

Agenda – External Affairs and Additional Legislation Committee

Meeting Venue:	For further information contact:
Video conference via Zoom	Alun Davidson
Meeting date: 19 November 2020	Committee Clerk
Meeting time: 14.00	0300 200 6565
	SeneddEAAL@senedd.wales

In accordance with Standing Order 34.19, the Chair has determined that the public are excluded from the Committee's meeting in order to protect public health.

This meeting will be broadcast live on senedd.tv.

Registration period

(13.30–14.00)

1 Introductions, apologies, substitutions and declarations of interest

(14.00)

2 Papers to note

(14.00–14.05)

2.1 Paper to note 1: Correspondence from the Counsel General and Minister for European Transition to the Chair regarding End of Transition Action Plan – 12 November 2020

(Pages 1 – 2)

2.2 Paper to note 2: Correspondence from the First Minister to the Chair regarding the 34th Summit of the British–Irish Council – 13 November 2020

(Page 3)

2.3 Paper to note 3: Correspondence from the Counsel General and Minister for European Transition to the Chair regarding the UK–Japan Comprehensive Economic Partnership Agreement – 16 November 2020

(Pages 4 – 8)



- 2.4 Paper to note 4: Correspondence from the Auditor General for Wales to the Chair regarding preparations for the end of Brexit transition – 17 November 2020**
(Pages 9 – 22)
- 3 Motion under Standing Order 17.42(vi) to resolve to exclude the public from the remainder of the meeting**
(14.05)
- 4 UK Internal Market Bill: Legislative Consent – consideration of draft report**
(14.05–14.30) (Pages 23 – 35)
- 5 UK Common policy frameworks – Nutrition Labelling Composition and Standards Provisional Common Framework**
(14.30–15.00) (Pages 36 – 67)
- 6 Consideration of international agreements**
(15.00–15.30) (Pages 68 – 92)
- 7 Trade Bill 2020: Legislative Consent**
(15.30–15.45) (Pages 93 – 96)

Negotiations on the UK's withdrawal from the EU – monitoring report

Brexit update

Jeremy Miles AS/MS

**Y Cwnsler Cyffredinol a Gweinidog Pontio Ewropeaidd
Counsel General and Minister for European Transition**

Agenda Item 2.1



**Llywodraeth Cymru
Welsh Government**

David Rees MS
Chair of the External Affairs and Legislation Committee
Senedd Cymru
Cardiff Bay
CF99 1NA

12 November 2020

Dear David

Thank you for your letter of 23 October. The information that you have provided is appreciated and will be valuable in our continued efforts to prepare Wales for the end of the European transition period.

The Welsh Government continues to focus our efforts on end of transition planning, as we did during no deal planning, but as you recognise the economy is already under significant pressure as a result of the current pandemic and we know that businesses, stakeholders and Welsh citizens are struggling to focus on what the end of transition will mean for them. With this in mind, we have published an End of Transition Action Plan, a high level summary of our work to mitigate, insofar as possible, the negative impact of the very significant change in our relationship with the EU. This document also reflects the context of COVID and our 'framework for recovery'.

It is, of course, crucially important that the UK Government achieves a successful outcome to the negotiations before the end of transition and we continue to press the UK Government on this. As you mention the uncertainty about the eventual outcome inevitably poses difficulties in terms of sector preparedness and we know this is on top of difficulties they already face. The Welsh Government understands this and is taking all practical steps to ensure that all possible scenarios, along with the ongoing impact of COVID, have been considered and planned for ahead of 31 December 2020. Listening to the views of key stakeholders and keeping our communication with them clear and consistent will facilitate preparedness efforts and will remain a key priority within our preparedness work.

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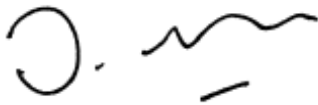
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We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

As you know, the engagement of the UK Government with us has been very unsatisfactory but the Welsh Government continues to do what it can to ensure that Welsh interests are represented in ongoing negotiations as well as working tirelessly on preparedness. Can I take this opportunity to reassure both you and the committee that the areas of concern identified within the transcript you have provided are areas that have already been identified by the Welsh Government and related activity to mitigate concerns have been outlined within the End of Transition Action Plan which was published on 11 November.

Thank you again for kindly sharing your information.

Yours Sincerely,

A handwritten signature in black ink, consisting of a circular mark followed by a series of wavy lines and a short horizontal stroke.

Jeremy Miles MS

Y Cwnsler Cyffredinol a Gweinidog Pontio Ewropeaidd
Counsel General and Minister for European Transition

Ein cyf/Our ref

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13 November 2020

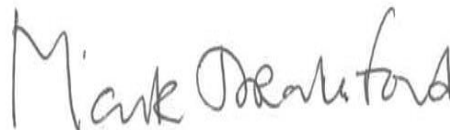
Dear David

Further to my letter of 3 November 2020 regarding the inter institutional agreement and my attendance at the 34th Summit of the British-Irish Council hosted by the Scottish Government, I wish to inform you that I have today issued a written ministerial statement to all Members of the Senedd summarising the outcomes of the meeting which can be found here:

<https://gov.wales/written-statement-34th-meeting-british-irish-council-6-november-scotland>

I have also written to the Chair of the Legislation, Justice and Constitution Committee, Mick Antoniw MS.

Yours sincerely



MARK DRAKEFORD

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Agenda Item 2.3

Cwmsler Cyffredinol a'r Gweinidog Pontio Ewropeaidd
Counsel General and Minister for European Transition



Llywodraeth Cymru
Welsh Government

David Rees MS
Chair of External Affairs and Additional Legislation Committee
Senedd Cymru
Cardiff Bay
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16 November 2020

Dear David,

Further to my letter of 9 November, please find enclosed responses to your questions about the UK-Japan Comprehensive Economic Partnership Agreement (CEPA), which is based on the EU-Japan Economic Partnership Agreement (EPA) the UK is currently party to.

The CEPA is referred to as a 'continuity plus' agreement as both parties wished to maintain the preferential trading arrangements established by the EPA from 1 January 2021 whilst also seeking enhancement in areas of mutual interest. Our overriding priority was ensuring that any agreement secured was at least equivalent to the existing EPA and I am pleased this has been achieved, with some additional provisions in areas such as data and digital.

As you know our intention is to publish our assessment of CEPA and we are currently finalising this report. I am intending to share this with you this week, ahead of publication.

Yours sincerely,

Jeremy Miles AS/MS

Cwmsler Cyffredinol a'r Gweinidog Pontio Ewropeaidd
Counsel General and Minister for European Transition

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We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Responses to the EAAL Committee's Questions on the UK-Japan Comprehensive Economic Partnership Agreement

1. Has the Welsh Government conducted an assessment of the UK-Japan Comprehensive Economic Partnership Agreement ("the CEPA"), and can it outline how the CEPA differs from the Japan-EU Economic Partnership Agreement ("the JEEPA")?

Yes. The Welsh Government's full assessment will be shared with the Committee as soon as possible and ahead of publication. The assessment will be published prior to 7 December, when the Constitutional Reform and Governance Act 2010 (CRaG) scrutiny process is expected to conclude in the UK Parliament.

As the UK-Japan CEPA largely represents continuity of the EU-Japan Economic Partnership Agreement (EPA), many of the provisions and articles are the same.

There are however, some differences between the two agreements. For example, CEPA contains additional provisions in financial services, data and digital areas and there is also a new chapter on Trade and Women's Economic Empowerment.

2. How will the CEPA likely impact on:

- *individual sectors in Wales;*
- *Welsh consumers; and*
- *social, labour, environmental and animal welfare issues?*

Individual Sectors

The following points provide a high level summary of our findings in respect of the above themes. Further detail will be provided in our full assessment. Our findings are based on our analysis of the text of the agreement and the Impact Assessment produced by the UK Government. It is worth noting that the UK Impact Assessment presents the impacts of CEPA compared to a scenario in which the UK is not party to the EPA. This may lead to over-interpretation of the benefits of the deal. In addition, the UK Government's analysis assumes that a UK-EU agreement will be reached.

Automotive

- The liberalisation timetable of tariffs on cars and car parts is not being accelerated beyond the timetable as agreed in the EPA. This provides a degree of security for domestic manufacturers of these products.
- Of particular relevance to our automotive sector are Rules of Origin arrangements. CEPA secures cumulation arrangements to allow our exporters to Japan to use EU materials and processing as counting as originating within the UK. Some removal of the less restrictive Product

Specific Rules when compared to EPA may offer more opportunities for manufacturers of both parties in certain goods to source the raw materials they need from other countries in their exports to one another.

Agriculture and Food and Drink

- There will be continuity of effect for Geographical Indicators (GI) with the EPA, maintaining protections secured for three products (none of which are Welsh) under Japan's Geographical Indications (GI) scheme.
- The UK Government has secured a provision that stipulates that as soon as practically possible after entry into force, each Party shall consult and provide a list of GIs to the other Party for addition to the Agreement, subject to examination and opposition procedures. Fifteen of the seventy products the UK Government has said it will seek to register in Japan are of Welsh origin and include Welsh lamb and Anglesey sea salt.
- These provisions could have a slightly positive, albeit limited, impact on Wales' food and drink sector in the long-term depending on the extent they are used by Welsh businesses.

Data and Digital

- Ambitious and forward looking provisions on digital and data take CEPA beyond the EU-Japan deal. Japan has agreed to lift its data localisation arrangements, which will improve data flow and create opportunities for businesses in financial services and e-commerce industries.

Financial Services

- There are a number of benefits, particularly relating to commitments on promoting regulatory and legal transparency and cooperation between both parties that should increase certainty and clarity for UK financial services providers operating in Japan and vice versa.

Welsh consumers

- The UK Government's Impact Assessment shows that Wales imports around 7% of the UK's total imports from Japan. Whilst the modelling estimates a potential saving of up to £4m for Welsh consumers, the evidence directly linking tariffs to consumer prices is mixed and we expect the scale of the savings to be linked to the extent to which savings from lower import costs are passed onto the consumer.

Social, Labour, Environmental and Animal Welfare Issues

- CEPA largely replicates the Trade and Sustainable Development (TSD) chapter in EPA, including those related to the environment and climate change. We are supportive of these provisions.
- Modelled estimates suggest CEPA is not expected to have significant impacts on Greenhouse gas emissions (CO2 and Non-CO2), energy usage, trade-related transport emissions and wider environmental impacts such as air quality, biodiversity, and water use/quality.
- References to labour laws and conventions have been included throughout the TSD chapter which is consistent with the EPA.
- There is a new chapter on Trade and Women's Economic Empowerment which we support.
- Animal welfare provisions are identical to provisions made in EPA, with a commitment to establish a technical working group on animal welfare. We are broadly supportive of this provision, but as animal welfare is a devolved issue, we await further clarification from UK Government on the role we will have in the working group.

3. *The Welsh Government has previously stated that, after a UK-EU free trade agreement, a UK-Japan agreement was its main priority in order to ensure continuity for businesses already benefitting from the EU-Japan agreement. Is the Welsh Government confident that the CEPA will provide full continuity for Welsh businesses?*

Yes, CEPA largely represents continuity of EPA as many of the provisions and articles are the same.

4. *Does the final impact assessment for the CEPA reflect the Welsh Government's understanding of the potential impact of the agreement on the Welsh economy, sectors and businesses?*

Yes, our analysis is based on the economic modelling in the Impact Assessment provided by the UK Government. However, the Computable General Equilibrium (CGE) modelling undertaken by CEPR (on behalf of the Department for International Trade) made a number of assumptions that may lead to over-interpretation of the benefits:

- It considered the impacts of a UK-Japan CEPA compared to a scenario whereby the UK has no trade agreement with Japan.
- It is based on the baseline assumption that a UK-EU agreement will be reached

CGE analysis can provide a very useful indication of the potential magnitude of economic impacts resulting from policy changes. However CGE results should not, however, be treated as a forecast or prediction of the future. Hence as with any economic modelling the results should be considered in the round and in conjunction with other qualitative evidence.

5. *The UK Government has stated that additional improvements have been made to the CEPA compared to the Japan-EU Economic Partnership Agreement, including in digital and data, financial services and food and drink sectors. What assessment has the Welsh Government made to understand how the modifications made to the CEPA compared to the JEEPA will impact on sectors and businesses in Wales?*

The Welsh Government has carried out its own assessment on how CEPA will impact on sectors and businesses in Wales compared to EPA. However, I must stress that this assessment is based largely on the economic analysis carried out by the UK Government and detail in its Impact Assessment.

Given there is currently limited economic modelling capability for Wales of the type used for this assessment, the Welsh Government has been unable to conduct or commission CGE modelling of the negotiated text and its direct impact on Wales for this impact assessment. However, if this capability was available to us it's unlikely the outputs would vary from those produced at the UK level- although it is possible that alternative baselines could be explored. To this end, the UK Government's own CGE analysis for the UK, from which there are some limited results on the high level impacts on Wales, can be drawn upon. At the more detailed level, the impacts on Wales can be inferred by considering what portion of the net benefits estimated for the UK could be attributed to Wales.

6. *Provisions are made in the CEPA for further cooperation in areas such as Geographical Indications, agriculture, and support for SMEs. This also includes the establishment of working groups such as the Working Group on Trade and Women's Economic Empowerment, and on Cooperation in the Field of Agriculture. What assurances has the Welsh Government sought to ensure it is involved in any future bilateral discussions where they interact with areas of devolved competence?*

We are continuing to work with UK Government on how the working groups will operate and the role of the Devolved Governments on this matter. Assurances will be sought at the Ministerial Forum for Trade if and when required.

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Reference: AC/224/caf
Date issued: 17 November 2020

Dear David

Preparations for the end of Brexit transition

I published my report on 'Preparations in Wales for a 'no-deal' Brexit' in February 2019. That report summarised the results of my audit work across Welsh public bodies to assess their preparedness. I subsequently wrote to you in September 2019 updating the position with regards to preparations for a no-deal Brexit. That letter set out some of the key challenges for public services who were, at that point, facing the prospect of the UK leaving the EU without a Withdrawal Agreement on 31 October 2019.

Since then, much has changed although many of the challenges and issues remain familiar. As we know, the EU and UK agreed to extend the 31 October 2019 deadline. Following the general election, the UK and EU ratified a revised Withdrawal Agreement and on 31 January 2020 the UK left the European Union. The UK entered an eleven month 'transition period' provided for in the Withdrawal Agreement. At the same time, negotiations started on a new relationship with the EU, with the intention that a new agreement would be in place by the end of the transition period.

At the time of drafting this letter, there remains a prospect that the UK will leave the transition period on 31 December without an agreement on the future relationship. The UK Prime Minister had set a deadline of 15 October, but that date has passed. Negotiations are continuing although there remain differences between the EU and UK in some key areas.

Even with an agreement, there will be consequences for Welsh public services and the wider Welsh economy and society. Since I last reported, the UK Government's ambitions for the future relationship have changed considerably. The UK Government is seeking a free trade agreement along the lines of that which the EU has with Canada. If agreed, this would probably involve removing most or all customs tariffs between the UK and EU. But there will also be new non-tariff barriers, including new checks on goods coming in and out of the country. There will also be a new migration regime, impacting on the rights of EU citizens to work in the UK and vice versa.

Welsh public services are now facing the challenge of preparing themselves and the wider society for these changes while also dealing with the impact of the COVID-19 pandemic. In some ways, the previous work to prepare for Brexit has helped with the response to COVID-19. When I wrote to you in September 2019, I said:

“Brexit planning constitutes the most comprehensive example of cross-government working that we have seen the Welsh Government undertake to date. There will undoubtedly be valuable lessons for the Welsh Government to draw from this experience and how its approach could perhaps be adapted for use in tackling other cross-cutting public service delivery challenges.”

Those we spoke to in preparing this update told us that the structures, planning and relationships developed to prepare for Brexit had all helped as part of the response to the pandemic. There were also specific practical benefits, for example the Welsh NHS reports that it drew on Brexit buffer stock as part of the COVID-19 response. In many respects, the work to prepare for the end of transition and to respond to COVID-19 is being integrated and co-ordinated together.

Despite the additional pressures, Welsh public services have continued to keep arrangements in place to prepare for the end of transition. The Welsh Government has updated its structures, with a new Assurance Board. The collective pan-public service arrangements have remained in place. Lead bodies for the main sectors of the Welsh public service told us that, as of October, activity was again ramping up on collective efforts as well as within individual bodies.

When I wrote in September 2019, I noted the Welsh Government's concerns about engagement with the UK Government. The Welsh Government reports that the relationship deteriorated in the first half of 2020 but has improved more recently, with increased sharing of information and engagement. As an example, last year, the Welsh Government and UK Government were working to a shared plan for civil contingencies, Operation Yellowhammer. At the time we did our fieldwork, there was no such common plan. The Welsh Government has since told us that after a period of having limited access, it is now more sighted of UK Government scenario planning documents and that joint working is strengthening.

The Welsh Government has its own plan in place setting out the actions that need to be delivered. It published its End of Transition Action Plan on 11 November. The difficulty is getting that work done in the timescale and providing the necessary human and financial resources while also responding to a pandemic that has been occupying all parts of government since March. Many of those previously involved in work preparing for Brexit have been heavily involved in the response to COVID-19 with little opportunity for a refresh over the summer. I also note that the end of the transition period could coincide with the period of peak deaths in Wales from the second wave, according to the modelling used by the Welsh Government COVID-19 Technical Advisory Cell.

The move to a new relationship with the EU is a critical issue for the well-being of the citizens and communities of Wales. Despite the competing priorities at present, that means putting significant resources in place to provide sufficient capacity to deliver the necessary actions and to bolster the resilience of public services both in the short and longer term.

I hope this letter and the accompanying detail supports the Committee in its consideration of the issues around preparing for the end of transition.

Yours sincerely,



ADRIAN CROMPTON
Auditor General for Wales

Preparations for the end of Brexit transition

About the work we carried out

We have conducted a very high-level review during September and October to inform this update. We have interviewed senior Welsh Government officials responsible for Brexit planning, as well as officials from the Welsh Local Government Association (WLGA) and the Welsh NHS Confederation. We also interviewed officials from Hybu Cig Cymru (Meat Promotion Wales) and Natural Resources Wales, two of the publicly funded bodies potentially most directly affected by Brexit.

We have reviewed documents held by the Welsh Government, including its over-arching action plan, which was published very recently, and other detailed planning documents. We have not carried out any work to test the plans reviewed and therefore have not sought to form a view on how effective they are likely to be. Nonetheless, the published plan clearly covers the main areas of risk and reflects the more detailed plans and underpinning activity.

The key risk areas arising from the end of the transition period

The Welsh Government has developed a new End of Transition Plan. We have drawn on the issues set out in the plan to identify the key areas of risk (**Figure 1**). Some of these cover areas that are not devolved or where action by Welsh public services is linked to UK-wide activities. In some instances, the issues are similar whether there is an agreement or not, in particular the requirement for checks at the ports and a new trading relationship for businesses. In other cases, the issues are specific to the scenario where the UK and EU are unable to reach agreement.

In summarising these issues, we focus below primarily on those areas that the Welsh Government's assessment shows are of greatest concern. In addition, there are specific issues within the plan, such as data adequacy¹, which are also of significant concern but are not seen as the highest risk. Other issues include operational preparedness across the environment and rural affairs, where there are around 70 projects including in areas such as regulation of ozone depleting substances, animal and plant health and pesticides and fisheries enforcement.

¹ The EU is yet to decide whether the UK has an 'adequate' level of data protection. If it is deemed 'adequate', data can be sent from the European Economic Area to the UK without the need for further safeguards.

Figure 1: Key issues covered in the Welsh Government’s End of Transition Plan

	<p>Operational activities: Issues relate in particular to preparations for the infrastructure, traffic management and service delivery issues around new hygiene and border control checks at Welsh ports.</p>
	<p>Business readiness and support: Issues relate in particular to general efforts to prepare businesses for a change in the nature of the trading relationship with the EU, with particular concerns about the red meat sector and fisheries in the event of there being no agreement with the EU.</p>
	<p>Supply of critical goods: Issues relate in particular to disruption to supply chains for critical goods required by the NHS and other public services, with the Welsh Government having particular concerns about the effectiveness of UK-wide mechanisms to manage these risks.</p>
	<p>Welsh Government resources and responsibilities: Issues relate to the lack of clarity over what will replace EU Structural Funds from 2021 onwards and concerns about staffing capacity to deliver on the 4,000 or so functions the Welsh Government will take over as a result of leaving the EU.</p>
	<p>Communities and public services: Issues relate in particular to supporting EU citizens and concerns related to recruiting and retaining EU workers in the health and care sectors.</p>

As part of its assessment, the Welsh Government has identified more than £50 million of activity to be delivered that is not yet funded. It is calling for the UK Government to provide additional funding, including funding to cover the bulk of this activity.

Operational Activities

Ports: regardless of whether there is a ‘deal’, new checks on goods will need to be carried out at UK ports, including those in Wales. The Welsh Government will be responsible for administering checks on animal and plant-based products in Wales². Her Majesty’s Revenue and Customs (HMRC) will be responsible for customs border checks. The UK Government has decided to phase in these border checks between January and July 2021. The phasing is set out in the UK Government’s Border Operating Model, which it published in October 2020.

To prepare for these changes, the Welsh Government will be involved in the construction of two new inland sites; one in North Wales and one in South-West Wales. The site in North Wales, which is being led by HMRC, will have joint operations conducted by HMRC and Welsh Government. The Welsh Government told us that the UK Government had only recently confirmed that the site in South West Wales will not run joint operations. Therefore, the Welsh Government will need to appoint its own contractors.

Delivering these new sites on time looks challenging. The need for a site in South-West Wales was identified later than for North Wales, and planning is at the very early stages. Progress in North Wales has been delayed for a variety of reasons, including initial sites not proving feasible.

The costs of the new infrastructure are uncertain as it is still unclear what the design, construction, operation and staffing level of the sites will look like. The Welsh Government expects that, once up and running, the border and hygiene checks will become largely self-financing as charged services.

There are possible challenges in finding enough people to operate the systems and do the checks. In particular, the environmental health staff needed for hygiene checks are currently in high demand to support the response to the COVID-19 pandemic, including supporting Test, Trace and Protect and enforcing COVID-19 regulations, for example in the hospitality sector. In addition, Welsh Government employed official veterinarians and technicians will also be required to conduct certain checks at borders.

² In technical terms these are ‘sanitary’ checks which protect human and animal health and ‘phytosanitary’ checks which protect plant health.

Ports – traffic management: the Welsh Government has identified the risk of significant traffic disruption in North Wales as a result of congestion at Holyhead. At the time of our fieldwork the Welsh Government was awaiting updated ‘flow analysis’ from the UK Government Department of Transport and the Border and Protocol Delivery Group. We understand it has now received that analysis. The Welsh Government expects that the costs of increased traffic management could be anything from £300,000 to £5 million over a six-month period. The Welsh Government does not expect major delays and traffic management issues around the ports in South-West Wales.

Business Readiness and Support

Red meat: The Welsh Government has identified that the red meat sector has an increased vulnerability as a result of COVID-19, and in particular the sheep sector given its high reliance on exports³. If there is no trading agreement and the sector faces high tariffs, a loss of the export market, combined with the food service sector not being back up to capacity (due to COVID-19), is likely to have a severe financial impact on farming businesses. This could have knock-on consequences for individual well-being and animal welfare. The Welsh Government has draft plans for a support package for the sector but is calling for the UK Government to make funding available for delivery.

Fisheries: During the winter months export levels tend to increase and the industry is expected to be vulnerable to a no-deal scenario. The Welsh Government recognises the need for financial support for the industry and is trying to convince the UK Government to develop a UK-wide support package for the sector.

Business preparedness: Many Welsh business will face new rules and checks when trading with the EU, regardless of whether there is an agreement. The EU Transition portal⁴ and Business Wales are central to business support. The Welsh Government reports that the extended period of uncertainty is causing increased pressures among businesses and a lack of capacity to prepare given the impacts of COVID-19.

It recognises that it will therefore need to reprioritise and stop other work currently being carried out by Business Wales. The Welsh Government’s work to prepare and support business is increasingly linked in with the wider work to manage the economic impacts of the COVID-19 pandemic. An example of this is the latest phase of its Economic Resilience Fund, which was initially introduced to help businesses through the COVID-19 pandemic. The Welsh Government told us that

³ In 2019, the export market for sheep and beef was worth £198.5 million to Wales, over 90% was exported to the European Union.

⁴ A page within the Business Wales webpages which acts as a landing page for business to access EU transition information in order for them to ‘stay informed and stay prepared’.

it has adapted the latest round of funding to make £100 million available to support businesses both through the pandemic and the end of the EU transition period.

The supply of critical goods

There are widespread concerns about significant disruption at the ports in the south of England impacting on supply chains for critical goods⁵. Previously, both the UK and EU had set out some temporary arrangements to ease some of the potential delays. While the UK Government intends to phase in some checks on goods entering the UK, we understand that the EU currently intends to apply the full range of checks to UK goods entering the EU.

The supply chain issues impact a range of public bodies and there has been learning from the experience of UK supply chains during the COVID-19 pandemic. As was the case with previous arrangements for a no-deal Brexit, NHS Wales (including the Welsh Government Department for Health and Social Services) is working with colleagues from around the UK to ensure continuity of supply for medicines and medical devices. NHS Wales is separately building a buffer stock of medical supplies and drugs, where necessary.

Other supply chain issues include veterinary medicines and some chemicals. We understand that the Welsh Government has contributed to a UK-wide contingency plan to manage these risks around the availability of chemicals required for the treatment of drinking water. As part of this approach, Natural Resources Wales is working with the Environment Agency in England and the chemical industry.

On a positive note, the Welsh Government considers that the experience gained from the COVID-19 pandemic has shown that the food supply chain contingency planning is robust. It considers that the operational links between Welsh Government, Defra, other devolved administrations, and businesses largely worked well in this respect. Nonetheless, the Welsh Government remains concerned about the potential impact of a reduction in choice and increases in costs, especially on the most vulnerable households. It also remains concerned about the potential public response to any shortages of certain food products and reports that it is working with the UK Government and the main supermarkets on communication to consumers.

⁵ On 6 November 2020, the National Audit Office reported that there are likely to be significant disruptions at the UK border, that there are still operational issues to resolve to reduce the risks of disruption around the short Channel crossings and that COVID-19 was making contingency plans for the supply of critical goods and medicines more difficult to enact.

Welsh Government resources and responsibilities

Current and Future Regional Funding: the Welsh European Funding Office (WEFO) reports that the current round of funding is going well. It has committed all available EU Structural funding to projects, with approximately £1 billion still to be spent up to 2023. Under the terms of the Withdrawal Agreement, the EU will continue to provide funding for projects under the current funding round even after the end of the transition period. In the event of breakdown in relations between the EU and UK and parties not observing the terms of the Withdrawal Agreement, WEFO considers that HM Treasury's guarantee to replace EU funding would protect it⁶.

The Welsh Government has expressed concerns about the lack of engagement with the UK Government regarding the future of the UK Shared Prosperity Fund, which will replace EU Structural Funds. The Welsh Affairs Select Committee also produced a critical report highlighting the lack of progress⁷. The Welsh Government has developed a draft Framework for Regional Investment. It is planning the implementation of a successor programme from April 2021 and has some projects in the pipeline. However, the programme is dependent on confirmation of funding and it remains uncertain whether the Welsh Government will have the autonomy to set its own priorities.

Delivery Functions: as a result of no longer being part of the EU, the Welsh Government expects to take on responsibility for around 4,000 legal functions previously exercised at EU level. The Welsh Government is currently completing an exercise to better understand the implications of these functions and identify options for delivering them. The Welsh Government currently sees taking on so many responsibilities as a significant risk due to staffing constraints (see below). In addition, the Welsh Government will need to consider what resources it needs to respond to the policy choices that will be available once it is no longer subject to EU rules and frameworks.

⁶ More information on how Brexit impacts structural funds and the HM Treasury guarantee can be found in our August 2018 report on [Managing the Impact of Brexit on EU Structural Funds](#).

⁷ Select Committee on Welsh Affairs, [Wales and the Shared Prosperity Fund: Priorities for the replacement of EU structural funding](#), October 2020

Legislation: The Welsh Government will need to pass new laws as it takes on new powers and fills in gaps in legislation previously filled by EU law. The Welsh Government had passed 51 laws (statutory instruments) before the UK formally left the EU on 31 January 2020. Since then, as at 6 November 2020, it had laid eight out of 21 new statutory instruments in the Senedd. Of the remaining 13, five had been drafted and translated, four were being translated and the Welsh Government had confirmed or projected dates for all to be laid. Some less critical laws will be laid in 2021. The Welsh Government had also given consent to 214 UK statutory instruments in devolved areas and expected to have to give consent to nine more by 31 December 2020. The Welsh Government is, however, concerned about the capacity to respond effectively to UK legislation implementing any new UK-EU agreement, if one is in place, which will require scrutiny and consideration of consent from the devolved legislatures. It is pressing the UK Government for early sight of draft legislation.

Communities and Public Services

The Welsh Government has concerns around the issues under this heading, which covers advice for EU citizens, especially around settled status, and issues with international transport, but responsibility for delivery generally rests with the UK Government. The WLGA and Welsh NHS Confederation told us that the issue of immigration and retention and recruitment of EU citizens in the health and social care sectors remained an area of high concern for them. The NHS Confederation told us that it had been working with UK colleagues to try to influence UK Government thinking on its future immigration plans. This work included commissioning the Wales Centre for Public Policy to research how future immigration proposals under a points-based system could impact the Welsh health and social care sector.

Resources for preparing for the end of transition

Staffing resources

The COVID-19 pandemic has had a significant impact on the staffing resource available to prepare for the end of transition. Many officials working in the EU Transition Team and many of the officials working on specific policy areas have been redeployed or had roles in the COVID-19 response. Senior staff from across the Welsh Government, who would be involved in any civil contingency response to the end of transition, have been involved in the COVID-19 response.

The Welsh Government is reviewing its staffing needs and gaps. An early analysis of the demand has identified a short-term resourcing gap of several dozen additional roles specifically for EU Exit essential activity with several hundred also potentially needed over time for critical statutory, policy or delivery functions, services and programmes or critical business activity, many of which are related to EU activities. The Welsh Government is recruiting some new senior civil servants at Deputy Director grade. It is also seeking to move some existing staff to work on EU transition and recruit additional staff on temporary contracts to backfill posts. At this stage, we have not been able to confirm how many staff have been moved nor how many have been recruited.

We have not done any detailed work looking specifically at the workforce in wider public services. However, we are aware from our engagement with NHS bodies, local government and other sectors that staff are being stretched by the response to COVID-19. We understand from our engagement with the WLGA and NHS Confederation that many organisations are combining their work to prepare for the end of transition with their work on COVID-19, as it often involves the same group of staff. Nonetheless, there is a strong possibility that public services have significantly less staffing capacity to put towards the end of transition than they did when previously preparing for a no-deal Brexit.

Financial resources

The Welsh Government has continued to run its Transition Fund. The Transition Fund aims to help businesses, public services, communities and individuals to prepare for the short and longer-term implications, risks and opportunities of the UK's new relationship with the EU and the rest of the world. When we last wrote in September 2019, the Welsh Government had committed £34.5 million through the Fund. As at June 2020 the Welsh Government had committed £47.5 million, of which £21.1 million had been spent, leaving £26.4 million to be spent. In Figure 2, we set out the 10 largest projects by spend.

Figure 2: Ten largest European Transition Fund projects by spend, as at June 2020

Projects	£ millions spent
Airbus Skills assistance	2.5
Global Wales II (support for universities)	2.4
Tackling food poverty and insecurity	2.0
Meeting Welsh Government fisheries evidence requirements for EU Exit	1.8
Red Meat Benchmarking	1.7
Local authorities preparing for a 'no-deal' Brexit	1.2
Reinforcing Wales' International Reputation and Relations	1.0
Strengthening Community Cohesion	1.0
EU Citizens Rights	0.9
Towards a Global Food Nation Wales	0.7

Note: The projects in this table are presented at a more detailed level than in our September 2019 letter, and therefore this table cannot be compared with the table in that letter.

Source: Audit Wales analysis

While the Transition Fund represents a significant source of support, the amounts are vastly exceeded by the programme of funding and initiatives that have been introduced to support business and communities to manage the economic and social impacts of COVID-19.

Governance arrangements for managing the end of transition

Preparedness for the changes in the relationship with the EU

Previously Welsh Government officials came together to prepare for Brexit at its EU Exit Committee⁸. This has been replaced by a Post EU Exit Assurance Board. The Assurance Board is supported by two sub-groups: The Implementation Board, which considers issues related to preparations for the end of transition in Wales and the Negotiations Board, which covers the negotiations between the UK and the EU and UK trade negotiations with the rest of the world. The Welsh Government Cabinet Sub-Committee on European Transition and Trade has continued to meet throughout the year to and oversee the progress of preparedness activity for the end of transition.

The Welsh Government and local government have continued to meet to share information, plan and assess readiness through the Local Government (EU) Preparedness Panel. That Panel includes some council Chief Executives, each representing a wider region of Wales, supported by a number of Directors who lead on key service areas. The WLGA reports that the Panel has continued to meet through the COVID-19 pandemic. Councils have continued to employ at least one officer with responsibility for planning for Brexit/end of transition funded through the European Transition Fund.

Collaboration between health and social care has continued, with health and social care representatives continuing to be part of the Brexit planning groups established by Welsh Government.⁹ The Welsh NHS Confederation continues to employ a dedicated staff member, who support collective planning and sharing of information across NHS Wales. It told us that while work had been ongoing, it was being accelerated with meetings and communications increasing in frequency towards the end of the transition period.

Managing civil contingencies

In my previous update, I set out some of the arrangements in place for an emergency response to a no-deal Brexit. Many of those arrangements were put to the test by the COVID-19 pandemic. The Welsh Government told us that the no-deal planning had put Welsh public services in a stronger position to respond to COVID-19, because public services had built strong networks and worked together on practice runs leading up to December 2019.

⁸ The EU Exit Committee was the senior civil servants in the Executive Committee (plus a limited number of other officials) meeting specifically to consider Brexit.

⁹ These groups include the Brexit Ministerial Stakeholder Advisory Forum, EU Transition Leadership Group and the Brexit Senior Responsible Owners' Group.

COVID-19 has shown that public services can work together and run the emergency response over an extended period. Public services went from a standing start and worked up to seven days a week (two long shifts a day). The events of COVID-19 have also provided valuable intelligence on what was previously a very uncertain area – namely the risk of the public making individually rational decisions around stockpiling that have significant potential consequences for the wider society. The Welsh Government and partners have learnt lessons from this work and factored this into their plans.

Nevertheless, significant challenges remain for any emergency response to an end of transition with no deal. It is clear from our wider engagement that while it was delivered, staffing up the response for long periods has been a significant drain organisationally and for individual staff. At the time of drafting, the Welsh Government and partners have stepped up their emergency response, combining work on the response to the second wave of COVID-19 cases with planning for the end of transition. Alongside the formal emergency planning, elected Leaders in local government have been meeting regularly, including with Ministers, to respond to the political aspects of the response to the end of transition.

A further challenge has been the engagement with the UK Government. When we wrote in 2019, there was a UK-wide plan for the key emergency issues related to a no-deal Brexit: Operation Yellowhammer. The UK Government has made clear its intention that it will not restart or replace those arrangements. It has produced a Reasonable Worst Case scenario document. However, at the time of our fieldwork, we understand that the UK Government had limited access to the full set of assumptions to a small number of individuals from the Welsh Government. Only limited sharing of small subsets of these assumptions was permitted with other colleagues in the Welsh Government, and it was not permitted to share these with partners in the wider public services. The Welsh Government told us that this created challenges in enabling a common understanding of what the risks were and how they were being managed at a UK level.

We understand that more recently these restrictions have been relaxed to an extent and joint working with the UK Government has increased. The UK Government has issued a summarised version of the Reasonable Worst Case scenario. This summary was shared with the Local Resilience Forums, which lead on local civil contingency planning. In addition, the Welsh Government is now participating in a civil contingencies board with the UK Government and the other devolved administrations. This board focuses on UK wide emergency preparations for the end of transition as well as other potential winter pressures that could have a UK-wide impact.

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Agenda Item 5

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Agenda Item 6

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UKTPO

UK TRADE POLICY OBSERVATORY

Report on the UK-Japan Comprehensive Economic Partnership Agreement (CEPA)

UK Trade Policy Observatory

The report was authored by Dr. Minako Morita-Jaeger on behalf of the UKTPO

About the UK Trade Policy Observatory: The UK Trade Policy Observatory (UKTPO), a partnership between the University of Sussex and Chatham House, is an independent expert group that: initiates, comments on and analyses trade policy proposals for the UK; and trains British policy-makers, negotiators and other interested parties through tailored training packages. The UKTPO is committed to engaging with a wide variety of stakeholders to ensure that the UK's international trading environment is reconstructed in a manner that benefits all in Britain and is fair to Britain, the EU and the world. The University of Sussex has the largest collection of academic expertise on the world trading system in the UK, with specialists on trade policy, trade law and trade politics and European law and economy. The team includes experts in economics, international relations and law.

1. An overview of the UK-Japan Comprehensive Economic Partnership Agreement (CEPA)

The UK-Japan CEPA was signed on 23rd October 2020. The Agreement is currently under scrutiny by the UK Parliament and the Diet of Japan. If successfully enacted, the Agreement is expected to enter into force on 1st January 2021, right after the UK's transition period is over.

The UK and Japan have a strong trade and investment relationship. Japan is the world's third-largest economy and the UK's 4th largest non-EU export market. UK goods exports to Japan account for 1.9% (£7,262 million in 2019) of its total goods exports and its services exports account for 1.6% (£7,987 million in 2019) of its total services exports. The UK goods imports from Japan account for 1.9% (£9,703 million in 2019) of its total goods imports and its services imports account for 3.0% (£6,615 in 2019) of its total services imports.¹ Supply chains constitute an important feature of UK-Japan trade given that 59% of UK goods imports from Japan and 44% of UK exports to Japan are intermediate goods.²

The investment relationship with Japan is important for the UK. The UK is the second-largest Foreign Direct Investment (FDI) destination for Japan accounting for \$171.9 billion of FDI stock in 2019.³ And it should be noted that Japan is the largest investor in the world accounting for 14% of the world total investment (2018).⁴ The UK has been a hub for Japanese business in Europe and a gateway to the EU market for Japanese companies since the 1980s. Japanese investment to Europe has been concentrated in the UK, accounting for almost 40% of its total FDI stock.⁵ Japanese companies play an important role in the UK economy, creating 167,000 jobs in the UK and generating £179 billion turnover (2018).⁶

The UK is a signatory of the EU-Japan Economic Partnership Agreement (EPA) which entered into force in February 2019, and the UK continues to enjoy the benefits of the EPA during the transition period. In order to ensure continuity after the end of the transition period on 31st December 2020, the UK and Japanese governments negotiated the UK-Japan CEPA based on the EU-Japan EPA.

The UK-Japan CEPA appears to be politically significant especially for the UK. Initially, the UK's top priority post-Brexit was to sign a FTA with the US. But its prospects are currently uncertain due to the US presidential election and British public concerns for the NHS and on safety standards of US agricultural products. By concluding the FTA with Japan, the UK was keen to demonstrate its capacity to strike a trade deal as an 'independent trading nation'.

In contrast to its political significance, the economic value of CEPA relative to the EU-Japan EPA looks limited. But importantly, the Agreement allows Japan and the UK to achieve a smooth transition from the EU-Japan Economic Partnership Agreement (EPA) to the Japan-UK FTA on 1st January 2021. Without CEPA, the UK would then have had to trade with Japan from the 1st January 2021 on WTO terms. Amid the increasing risk of no-deal between the EU-UK avoiding business disruption between Japan and the UK was paramount for British and Japanese business.⁷

¹ ONS (2020). UK total trade: all countries, non-seasonally adjusted.

² Value of UK-Japan trade in goods according to end-use, 2016-2018 average, DIT (2020) UK-Japan Free Trade Agreement: The UK's Strategic Approach, p35.

³ JETRO Investment data. <https://www.jetro.go.jp/world/japan/stats/fdi.html>

⁴ UNCTAD "World Investment Report 2020".

⁵ Source: JETRO investment data.

⁶ Department for International Trade (2020). Final Impact Assessment of the Agreement between the United Kingdom of Great Britain and Northern Ireland and Japan for a Comprehensive Economic Partnership, p22.

⁷ Morita-Jaeger (2020). Japan-UK Free Trade Agreement –What is missing?. UKTPO blog, 22 October 2020.

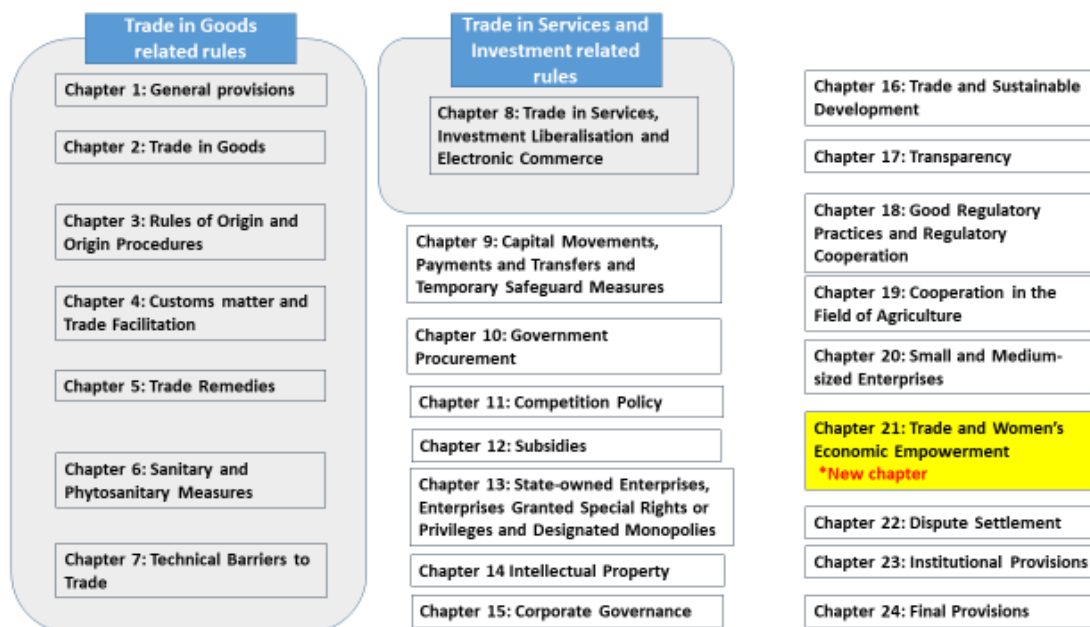
To understand the economic value of the Agreement on top of ‘continuity’, it is important to understand to what extent the UK-Japan CEPA goes beyond the EU-Japan EPA in terms of market access and rule-making. This report provides an initial review of the extent to which the UK-Japan CEPA goes beyond the EU-Japan EPA and outlines any additional impact of the CEPA on Wales and devolution.

2. Areas enhanced and/or regressed in the UK-Japan CEPA compared to the EU-Japan Economic Partnership Agreement (EPA)

The Structure of the Agreement

The UK-Japan CEPA is closely based on the EU-Japan EPA, and its structure is basically the same - except for a new chapter on ‘Trade and Women’s Economic Empowerment’ (Chapter 21) as can be seen in Figure 1. The main body of the Agreement is supplemented by annexes in order to provide further information, such as the technical issues in detail, tariff elimination schedules, and services and investment liberalisation schedules. The chapters which include annexes are: Chapter 2 (Trade in goods), Chapter 3 (Rules of origin and origin procedures), Chapter 6 (Sanitary and phytosanitary measures), Chapter 8 (Trade in services, investment liberalisation and electronic commerce), Chapter 10 (Government procurement), and Chapter 14 (Intellectual Property). These basically replicate the annexes in the EU-Japan EPA. The only difference with regard to annexes is an introduction of ‘Protocol on Mutual Recognition’, which aims to supplement Chapter 7: TBT.⁸

Figure 1: Structure of the UK-Japan CEPA (the main body of the Agreement)



⁸ The UK-Japan CEPA includes a ‘Protocol of Mutual Recognition’, which is not in the EU-Japan EPA. This is because between the EU and Japan this issue is covered by the Agreement On Mutual Recognition between Japan and the European Community (2018). Hence the Protocol in CEPA is designed to ensure continuity in this regard.

Trade negotiations can be categorised into market access negotiations and rule-making negotiations (negotiations for making provisions). In terms of substance, below we compare the differences between the UK-Japan CEPA and the EU-Japan EPA regarding (A) Market access and (B) Rule-making (changes in provisions in comparison with the EU-Japan EPA).

A. Market access

A-1. Trade in goods

In order to ensure ‘continuity’ between the EU-Japan EPA and the UK-Japan CEPA, the tariff schedules from the 3rd year in the EU-Japan EPA are immediately applied to the UK-Japan CEPA as the 1st year except for some products.

UK exports to Japan

Among the 9444 tariff line products, there are only 10 tariff lines for exports where the tariff in the UK-Japan CEPA is marginally lower than in the EU-Japan EPA. These products are: birds’ eggs, beverages, spirits and vinegars containing undenatured ethyl alcohol, raw hides and skins, leather, fur skins and articles, and handbags. However, the UK did not export any of these 10 products on these lower tariffs in 2017, 2018 and 2019. A small difference in tariff rates on these products lasts until 2030 and then becomes zero. The rest of the products have identical tariff schedules.

Comparing the share of UK exports to Japan in 2019 that would have faced zero tariffs, non-zero tariffs and non-ad-valorem duties under the UK-Japan CEPA tariff regimes and the EU-Japan EPA regime (Table 1), benefits which UK exports gain from tariff elimination schedule, is almost identical under the two FTA regimes. By 2039, 99.66 % of UK exports to Japan would have faced zero tariffs in both cases.

Table 1: Tariff UK Export faces to Japan under the UK-Japan CEPA and the EU-Japan EPA

Year	UK-Japan CEPA			EU-Japan EPA		
	Zero Tariff	Non-Zero Tariff	non ad-valorem duty	Zero Tariff	Non-Zero Tariff	non ad-valorem duty
2021	98.67	1.33	1.23	98.67	1.33	1.33
2022	98.69	1.31	1.16	98.68	1.32	1.26
2023	98.69	1.31	1.16	98.68	1.32	1.26
2024	98.94	1.06	1.02	98.93	1.07	1.13
2025	98.94	1.06	1.02	98.93	1.07	1.13
2026	99.01	0.99	1.02	99.00	1.00	1.13
2027	99.01	0.99	1.02	99.00	1.00	1.13
2028	99.01	0.99	1.02	99.01	0.99	1.13
2029	99.43	0.57	0.78	99.42	0.58	0.88
2030	99.43	0.57	0.78	99.42	0.58	0.88
2035	99.43	0.57	0.78	99.43	0.57	0.88
2039	99.66	0.34	0.75	99.66	0.34	0.85

Note 1: For Japanese duties years refer to 12-month periods starting on 1st April of the year named.

Note 2: ‘Non-zero tariff’: Tariff rates above zero; ‘Non-ad-valorem duty’: While ad-valorem duty means the customs duty which is calculated as a percentage of the value of the product, ‘non ad-valorem duty’ means other types of duty such as tariff rate quotas.

Source: Ayele, Y. (2020). UK-Japan FTA: Tariff gain or no change? UKTPO blog (<https://blogs.sussex.ac.uk/uktpo/2020/10/29/uk-japan-fta-tariff-gain-or-no-change/>)

As for agricultural products, 10 tariff rate quotas⁹ are accorded in the UK-Japan CEPA whereas 25 tariff rate quotas were accorded in the EU. A special arrangement was made for some products such as soft cheese, wheat, milk and butter related-products, and products using sugar, allocating EU's left-over quotas to these UK products. The UK will no longer have access to the remaining 15 tariff rate quotas accorded to the EU. This means that all UK exports of these products will face higher tariff rates and become less competitive relative to EU exports of these products to Japan.

UK imports from Japan

The UK applied the EU's tariff concessions in the EU-Japan EPA except for the speedier reductions of tariffs for some industrial goods. These include immediate tariff elimination on some automobile inputs, rail cars and rail car inputs (tariff elimination in the 13th year in the EU-Japan EPA); turbojets and turbojet inputs (tariff elimination in the 4th year in the EU-Japan EPA), and electronic control panels (tariff elimination in the 6th year in the EU-Japan EPA). However, for all but two of these products, the UK MFN tariff (the UK Global Tariff), was in any case zero.

A-2. Trade in services and investment liberalisation

As for the commitments on cross-border services trade liberalisation and investment liberalisation (Chapter 8-B: Schedules for Chapter 8), the UK-Japan CEPA applies the negative list approach which is also the approach taken in the EU-Japan EPA. Under the negative list approach, both countries commit to liberalisation covering all sectors except for measures provided in the (i) reservation lists for existing measures¹⁰ and (ii) reservation lists for future reservations¹¹. Also, the measures for public purposes such as security, environment, privacy protection and safety are outside the scope of liberalisation commitments.¹²

As for Japan's commitments, only three differences are observed.

- The reservation for an existing measure on distribution services (wholesale trade services for agricultural, animal and poultry farm and aquatic products)¹³ that affect market access of investment liberalisation and cross-border services trade in the EU-Japan EPA was removed in the UK-Japan CEPA. This can be considered as an improvement but not a substantial one. This is because distribution services are basically liberalised in the EU-Japan EPA.
- The reservation for existing measures on 'manufacturing and information and communications' services (manufacture of electronic parts, devices, and electronic circuits and information services) that affect national treatment of investment liberalisation was newly introduced in the UK-Japan CEPA.¹⁴ Since the relevant Japanese law and the Cabinet Order listed were enacted in 1949 and 1980 respectively, the reservation may be introduced for clarification purposes.¹⁵ In other words, the status of the UK's access to these services would not get worse in comparison with the EU-Japan EPA.

⁹ Tariff rate quotas let a limited quantity of a good in at low tariffs and charge a high tariff on the rest in order to restrict imports to the permitted low-tariff quantity.

¹⁰ Annex 8-B: Annex I.

¹¹ Annex 8-B: Annex II.

¹² Article 8.3 General exceptions.

¹³ Annex 8-I, Japan's reservations, '7. Distribution Services', in the EU-Japan EPA.

¹⁴ Annex 8-I, Japan's reservations, '13. Manufacturing and Information and Communications' in the UK-Japan CEPA.

¹⁵ Generally, states tend to improve its schedule of commitments on services in order to improve clarification and transparency.

- The reservation for future measures on transport services that affect market access, national treatment and some other obligations of investment liberalisation and cross-border services trade in the EU-Japan EPA¹⁶ was removed. This can be considered as an improvement.

The above indicates that Japan's schedule of cross-border services and investment liberalisation is almost identical to that in the EU-Japan EPA. In other words, the UK did not get meaningful better access to the Japanese market in terms of liberalisation obligations concerned (i.e. market access, national treatment, most-favoured-nation treatment, prohibition of nationality requirements for senior management and boards of directors, and prohibition of performance requirements) except for the two areas mentioned above.

As for the UK's schedule of commitments, the UK made its negative list reservations for the first time as an independent trading nation after leaving the EU. Thus, careful analysis of Annex 8-B: Annex I (Reservations for existing measures) and Annex 8-B: Annex II (Reservations for future measures) is required to compare the commitments made in the EU-Japan EPA.

As for the temporary movement of natural persons, the UK made some improvements in its schedule of 'Business visitors for establishment purposes, intra-corporate transferees, investors and short-term business visitors'.¹⁷ In the EU-Japan EPA, the UK did not commit to Japan that 'investors' can stay in the UK. In the UK-Japan CEPA, however, it committed to an up to one year stay for 'investors' (Japan committed up to five years in the EU-Japan EPA and retained this commitment in the UK-Japan CEPA). Also, in the UK-Japan CEPA, the UK allowed for the entry and temporary stay of 'partner and dependent children' who accompany an intra-corporate transferee (Japan has already made this commitment in the EU-Japan EPA and retained this commitment in the UK-Japan CEPA). Furthermore, in the UK-Japan CEPA, the UK matched Japanese commitments on visa processing within 90 days. These improvements are likely to facilitate Japanese investment activities in the UK. However, the UK's commitments in the area of temporary movement of natural persons have not yet entirely reached to the reciprocal basis. For example, the UK does not take commitments in respect of 'short-term business visitors' while Japan has already committed up to 90 days stay in the EU-Japan EPA.

B. Rule-making (changes in provisions)

B-1. Overview

Table 2 provides a comparison between the EU-Japan EPA and the UK-Japan CEPA. We checked changes/additional provisions of the UK-Japan CEPA in comparison with the EU-Japan EPA. Among 24 chapters, no changes were made in nine chapters: Customs matters and trade facilitation (Chapter 4); capital movements, payments and transfers and temporary safeguard measures (Chapter 9); government procurement (Chapter 10); subsidies (Chapter 11); corporate governance (Chapter 15); trade and sustainable development (Chapter 16); good regulatory practices and regulatory cooperation (Chapter 18); cooperation in the field of agriculture (Chapter 19) and dispute settlement (Chapter 22).

We observe that changes in provisions (text) can be seen in fifteen chapters (Table 1). These include both minor changes and substantial changes that can be evaluated as improvements. To facilitate understanding the degree of changes, we categorise these changes into the three levels: (i) Substantial improvements/changes (✓); (ii) moderate improvements/changes (✓); and (iii) minor improvements/changes (✓). Minor changes/improvements of the provisions is the case where both governments intended to improve languages for the clarification purpose. We explain the major changes/additional provisions in each chapter (Chapter 2-24) below. It should be noted that this is an

¹⁶ Annex 8-II, Japan's reservation for future measure, '18. Transport'.

¹⁷ Annex III, Schedule of the United Kingdom.

initial review within a limited time. Further in-depth analysis is necessary to fully understand the legal and economic implications of these changes.

Table 2: Rule-Making - A checklist of changes/additional provisions from the EU-Japan EPA

	No changes from the EU-Japan EPA	Any change/additional provisions from the EU-Japan EPA
Chapter 2: Trade in goods		✓
Chapter 3: Rules of origin		✓
Chapter 4: Customs matters and trade facilitation	✓	
Chapter 5: Trade remedies		✓
Chapter 6: Sanitary and Phytosanitary measures		✓
Chapter 7: Technical barriers to trade		✓
Chapter 8: Trade in services, Investment liberalisation and Electronic commerce		✓
Section A: General provisions		✓
Section B: Investment liberalisation	✓	
Section C: Cross-border trade in services	✓	
Section D: Entry and temporary stay of natural persons		✓
Section E: Regulatory framework		✓ (Changes made only in Subsection 5: Financial services)
Section F: Electronic commerce		✓
Chapter 9: Capital movements, payments and transfers and temporary safeguard measures	✓	
Chapter 10: Government Procurement	✓	
Chapter 11: Competition policy		✓
Chapter 12 Subsidies	✓	
Chapter 13: State-owned enterprises, enterprises granted special rights or privileges and designated monopolies		✓
Chapter 14: Intellectual property		✓
Chapter 15: Corporate Governance	✓	
Chapter 16: Trade and sustainable development	✓	
Chapter 17: Transparency		✓
Chapter 18: Good regulatory practices and regulatory cooperation	✓	
Chapter 19: Cooperation in the field of agriculture	✓	
Chapter 20: Small and Medium-sized enterprises		✓
Chapter 21: Trade and Women's economic empowerment		New Chapter
Chapter 22: Dispute Settlement	✓	
Chapter 23: Institutional provisions		✓
Chapter 24: Final provisions		✓

Note 1: ✓ substantial improvements/changes ✓ moderate improvements/changes ✓ minor improvements/changes

Note 2: The results shown in Table 2 do not provide an exhaustive lists of changes covering the provisions in the annexes.

Rules of Origin (Chapter 3): The chapter shows moderate improvements/changes. Rules of origin were changed taking into account the UK's leaving the EU customs union by introducing extended cumulation for materials of origin and intermediate goods from the EU in many industrial goods.¹⁸ This means that the EU intermediate inputs in UK exports to Japan could count as UK for originating purposes and vice versa. However, trilateral diagonal cumulation with the EU is unresolved as this would require agreement also with the EU. The Agreement also simplified the rules of origin procedure for some traded products that Japan and the UK have shared interests in, such as automobiles.

Trade remedies (Chapter 5): Minor changes introducing the provisions referring to the WTO agreement on anti-dumping duties and countervailing duties were made.

Sanitary and phytosanitary measures (Chapter 6): SPS measures came outside the scope of the dispute settlement procedure in this Agreement whereas SPS measures are within the scope of the dispute settlement in the EU-Japan EPA. Where the parties do have to seek a resolution through a dispute, any differences would need to be settled through the WTO dispute settlement system.

Technical barriers to trade (Chapter 7): Some changes were made with regard to the functions of a national contact point on technical barriers to trade (TBT), and a new protocol on mutual recognition relating to TBT was introduced. These provisions provide a way to facilitate regulatory cooperation between the two countries.

Trade in services, investment liberalisation and electronic commerce (Chapter 8)

(i) Trade in services (Section A and C): The EU has been excluding audio visual services from services trade liberalisation as protection of culture. Even after the UK left the EU, audio visual services are still retained as an exemption in the UK-Japan CEPA. But information exchange of regulatory issues, cooperation in the sector, and possible inclusion of the sector in Chapter 8 are newly stipulated.

(ii) Investment (Section A): The EU-Japan EPA covers only provisions on investment liberalisation. The UK-Japan CEPA could have introduced a comprehensive investment chapter encompassing trade protection and dispute resolution mechanism. But the UK-Japan CEPA did not make any changes in the investment chapter. Only provisions on a review on investment protection and Investor State Dispute Settlement (ISDS) issues, and possibly including these into the Agreement in the future were included.

(iii) Entry and temporary stay of natural persons (Section d): The section shows moderate improvements. The definition of "incorporate transferees" and "investors" became more detailed and improved. In each category, the definitions under UK and Japanese law are provided for clarification. In the EU-Japan EPA, there is no precise definition in terms of each signatory's law.

(iv) Regulatory framework (Section E): This section shows substantial improvement. 'Condition for qualification and licensing' and 'licensing and qualification procedures' became more specified and detailed by introduction of new provisions.

Like the EU-Japan EPA, regulatory frameworks for four sectors (postal and courier services; telecommunications services; financial services; and internal maritime transport services) are provided. However, out of these four sectors, only the regulatory framework for financial services (sub-section 5) was substantially improved. For example, a new definition on "financial service computing facility"

¹⁸ For further discussion, see Gasiorek, M. and Magntorn Garrett, J. (2020). We're going to make them an offer they can refuse: Rules of origin and the UK-EU free trade agreement. <https://blogs.sussex.ac.uk/uktpo/publications/were-going-to-make-them-an-offer-they-can-refuse-rules-of-origin-and-the-uk-eu-free-trade-agreement/>

was introduced. Also, a detailed explanation about authorisation of “new financial services” was added. Furthermore, provisions on transfers of information and processing of information were improved. The provisions stipulate the rights of a financial supplier regarding information transfers and locating financial service computing facilities in detail. The provisions of data transparency regulation were also improved in comparison to the EU-Japan EPA.

(v) E-commerce (Section F): Many new provisions on e-commerce were introduced and the section was substantially improved. For example, the provisions on definitions became more detailed by adding the new terms, including "algorithm", "cipher" or "cryptographic algorithm"; "ciphertext"; "commercial information and communication technology product"; "computing facilities"; "covered person" and "cryptography". Also, the provisions of source code were greatly improved by reflecting technological progress. Furthermore, the provisions on certification; net neutrality; removing the ban on data localisation; and free movement of data go beyond the EU-Japan EPA.

Competition policy (Chapter 11): Provisions relating to consumer protection were included.

State-owned enterprises, enterprises granted special rights or privileges and designated monopolies (Chapter 13): A provision regarding publishing a list of state-owned enterprises was included.

Intellectual property (Chapter 14): The rules were substantially enhanced by improving provisions relating to transparency and cooperation among Intellectual Property Rights authorities. As for copyright, provisions on cooperation between respective collective management organisations were enhanced. In the area of trademarks, provisions on bad faith trademarks and registration and renewal process were introduced. With regard to geographical identifications (GIs), it newly stipulates that signatories can start consultation for adding more products to the list of GIs.¹⁹ The number of products GI certified accounts for 55 products for Japan and six products (Scottish Farmed Salmon; West Country farmhouse Cheddar cheese; White Stilton cheese Blue Stilton cheese; Scotch Whisky; Irish Cream; and Irish Whiskey/ Uisce Beatha Eireannach/ Irish Whisky) for the UK. These products were already covered in the EU-Japan EPA.

Transparency (Chapter 17): A provision of anti-corruption in international trade and investment was introduced.

Small and Medium-sized enterprises (Chapter 20): A new provision of promoting bilateral cooperation activities to assist SMEs in participating in global markets was introduced. It provides clauses in the areas of cooperation, including organising seminars, workshops, information sharing on best practices. The EU-Japan EPA can be considered as one of the best practices with regard to SME provisions and its institutional supports to implement the provisions. Since the UK government was completely depending on the European Commission to implement the SME provisions under the EU-Japan EPA framework, the UK government has to take an active role to support British SMEs in utilising the UK-Japan CEPA.²⁰

Trade and Women’s economic empowerment (Chapter 21): This is a new chapter that provides provisions on enhancing opportunities for women to participate equitably in the domestic and global economy. The Working Group on Trade and Women’s Economic Empowerment was newly established.

¹⁹ Annex-14-B provides the list of GIs.

²⁰ ²⁰ See Borchert, I. and Morita-Jaeger, M. (2020). The representation of SME interests in Free Trade Agreements: Recommendations for best practice. Co-published by UKTPO and Federation for Small Business. <https://blogs.sussex.ac.uk/uktpo/files/2020/01/FSB-Trade-TPO-Report.pdf>

Although the chapter is relatively short, consisting of only four provisions, the bilateral cooperation on the issue is expected to be promoted.

3. An outline of the impact of the UK-Japan agreement on Wales and devolution.

Limited economic value relative to the EU-Japan EPA

From our observations in the previous section, we can summarise the evaluation of the UK-Japan CEPA as follows:

- Neither the market access of UK goods exports nor that of services exports to Japan were meaningfully improved under the UK-Japan CEPA. Japan's tariff elimination schedule and services commitments are almost identical to those in the EU-Japan EPA except for some very minor details.
- As for Japanese goods imports to the UK, tariffs on some car and rail manufacturing products and inputs are immediately eliminated in order to support Japanese investors in the UK. Other than that, the UK retains the EU's tariff schedule in the EU-Japan EPA.
- Third, the UK deal offers better terms to Japan than its commitment in the EU-Japan EPA with regards to intercorporate transferees, allowing spouses and family members' the right to stay in the UK, and the inclusion of 'investors' (Japan has already committed to these in the EU-Japan EPA). It is understood that the UK made the improvement in order to facilitate Japanese investment.
- As for the other chapters, 15 out of the 24 chapters include some changes of provisions. The degree of changes made differs across chapters. Some are minor changes for clarification purposes and others are more substantive changes. The more substantial improvements appear to be with regard to e-commerce, the regulatory framework on financial services, intellectual property and rules of origin. These are expected to facilitate trade and improve predictability for business. Also, regulatory cooperation between the two countries would be enhanced in these areas.

Negligible economic impacts on the UK economy

All the above suggests that the economic value of the Agreement on top of 'continuity' seems to be rather limited. The Department for International Trade estimated the possible long-term economic gains from the Japan-UK CEPA at £1.5 billion in the case of the UK (0.07% increase in UK's GDP) and equally £1.5 billion (0.04% increase in Japan's GDP) in the case of Japan.²¹ These figures represent the economic gains relative to WTO terms, when the UK has no FTA with Japan. Given that the UK is enjoying the benefits of the EU-Japan EPA since 2019, these estimates do not represent the net benefit of the CEPA relative to the EU-Japan EPA, but relative to trading on WTO terms. These estimates were also based on the assumption that substantial tariff liberalisation and deep non-tariff measures reductions would be achieved. Given that added-value segments relative to the EU-Japan EPA look

²¹ Department for International Trade (2020). Final Impact Assessment of the Agreement between the United Kingdom of Great Britain and Northern Ireland and Japan for a Comprehensive Economic Partnership, p42. The assessment used in the final impact assessment is drawn from the estimate produced prior to the Japan-UK FTA negotiations. See Department for International Trade (2020). UK-Japan Free Trade Agreement: The UK's Strategic Approach, May 2020, p47.

limited with regard to the latter, the de facto gains are likely to be smaller than the DIT's estimate of 0.07% increase in UK's GDP over the long term.

Wales and the potential of the UK-Japan CEPA

Consequently, the economic impacts of the UK-Japan CEPA for Wales, both relative to trading on WTO terms, and even more so relative to the EU-Japan EPA are also likely to be negligible. First, it is worth noting that Wales' trade and investment relationship with Japan is not substantial. Currently, only 1.7% of Wales' exports to the world went to Japan in 2019. Hence, even if Wales were trading with Japan on WTO terms, the small share of Welsh trade to Japan, suggests that the impacts will be negligible. The top three Welsh exports to Japan (2019) were (SITC-71) power generating machinery and equipment (£121.5 million), (SITC-68) non-ferrous metals (£37.3 million), and (SITC-77) electrical machinery, appliances & electrical parts (£25.6 million).²² If Wales were trading with Japan on WTO terms, it would face the Japanese MFN tariffs on these exports. These tariffs are: SITC-71, 0%; SITC-69, 1.73%; and SITC-77, 0.15%. Of course it is possible that there could be higher non-tariff barriers if trading on WTO terms, but that is beyond the scope of this note. Hence, even if trading under WTO terms the tariffs appear to be close to zero or very low. In comparison to the EU-Japan EPA, similarly CEPA involves effectively no change as Japan's tariff schedule is virtually identical in both cases.

In terms of inward investment from Japan, Wales does not have a strong investment relationship with Japan. The share of FDI flow from Japan (2003-2019) accounts for only 5.5% of the total FDI from Japan to the UK.²³ The main FDI sectors from Japan are electronics, automotive, and education and training.²⁴ In terms of employment, estimated numbers suggest that Japanese investment in Wales created only 2,000-10,000 jobs, while in contrast Japanese investment in North East created 1.6% (17,000) local business jobs and in London 43,000 employees.²⁵

Although the macroeconomic impacts of the UK-Japan CEPA on Wales's economy looks negligible, there are perhaps some policies that the Welsh Government could consider, and clearly there could be individual companies that could be affected. For example, building on the SME chapter, the UK-Japan CEPA could provide an opportunity for SMEs in Wales to increase their participation in trade with Japan. This is of potential relevance for Wales, since 99.4% of total enterprises in Wales are SMEs and 95.0% are micro enterprises (0-9 employees) in 2019.²⁶ The Welsh Government could play a role in making the most of SME support schemes in the UK-Japan CEPA in cooperation with the UK government.²⁷

Since 66% of Japanese investment activities are in manufacturing in Wales,²⁸ to the extent that manufacturing in Wales is involved in the supply chains between Japan, the UK and the EU, then the provisions on ROOs may help some Welsh manufacturing to see a smaller negative impact from Brexit, than would have been the case without the UK-Japan CEPA. As the complexity of ROOs is a major

²² Department for International Trade (2020). p20.

²³ FDI markets data base.

²⁴ FDI markets data base.

²⁵ Department for International Trade (2020). p19 and p22.

²⁶ Source Welsh government (<https://gov.wales/sites/default/files/statistics-and-research/2019-12/size-analysis-active-businesses-2019-503.pdf>).

²⁷ See Borchert, I. and Morita-Jaeger, M. (2020). The representation of SME interests in Free Trade Agreements: Recommendations for best practice. Co-published by UKTPO and Federation for Small Business. <https://blogs.sussex.ac.uk/uktpo/files/2020/01/FSB-Trade-TPO-Report.pdf>

²⁸ Source of data: FDI markets data base. Over the period 2003-2020 (2020 data are provisional) there have been 35 FDI projects in Wales from Japanese firms. Of these, 23 projects (66%) are in manufacturing activities.

obstacle for SMEs to utilise FTAs,²⁹ ROOs could be a priority area when the Welsh Government implements SMEs support schemes.

²⁹ International Chamber of Commerce (2017). Business recommendations on rules of origin in preferential trade agreements. <https://iccwbo.org/content/uploads/sites/3/2017/05/ICC-Policy-Statement-on-rules-of-origin-in-preferential-trade-agreements.pdf>

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Agenda Annex

By virtue of paragraph(s) vi of Standing Order 17.42

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