



Position Paper on the Future EU-UK Relationship

April 2020

Introduction

Founded in 1999, the Japan Business Council in Europe (JBCE) is a European association representing over 90 multinational companies and firms of Japanese parentage in EU policy discussions. Our members are active in Europe across many sectors, including digital, information and communication technologies, electronics, automotive, pharmaceuticals and chemicals.

JBCE members have developed broad and complex supply chains across the EU and the UK, and are representative of the high levels of investment, trade, and cooperation that currently characterise Japan's relations with both partners. In 2017, for example, Japanese foreign direct investment to the EU-28 amounted to [€229 billion](#), with well over 10% of that figure destined for the UK. Japan was in fact the [biggest provider of FDI in the UK](#) in the same year, and such investment flows continue to increase.

An open trade environment between the EU and the UK has always been a key driver of our members' presence in both geographies. With this context in mind, JBCE has placed the highest priority on contributing to the continuation of strong EU-UK-Japan relations after Brexit.

Luckily, there are important precedents, in particular the EU-Japan Economic Partnership Agreement (EPA). We sincerely believe that the ambition of this Agreement means that Japanese companies have a bright future in the EU, and we hope that an EU-UK FTA will provide a similarly strong foundation for our continued UK presence, and seek to emulate the comprehensive nature of the EPA.

JBCE Recommendations to EU and UK negotiators

Preserving existing trade flows should be a top priority for both negotiating partners, and any "cliff edge" situation should be avoided at all costs. In this sense, JBCE recommends that both parties aim to ratify an FTA before the end of the transition period that provides certainty and predictability to European, UK, and Japanese companies. JBCE welcomes the parties' ambition to keep trade tariff-free and would emphasise the need to also address non-tariff barriers to limit supply chain disruptions. Moreover, any restrictions or inefficiencies in the transport of goods – particularly by road – should be avoided.

Ensuring efficient customs procedures should also be at the top of the negotiating agenda. Our members currently operate complex supply chains across the EU and the UK, and additional time or cost burdens would place these under severe strain. JBCE recommends that

the UK and the EU recognise each other as Authorised Economic Operators, while aiming to achieve further simplification for exporters/importers in the future. This could be achieved by ensuring harmonised procedures, publishing clear guidelines for businesses, and facilitating the acceptance of existing authorisations directly after the end of the transition period.

When agreeing on **rules of origin**, the EU and the UK should take into account the uniqueness of Brexit and its substantial impact. The application of the FTA will imply a significant administrative burden for traders – some of which never had to deal with third countries before. Both parties should therefore provide for a phase-in for operators, with simplified rules of origin.

Furthermore, the EU-UK FTA should support current and future investments by providing for the possibility of diagonal/extended **cumulation or origin** with economic partners with whom both sides have trade agreements. In addition, the application of **duty drawback** could also be considered to further support businesses.

The parties should maintain their ambition on **cross-border trade in services**, with an aim to achieve liberalisation that goes beyond WTO rules and existing FTAs. This should include strong provisions on the **movement of natural persons** (“Mode 4” services), as well as a reciprocal approach to visa-free travel for short-term stays. The parties should aim to provide each other with the widest access possible to all services sectors, including telecommunications.

The EU-UK FTA should also aim to **set new standards for digital trade**, with the bilateral agreement acting as a complement to mutual work at WTO-level, particularly in the ongoing e-Commerce negotiations. The Japan-US agreement on digital trade could also serve as an example in this regard. As such, the EU-UK FTA should include provisions prohibiting data localisation, source code disclosure, and tariffs on electronic commerce. Moreover, the parties should aim to include **language on the free flow of data within the text of the Agreement**, while respecting the highest levels of data protection, thus ensuring consumer trust. Broadly speaking, a focus on digitisation in reducing barriers to trade through electronic means should be mainstreamed throughout the FTA.

A strong focus on regulatory cooperation should be a key forward-looking element in FTA. The EU and the UK are entering these negotiations from a unique starting point of almost complete regulatory alignment, and a long history of working together towards shared regulatory objectives. This relationship will by necessity change, both in operational terms and larger policy aims. However, both partners should focus on establishing a comprehensive and practical framework for regulatory cooperation, to avoid the needless creation of new barriers to trade.

As a first step, the parties should aim to reach **Mutual Recognition Agreements (MRAs)** in a number of areas. Particular attention should be paid to ensuring mutual recognition of professional qualifications, conformity assessment procedures, standards (e.g. environmental & safety requirements) and markings. Divergence on these issues has the potential to represent a major obstacle to trade. The negotiation of MRAs should run in parallel with the wider negotiations of the future partnership for a facilitated process. Furthermore, a committee could be established – as was the case in the EU-Japan EPA – to identify further areas for mutual

recognition in the years ahead. Finally, we certainly hope that the British Standards Institute can remain a member of CEN-CENELEC-ETSI, to ensure the harmonisation of standards between both parties.

Outlook

The current timeframe – whereby the UK transition period will come to a close on 31 December 2020, rendering the EU-Japan EPA’s provisions inapplicable in the UK – has placed much pressure on negotiators’ shoulders. The impact of the COVID-19 outbreak on the negotiating schedule has increased the level of uncertainty for businesses as to whether an agreement can be reached in time. The unparalleled challenges posed by the current health crisis to businesses in the UK and the EU renders the need to avoid a “cliff edge” scenario even more pressing.

JBCE therefore advises flexibility on both sides to ensure the least disruption possible to trade flows. While urging the partners to aim for a comprehensive free trade agreement, this ambition should not mean forgetting to preserve the existing business environment.

Therefore, in case such an FTA cannot be completed by the end of the transition period, we advise the partners to reject a “No Deal” scenario, and instead focus on a small package of measures to protect EU-UK trade, at least on a temporary basis. This agreement would in particular need to address trade in goods (including rules of origin) and customs procedures. Non-trade negotiations – for example on data adequacy, mutual recognition, or participation in research programmes – also have an important part to play here, and should proceed in parallel with the broader FTA discussions.

Of course, companies such as JBCE members are truly on the front line in the currently unpredictable trade environment, and bring decades of expertise in navigating the international commercial landscape. Thus, we call upon both parties to engage with industry as these talks progress, in order to maintain a focus on designing a future EU-UK trade relationship that is pragmatic, positive, and can bring prosperity to all.