

# **UK -Japan trade**

**Submission to the Department for  
International Trade**

**November 2019**

*The Trades Union Congress (TUC) exists to make the working world a better place for everyone. Working people joining together can change things. For more than 150 years, unions have fought for safer workplaces and wages you can build a life on. And today we're needed more than ever to make sure every job is a decent job and everyone at work is treated with respect. We bring together more than 5.5 million working people who make up our 48 member unions. We support unions to grow and thrive, and we stand up for everyone who works for a living. Every day, we campaign for more and better jobs, and a more equal, more prosperous country.*

**Which of the following trade related areas best describe the areas of the EU-Japan Economic Partnership Agreement that are important to your organisation?**

- a) Goods trade x
- b) Services trade x
- c) Regulation and standards x
- d) Cross border investment x
- e) Small and Medium size enterprises (SMEs) x
- f) Competition law, subsidies, procurement and state-owned enterprises (SOEs) x
- g) Intellectual property x
- h) State to state dispute settlement x
- i) Structure of the agreement x

**Based on your selection above, which areas of the Economic Partnership Agreement between the EU and Japan are important to your organisation and in what ways are they important?**

**A good Brexit outcome must be prioritised**

The TUC believes the trade priority for the UK must be to ensure a good outcome from Brexit negotiations with the EU that ensures continued barrier and tariff free trade, upholds the Good Friday

Agreements and ensures UK workers continue to be protected by the same level of rights as those legally guaranteed to workers in the EU. To ensure this, the TUC believes it is essential for the UK to continue to be in the EU single market and a customs union with the EU.

Part of the reason leaving the EU customs union would threaten hundreds of thousands of jobs is that it would impose additional rules of origin requirements on companies. Generally at least 50% of the inputs into a product is required to come from a country in order for the good to be recognised as having an 'origin' in that country - and thus qualify for the tariff free arrangements for goods from that country negotiated in a trade deal. Given that many goods finished in the UK, such as cars, contain a significant proportion of EU content, this could mean that the UK would struggle to benefit from tariff free arrangements in a trade deal with Japan, or any other country.

The TUC does not believe that trade deals with non-EU countries can substitute for a barrier and tariff-free trading arrangement with the EU, either economically or in terms of the protection for workers' rights and other standards.

In 2018 the TUC signed a joint statement with our Japanese counterpart RENGO which stated:

'To ensure Japanese companies continue to invest and support good jobs in the UK, it is crucial that any Brexit deal continues to allow companies to trade without barriers or tariffs.

Any deal must also ensure that the UK continues to uphold the same levels of employment rights as those found in the EU to prevent undercutting and exploitation.

At the moment, the best option on the table is to guarantee this would be by the UK continuing to be a member of the single market and a customs union.

...if there were to be a trade agreement involving the participation of the UK and Japan, any future trade deal involving the two countries must have the creation of good jobs, protection of workers' rights and public services at its heart. And it must not include unfair Investor-to-State Dispute Settlement (ISDS) mechanisms which would infringe the rights of governments and other public institutions of both the UK and Japan to legislate in relation to workers' rights, public services, welfare and the environment.'<sup>1</sup>

The TUC is calling for the following features of any trade deal involving the UK and Japan:

- A trade and sustainable development chapter that contains an independent dispute settlement mechanism to enforce commitments to uphold International Labour Organisation core conventions, promote the Decent Work agenda and the UN Sustainable Development Goals.
- Trade unions given a role to monitor adherence to commitments on labour rights and be part of the process to trigger investigations into reports of rights abuses. Where abuses are found a dispute settlement mechanism should be able to levy fines or require other penalties like tariffs against the offending parties
- A 'positive list' approach to listing services so that only services listed are opened up to liberalisation to protect public services
- No regulatory cooperation chapters that seek to remove 'unnecessary' or 'burdensome' regulations

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<sup>1</sup> TUC (2018) 'UK and Japanese union leaders call for Brexit to deliver for workers in the UK and Japan', available at:

<https://www.tuc.org.uk/news/japanese-and-uk-union-leaders-call-brexit-deliver-workers-uk-and-japan>

- Tariffs to remain on non-EU imports in crucial sectors such as the car industry
- No ISDS-style dispute settlement

### **Limitations of the EU-Japan EPA**

By its membership of the ETUC, the TUC is pushing for EU trade policy to better protect workers' rights, standards and public services. The TUC, like unions across the EU, is concerned that the EU-Japan Economic Partnership Agreement (EPA) poses threats to workers' rights, public services and jobs. We would not want these threats replicated in any new trade deal involving the UK and Japan.

Key threats were highlighted by the ETUC<sup>2</sup> and are detailed below.

#### *Threats to jobs*

The government's own impact assessment suggested the EPA would have a negative effect on the UK's trade balance with Japan. It forecasts the EPA may cause an additional trade deficit with Japan of up to £2.9bn per year. At a time when the UK already has a significant international trade deficit, this poses a significant threat to jobs.

There are threats to jobs in the automotive sector from the EPA as it removes the 10% external tariff on automotive goods, increasing the exposure of the sector to imports from Japan that would put thousands of jobs in the automotive industry and connected supply chains at risk.

#### *Threats to public services*

The TUC is concerned that the EU-Japan EPA uses a 'negative list' for services listing which means that only those services listed are excluded from liberalisation commitments. This exposes public services to the risk of further privatisation. Meanwhile the deal

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<sup>2</sup> ETUC (2018) 'ETUC statement on EU-Japan FTA', available at: <https://www.etuc.org/en/document/etuc-statement-eu-japan-fta>

contains a 'standstill' clause that requires the levels of privatisation currently in public services to not be reversed and a 'ratchet' clause that encourages the levels of privatisation to increase. The TUC is concerned any future government that may seek to bring our public services back into public ownership could be challenged if such provisions were contained in a UK-Japan trade deal. To protect public services, the TUC is opposed to the inclusion of ratchet and standstill clauses in all trade deals and is calling for a 'positive list' approach to service listing so only services explicitly listed can be liberalised through trade deals.

### *Threats to workers' rights*

The government has made clear its intentions to use Brexit as a means to deregulate workers' rights. The Prime Minister's new Withdrawal Agreement has no commitments to keep a level playing field with the EU on rights and the Prime Minister and a number of members of the cabinet have made clear their intentions to use Brexit to abolish hard won rights that exist at EU level such as the Agency Workers' Directive.<sup>3</sup>

The TUC is concerned that a UK-Japan FTA might facilitate such deregulation if it contained – as the EU-Japan EPA does - a regulatory cooperation chapter that requires parties in the agreement reduce 'unnecessarily burdensome' regulatory requirements. There is the danger that this can be used to repeal public welfare regulations or those that improve working conditions if they can be demonstrated by governments or businesses to be 'unnecessary' or 'burdensome'. Furthermore, the TUC is concerned that a UK deal might replicate the EU-Japan EPA's trade and sustainability chapter which contains no mechanism to enforce commitments to uphold International Labour Organisation (ILO)

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<sup>3</sup> TUC (2019) 'Boris Johnson's Brexit deal: a disaster for working people', <https://www.tuc.org.uk/blogs/boris-johnsons-brexit-deal-disaster-working-people>

standards. This means that there would be no penalty contained in the agreement if workers' rights were abused in the UK or Japan.

We are concerned that Japan has not ratified ILO Conventions on discrimination (C111) and forced labour (C105).

**Which of the following trade related areas best describe the areas of the EU-Japan Economic Partnership Agreement that the UK government should consider changing during future negotiations?**

- a) Goods trade x
- b) Services trade x
- c) Regulation and standards x
- j) Other x

**Based on your selection above, which areas of the EU-Japan Economic Partnership Agreement between the EU and Japan do you think the UK government should consider improving during future trade negotiations with Japan and why?**

The TUC does not believe the UK should replicate the provisions in the EU-Japan EPA described above that threaten jobs, workers' rights or public services. The joint TUC-RENGO statement signed in 2018 outlined the trade union priorities for any deal involving Japan and the UK. It stated:

'...If there were to be a trade agreement involving the participation of the UK and Japan, any future trade deal involving the two countries must have the creation of good jobs, protection of workers' rights and public services at its heart. And it must not include unfair Investor-to-State Dispute Settlement (ISDS) mechanisms which would infringe the rights of governments and other public institutions of both the UK and Japan to legislate in

relation to workers' rights, public services, welfare and the environment.

To ensure any deal between the UK and Japan delivers for working people, it is essential our governments involve trade unions in negotiations.<sup>4</sup>

### **Is there anything else that you would like to say about the UK's future trade and investment relationship with Japan?**

The TUC believes it is crucial for the UK to secure an outcome to Brexit that ensures continued foreign investment that supports good jobs. Japanese investment supports over 100 000 jobs in the UK in sectors such as manufacturing and scientific research. The Japanese government has stated that the UK's continued membership of the single market and customs union is crucial to ensure Japanese companies continue to have a favourable environment to invest in the UK.<sup>5</sup>

It is important to note that the EU-Japan EPA does not include any investor-state dispute settlement (ISDS) mechanism. The TUC believes it is crucial that any trade deal involving the UK and Japan does not contain any kind of ISDS mechanism – or Investment Court System - as this would allow foreign investors the ability to sue the government for any action that threatened their profits. In the past ISDS-mechanisms have been used to challenge policies that

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<sup>4</sup> TUC (2018) 'UK and Japanese union leaders call for Brexit to deliver for workers in the UK and Japan', available at:

<https://www.tuc.org.uk/news/japanese-and-uk-union-leaders-call-brexite-deliver-workers-uk-and-japan>

<sup>5</sup> Japanese Ministry of Foreign Affairs (2016) 'Japan's Message to the United Kingdom and the European Union', available at:

<https://www.mofa.go.jp/files/000185466.pdf>



promoted workers' rights and social welfare, such as minimum wage laws and the renationalisation of public services.