



An introduction to the EU-Japan Economic Partnership Agreement

Precautionary principle

What is the precautionary principle?

The precautionary principle is essentially used as a way of managing risks, such as risks to public health.

It says that if...

- there is objective preliminary evidence indicating that there are reasonable grounds for concern about potentially dangerous effects on the environment, human, animal or plant health, but
- there's scientific uncertainty in this regard

...then the EU can take measures to minimise or avoid potential risks.

Where is the precautionary principle in the EU-Japan trade agreement?

The Treaty on the Functioning of the EU (TFEU) enshrines the precautionary principle. EU trade agreements must respect EU treaties.

The principle finds its expression in Articles 168 (1), and 169 (1) and (2), and Article 191 TFEU.

Article 191 in particular aims at ensuring a higher level of environmental protection including through preventative decision-taking in case of risk. In practice, the scope of this

principle is far wider. It also covers EU legislation concerning food and human, animal and plant health.

The Commission also ensures that EU trade agreements are in line with existing food safety regulations and other legislation in which the precautionary principle is also enshrined.

An explicit reference to the precautionary approach is made in the Trade and Sustainable Development Chapter of the FTA.

In addition, relevant provisions in other chapters are consistent with the principle. These include the following::

Chapter	Covers
SPS - sanitary and phytosanitary issues	food safety and animal and plant health
TBT - technical barriers to trade	technical requirements for products
GRP and Regulatory Cooperation	Right to regulate
Exceptions	areas excluded from the agreement

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The agreement also includes an Article on General Exceptions, which mirrors Article XX of the WTO GATT agreement.

How does the agreement ensure that the EU remains entirely free to apply the precautionary principle as it sees fit?

Like other EU trade deals, the EU-Japan agreement safeguards the right to apply the precautionary principle. This is ensured, for instance, through:

- A statement to this effect in the Trade and Sustainable Development Chapter, with regard to environment and labour.
- references to the right to regulate and to the principles underlying the regulatory regime of each party. This means that the parties fully preserve their right to regulate for public policy purposes, including public health, safety or the environment, or

- general exceptions that allow the parties to take measures to protect human, animal, and plant life or health or the environment.

No provision in the agreement undermines in any way EU decision-making. This includes regulations in areas such as:

- food safety
- chemicals
- minimum residue levels for pesticides
- GMOs.

In addition, WTO case law recognizes the precautionary principle. It explicitly confirms that, for example, Article 5.7 of the Sanitary and Phytosanitary (SPS) Agreement reflects the precautionary principle. And WTO rules continue to apply in full between parties to a free trade agreement.