Japan-UK Economic Partnership Agreement

Purpose: Information
Submitted by: Japan

**Third Committee on Trade and
Investment Meeting
Lima, Peru
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JAPAN-UK
Economic Partnership Agreement

Entry into force in January 2021

SECTION F

ELECTRONIC COMMERCE

A list of Japan's EPA with **Electronic Commerce provisions**

▶ EPA with **Switzerland** (Sep. 2009)

▶ EPA with **Australia** (Jan. 2015)

▶ EPA with **Mongolia** (Jun. 2016)

▶ **CPTPP** (Dec. 2018)

▶ EPA with **EU** (Feb. 2019)

▶ EPA with **UK** (Jan. 2021)

▶ **RCEP** (Jan. 2022-)

	Japan-UK EPA	Japan-EU EPA	CPTTP	RCEP
General provisions and scope	○	○	○	○
Non-Discriminatory Treatment of Digital Products			○	
Customs duties	○	○	○	○
Domestic regulation	○	○	○	○
Electronic authentication and Electronic signatures	○	○	○	○
Paperless trading			○	○
Online consumer protection	○	○	○	○
Cooperation	○	○	○	○
Cross-border transfer of information by electronic means	○	○ (added since 2024)	○	○
Unsolicited commercial electronic messages	○	○	○	○
Location of computing facilities	○	○ (added since 2024)	○	○
Source code	○ (+ Algorithm)	○	○	
Principle of no prior authorisation	○	○		
Conclusion of contracts by electronic means	○	○		
Dispute settlement	○	○	△	

Custom duties

Custom duties shall not be imposed on electronic transmissions, including content transmitted electronically.

Article 8.72

1. The Parties shall not impose customs duties on electronic transmissions, including content transmitted electronically, between a person of a Party and a person of the other Party.

2. For greater certainly, paragraph 1 does not preclude a Party from imposing internal taxes, fees or other charges on electronic transmissions, provided that those taxes, fees or charges are imposed in a manner consistent with this Agreement.

Source code and Algorithm

Source code of software and Algorithm shall not be required as a condition for the import, distribution, sale or use.

Article 8.73

(1) A Party shall not require the transfer of, or access to, source code of software owned by a person of the other Party, or the transfer of, or access to, an algorithm expressed in that source code, as a condition for the import, distribution, sale or use of that software, or of products containing that software, in its territory.

Domestic regulation

To maintain predictability for business, this provision ensures that **all measures affecting electronic commerce, including measures related to its collection of information, are administered in a reasonable, objective and impartial manner**.

Article 8.74

Each Party shall ensure that all its measures of general application affecting electronic commerce, including measures related to its collection of information, are administered in a reasonable, objective and impartial manner.

Conclusion of contracts by electronic means

To prevent possible obstacles in concluding contract by electronic means, this provision ensures that measures regulating electronic transactions that deny the legal effect, validity or enforceability of a contract shall not be adopted or maintained.

Article 8.76 Conclusion of contracts by electronic means

Unless otherwise provided for in its laws and regulations, a Party shall not adopt or maintain measures regulating electronic transactions that:

(a) deny the legal effect, validity or enforceability of a contract, solely on the grounds that it is concluded by electronic means; or

(b) otherwise create obstacles to the use of contracts concluded by electronic means.

Electronic Authentication / Signature

The legal effect or validity of an electronic signature or the authenticating data resulting from electronic authentication shall not be denied, solely on the grounds that it is an electronic form.

Article 8.77

1. …A Party shall not deny the legal effect or validity of an electronic signature or the authenticating data resulting from electronic authentication, solely on the grounds that it is electronic form.

2. Party shall not adopt or maintain measures regulating electronic authentication and electronic signature that would;

(a) Prohibit parties to an electronic transaction from mutually determining the appropriate electronic authentication methods for their transaction; or

(b) Prevent parties to an electronic transaction from being able to prove to judicial or administrative authorities that the use of electronic authentication or an electronic signature in that transaction complies with the applicable legal requirements.

4. The Parties shall encourage the use of interoperable electronic authentication and electronic signatures.

Consumer protection

To pursue the enhancement of consumer confidence in electronic commerce, this provision ensures that both sides respect transparent and effective consumer protection measures in electronic commerce.

Article 8.79

1. The Parties recognise the importance of adopting and maintaining transparent and effective consumer protection measures applicable to electronic commerce as well as measures conducive to the development of consumer confidence in electronic commerce.

2. Each Party shall adopt or maintain consumer protection laws and regulations to proscribe fraudulent and deceptive commercial activities that cause harm to consumers engaged in online commercial activities.

3. The Parties recognise the importance of and shall promote cooperation between their respective competent authorities in charge of consumer protection on activities related to electronic commerce…

Personal information protection

To enhance consumer confidence in electronic commerce, this provision ensures that both Parties respect the economic and social benefits of protecting the personal information of users of electronic commerce.

Article 8.80

1. The Parties recognise the economic and social benefits of protecting the personal information of users of electronic commerce and contribution that this makes to enhancing consumer confidence in electronic commerce.

2. To this end, each Party shall adopt or maintain a legal framework that provides for the protection for the personal information of users of electronic commerce. In the development of its legal framework for the protection of personal information, each Party should take into account principles and guidelines of relevant international bodies.

Cross-border transfer of information by electronic means

To promote the free flow of data, the provision ensures that the cross-border transfer of information by electronic means shall not be prohibited or restricted when conducting business.

Article 8.84

1. A Party shall not prohibit or restrict the cross-border transfer of information by electronic means, including personal information, when this activity is for the conduct of the business of a covered person.

2. Nothing in this Article shall prevent a Party adopting or maintaining measures inconsistent with paragraph 1 to achieve a legitimate public policy objective...

JP-EU EPA, the Protocol amending the Japan-EU EPA on the free flow of data entered into force in July 2024 as a result of additional negotiations.

Location of computing facilities

To avoid additional cost to enterprises, the provision ensures that investing entities shall not be required to use or locate facilities in the other Party as a condition for conducting business.

Article 8.85

1. A Party shall not require a covered person to use or locate facilities in that Party's territory as a condition for conducting business in that territory.

2. Nothing in this Article shall prevent a Party from adopting or maintaining measures inconsistent with paragraph 1 that are necessary to achieve a legitimate public policy objective, …

Commercial information and communication technology products that use cryptography

To protect confidentiality of manufacturer or supplier of a commercial ICT products that use cryptography, this provision ensures that both Parties shall not require the manufactures and suppliers of ICT products to transfer or provide access to any proprietary information relating to cryptography.

Article 8.86 Commercial information and communication technology products that use cryptography

A Party shall not require a manufacturer or supplier of a commercial ICT product that uses cryptography, as a condition of the manufacture, sale, distribution, import or use of the commercial ICT product, to:

(a) transfer or provide access to any proprietary information relating to cryptography, including by disclosing a particular technology or production process or other information, for example, a private key or other secret parameter, algorithm specifications or other design detail, to that Party or a person in the territory of that Party.

(b) partner or otherwise cooperate with a person in the territory of that Party in the development, manufacture, sale, distribution, import or use of the commercial ICT products; or

(c) use or integrate a particular cryptographic algorithm or cipher.

Implementation and follow-up

▶ The Committee on Trade in Services, Investment Liberalisation, and Electronic Commerce under this Agreement is responsible for the implementation and operation of those provisions. The meeting of the Committee was conducted in 2021 and 2023.