our partner countries, and in discussions cover a range of scenarios to ensure continuity.

In parallel to arrangements for the Implementation Period, the Government continues the important work with partner countries to ensure continuity of effect of our international agreements beyond the Implementation Period, to avoid any disruption in trade from January 2021 onwards.²⁵

²³ [PO HL 7762 24 May 2018](#)

²⁴ HCWS 747 11 June 2018

²⁵ International Trade Committee, continuing application of EU trade agreements after Brexit, Government response, 9 May 2018, HC 1042, p5

5. Parliamentary scrutiny of trade agreements

One of the reasons the European Scrutiny Committee recommended the EU-Japan agreement for debate was the general issue of transparency and scrutiny of trade agreements. Its report referred to:

the need to understand what steps this Government will take to ensure more transparency in and scrutiny of trade negotiations, both as a member of the EU and after UK withdrawal (when it is able to operate an independent trade policy) is fundamental to ensuring the democratic accountability of trade deals that the UK is or intends to become party to²⁶

The International Trade Committee has announced an [inquiry](#) into UK Trade Policy Transparency and Scrutiny.

The Government's [Trade White Paper](#) included a call for views on the Government's approach to its future trade policy, including scrutiny arrangements, and the Government is continuing to consult on this issue. The Government published its initial [response](#) in January 2018.

Parliament's role in UK treaties is currently much more limited than the democratic scrutiny currently given to EU trade agreements: it has no formal role in the negotiations and does not have to debate, vote on or approve them.

For EU trade agreements, the Council (composed of subject-area relevant Member State government ministers) gives the European Commission a mandate to negotiate on behalf of the Member States and authorises the signature and conclusion of agreements. The European Parliament does not take part in negotiations, but is kept "fully informed" at all stages, questions the Commission and can issue non-binding but politically important resolutions. The European Parliament's consent is usually required before trade agreements can be concluded.

National parliaments also scrutinise aspects of EU trade negotiations through their own EU scrutiny processes. In the UK, draft Council decisions on signing, provisionally applying or concluding an agreement are deposited, scrutinised by the EU Scrutiny Committees in both Houses, and may be debated on the Floor of the House or in European Committee.

By contrast, when the UK Government is considering its own treaty negotiations, it has no obligation to inform or consult Parliament. Parliament has no formal role, structures or procedures for scrutinising treaties; and it does not have to debate, vote on or approve treaties. It has a limited and as yet unused power to delay ratification (in addition to passing legislation where needed to implement a treaty). Trade agreements can, however, be scrutinised via the usual Parliamentary

²⁶ European Scrutiny Committee, [Twenty-ninth Report of Session 2017-19](#), 23 May 2018, para 2.21

means such as Parliamentary Questions, debates and select committee inquiries.

There have been many calls for Parliament to have a greater role in, for example, setting the negotiating mandate for trade negotiations, debating trade agreements and approving their ratification. Many other countries' Parliaments are more involved in treaty scrutiny, not least because treaties now cover a wide range of important policy areas.

In response to questions on transparency and scrutiny raised by the European Scrutiny Committee, the Minister (Greg Hands) said:

I have made clear my commitment to exploring ways to facilitate scrutiny of the Japan and Singapore agreements (as the first to be taken forward under the new approach), including via the option of a debate subject to the availability of Parliamentary time. Should other agreements be concluded as EU-only in the future, I will similarly work with the Committees to explore ways to facilitate scrutiny.

The degree of scrutiny Parliament wishes to give to ongoing EU business during the implementation period is of course a matter for Parliament on the basis of the detailed arrangements agreed between the UK and the EU for the implementation period. The Government supports a strong scrutiny process, and will continue to support and facilitate this for as long as EU legislation will continue to affect the UK.

We are currently considering the legislative framework for future trade agreements. Parliament will have a crucial role to play in the scrutiny and ratification of the UK's future trade deals and we will bring forward proposals in due course. We are working to ensure that the process of negotiating and implementing new trade deals is transparent, efficient and effective, making provision for a legislative framework that will enable future trade agreements to move quickly from agreement to ratification and implementation, whilst supporting the due processes for Parliamentary scrutiny.²⁷

There is more information on these issues in [The Trade Bill](#), Commons Library Briefing Paper, CBP-8073, 7 March 2018.

²⁷ [Letter](#) from Rt Hon Greg Hands MP, Minister of State for Trade Policy to Sir William Cash MP, Chair of the European Scrutiny Committee, 11 June 2018

6. Sources of further information

[European Union document No. 7959/18](#), a proposal for a Council Decision on the signing, on behalf of the European Union, of the Economic Partnership Agreement between the European Union and Japan

[European Union document No. 7960/18](#), a proposal for a Council Decision on the conclusion of the Economic Partnership Agreement between the European Union and Japan

Dept for International Trade, [Explanatory Memorandum](#), 3 May 2018

Dept for international Trade, [Impact Assessment of the EU-Japan Economic Partnership Agreement \(EPA\) on the UK](#) (IA No. DIT 003), 24 May 2018

European Scrutiny Committee, [Twenty-ninth Report of 2017-19](#), 23 May 2018, HC 301-xxviii

European Commission, [EU-Japan Partnership Agreement in focus](#)

European Parliament Research Service, [At a glance: EU-Japan trade deal finalised](#), December 2017

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