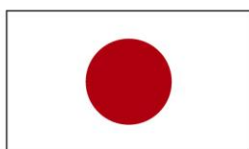




EU-Japan EPA Progress Report

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Table of content

Executive Summary	5
I. Primary accomplishments during the first year of the EPA implementation	5
II. Outstanding issues at the end of the first year of the EU-Japan EPA	6
Editorial Note	7
Chapter 1: General Provisions	8
Chapter 2: Trade in Goods	8
I. EU-Japan trade statistics for 2019	8
II. Committee on Trade in Goods	9
III. Motor Vehicles	10
IV. Wine	11
V. TRQ Management	12
Chapter 3: Rules of Origin and Origin Procedures / Chapter 4: Customs Matters	12
I. Committee on Rules of Origin and Customs-Related Matters	12
II. Progress Made by the Parties in Implementing the Actions Confirmed at the Committee Meeting	12
A. Simplifying procedures for answering Japan Customs' requests for additional explanations on originating status	12
B. Publication of guidelines regarding origin procedures under the EU-Japan EPA	13
C. Hotline and opinion box	14
Chapter 5: Trade Remedies	14
Chapter 6: Sanitary and Phytosanitary Measures	14
I. Committee on Sanitary and Phytosanitary Measures	14
II. Listing of Establishments and Facilities of Beef and Other Products of Animal Origin	15
Chapter 7: Technical Barriers to Trade	15
I. Committee on Technical Barriers to Trade	15
II. Amendment of the Pharmaceuticals and Medical Devices Act	16
III. Amendment of the Food Sanitation Act	16
Chapter 8: Trade in Services, Investment Liberalisation, and Electronic Commerce	17
I. Committee on Trade in Services, Investment Liberalisation, and Electronic Commerce under the EU-Japan EPA	17
II. Information on Relevant Legislative Developments in Japan	17
III. Other	18
Chapter 9: Capital Movements, Payments and Transfers, and Temporary Safeguard Measures	18
Chapter 10: Government Procurement	19
I. Committee on Government Procurement	19
II. Actions taken by the government of Japan and procuring entities to implement the Chapter on Government Procurement	19
A. Actions taken to open the railway equipment and infrastructure procurement market	19
B. Actions taken by local governments and non-governmental entities to implement the additional obligations relating to procurement	20

Chapter 11: Competition Policy.....	20
I. Transparency: New guidelines concerning the digital industry	20
II. Attorney-client privilege	21
Chapter 12: Subsidies	21
I. Notification	21
II. Cooperation between the Parties.....	22
III. Other.....	22
Chapter 13: State-owned Enterprises, Enterprises Granted Special Rights or Privileges, and Designated Monopolies	22
Chapter 14: Intellectual Property	23
I. Committee on Intellectual Property	23
II. GIs	23
A. GI Protections for EU agricultural products and alcoholic beverages	23
B. Limiting the transition period for prior uses of GIs	24
C. Adjustment of GI specifications for certain EU cheeses	24
D. Adding new GI names to the EU-Japan EPA	24
III. Copyright protection.....	24
IV. Border Enforcement for Intellectual Property Rights	24
Chapter 15: Corporate Governance	25
I. Amendment of corporate laws	25
II. Issuance of guidelines on group governance system.....	25
Chapter 16: Trade and Sustainable Development.....	25
I. Committee on Trade and Sustainable Development	25
II. Actions taken by the government of Japan to implement the Chapter on Trade and Sustainable Development	26
A. Multilateral Environmental Agreements	26
B. Ratification and Implementation of ILO conventions.....	27
Chapter 17: Transparency.....	27
Chapter 18: Good Regulatory Practices and Regulatory Cooperation	28
I. Committee on Regulatory Cooperation	28
II. Other.....	28
Chapter 19: Cooperation in the Field of Agriculture	28
I. Committee on Agricultural Cooperation.....	28
II. Other.....	29
Chapter 20: Small and Medium-Sized Enterprises	29
Chapter 21: Dispute Settlement	29
Chapter 22: Institutional Provisions	30
I. Joint Committee.....	30
II. Specialised Committees and Working Groups.....	31
III. Other.....	31
Chapter 23: Final Provisions	31

Executive Summary

The Agreement between the European Union and Japan for an Economic Partnership (the “EU-Japan EPA” or the “EPA”) entered into force on 1 February 2019. During its first year of operation, sound progress was made by Japan in enhancing both compliance with and the functioning of the agreement, to improve the business environment for enterprises and entrepreneurs from the European Union (the “EU”) engaged in trade between the EU and Japan (each, a “Party”, and collectively, the “Parties”).

This report assesses the current state of the EPA implementation as well as Japan’s compliance with the agreement. The report highlights: (i) discussions and outcomes of the specialised committees and working groups established under the EPA (“Specialised Committee(s)” and “Working Group(s)”, respectively), (ii) amendments to Japanese laws, regulations, and practices that reflect the commitments made by Japan in the EU-Japan EPA or are otherwise noteworthy, (iii) non-legislative measures that accelerate or facilitate the implementation of the EU-Japan EPA, and (iv) actions that Japan still needs to take to comply with the agreement, as of 31 January 2020.

The following paragraphs—presented in the numerical order of the relevant EPA Chapters—provide summaries of the most noteworthy developments that took place between 1 February 2019 and 31 January 2020, and also point out issues that still need to be addressed.

I. Primary accomplishments during the first year of the EPA implementation

Motor Vehicles (Chapter 2): The Working Group on Motor Vehicles and Parts decided to work towards further harmonisation of the Parties’ respective domestic regulations on vehicle construction by expanding the list of UN Regulations adopted by both Parties in Appendix 2-C-1 of the EPA to include UN Regulations No. 53, 85, 145, and 146.

Tariff-Rate Quotas (Chapter 2): On 13 June 2019, the Ministry of Agriculture, Forestry and Fisheries (the “MAFF”) announced a review of the management of certain tariff-rate quotas (the “TRQs”) under the EU-Japan EPA. As a result, applicants’ eligibility for the relevant TRQs was limited to ensure that the quota was allocated to genuine applicants with real intention of importing the relevant products to Japan.

Rules of Origin and Customs Procedures (Chapters 3 & 4): There has been progress in three areas:

(1) *Simplifying rules of origin procedures* - Japan simplified its rules of origin procedures in cases where customs authorities request an additional explanation at the time of the import declaration claiming preferential tariff treatment in Japan.

(2) *Providing user-friendly guidelines on those procedures* – in December 2019 Japan published guidelines which clarify how to apply the EPA rules of origin procedures and the documents on which the statement on origin can be made out. The EU also published a series of guidelines on those subject matters.

(3) *Establishing direct channels of communication between the customs authorities of both Parties as well as the customs authorities of each Party and interested stakeholders* - a “hotline” was established between the customs authorities of the Parties. In addition, an individual e-mail “opinion box” was also created by each Party to improve interactions with their respective stakeholders.

The Parties presented the results of their efforts at seminars in Tokyo and Osaka in February 2020.

Geographical Indications (Chapter 14): Japan took legislative action to protect 71 geographical indications (the “GIs”) for EU agricultural products and 139 GIs for EU alcoholic beverages on the date the EU-Japan EPA entered into force. Furthermore, the Parties agreed to continue discussions aiming to agree upon addition of new GI names to the agreement.

Trade and Sustainable Development (Chapter 16): The Committee on Trade and Sustainable Development met on 29-30 January 2020 to exchange updates on the implementation of the applicable multilateral environmental agreements (the “MEAs”) and progress concerning various subjects in trade and environment. This included exchange of information on specific climate change focused MEAs, as well as more general discussion on trade and climate related cooperative measures. With regard to trade and labour, the committee discussed ratification and implementation of key ILO conventions, and potential cooperative activities related thereto.

II. Outstanding issues at the end of the first year of the EU-Japan EPA

Sanitary and Phytosanitary Measures (Chapter 6): The first meeting of the Committee on Sanitary and Phytosanitary Measures (the “SPS”), held in October 2019, highlighted Japan's amendment of the Food Sanitation Act, which includes the institutionalisation of food hygiene control rules in compliance with HACCP (Hazard Analysis and Critical Control Points) and the establishment of new rules related to health certificates required upon the export of food. In order to identify establishments and facilities which comply with the EU's import conditions, Japan has published a new list of certified establishments and facilities producing gelatine and collagen to be exported to the EU, and is preparing to publish such lists for other products as well. Further work to support optimal implementation of the SPS chapter is needed on mutual recognition of animal health zoning decisions (regionalisation on avian influenza and ASF). The work has started in this area under the auspices of the EPA and will need to be continued.

Public Procurement at the Local Level (Chapter 10): Japan has amended the “Cabinet Order Specifying Special Provisions for Procurement Procedures for Goods, etc., or Specified Services by Local Governments” (Cabinet Order No. 372 of 1995). In reference to the operational safety clause, the amendment eliminated an item of the cabinet order which excluded the procurement of goods and services related to the operational safety of transportation from the scope of the covered government procurement, and enables EU suppliers to access the Japanese market for railway equipment and infrastructure contracts procured by sub-central entities (i.e., prefectures and designated cities). The relevant ministries have instructed procuring entities to implement the additional obligations set forth in the EU-Japan EPA such as the enforcement of reinforced transparency rules including: making information about public tenders more easily accessible (a single point of access for procurement information); fairer assessments of EU companies' technical abilities and experience when they bid for public tenders in Japan; and setting new standards for the remedies available to bidding companies if they think they have been treated unfairly. The Japanese government has also conducted explanatory meetings with the relevant entities. It will be important to continue monitoring the actual implementation on the ground of the commitments under the EPA and the effective market access of EU companies to government procurement at both central and local level in Japan.

Editorial Note

This report details the discussions and outcomes of the Specialised Committees and Working Groups, and reviews the completed and outstanding issues within the framework of the EU-Japan EPA at the end of the first year of its implementation, on a chapter by chapter basis.¹

Throughout this report, Article numbers used without specific citations (i.e., without any reference to the name of a specific law or regulation) refer to the relevant articles of the EU-Japan EPA. Similarly, Annexes and Appendixes mentioned without specific citations refer to those of the EU-Japan EPA. For the sake of readability, article numbers have been simplified. For instance, “Article 4.4(5)” references Paragraph 5 of Article 4.4, “Article 22.1(4)(f)” references Subparagraph (f) in Paragraph 4 of Article 22.1, and “Article 4.5(b)” references Item (b) of Article 4.5. Thus, when a letter in parentheses follows a number in parentheses, the relevant letter identifies a subparagraph within the relevant paragraph of the article at issue. When a letter in parentheses follows immediately after an article number, it means that the article at issue is not divided into paragraphs, and the item referenced by the relevant letter is the subdivision that comes immediately after the heading text of the referenced article. Commonly abbreviated phrases are defined upon their first appearance in the text.

¹ Since both Chapters 3 and 4 deal with customs-related matters, this report discusses the progress regarding these chapters in the same section.

Chapter 1: General Provisions

This chapter provides general rules and information necessary for uniform interpretation and application of the EU-Japan EPA, such as general definitions, territorial application and relation to other agreements. No issues or developments have occurred under this chapter in the first year of EPA implementation. There is no dedicated Specialised Committee or Working Group for this chapter.

Chapter 2: Trade in Goods

I. EU-Japan trade statistics for 2019

Merchandise trade with Japan increased by 5.8% in 2019 compared with the previous year, in a balanced manner for both EU exports and imports.

Traditional EU exports to Japan, such as pharmaceuticals, transport equipment, and machinery benefitted from steady growth. Product categories for which the EU-Japan EPA led to tariff cuts generally experienced higher growth, including both agricultural goods such as wine, meat, dairy, and tobacco leaves and industrial goods such as textiles, clothing, and footwear (approximately +10% on average).²

Regarding agricultural goods, in 2019 total trade between the Parties reached €7.62 billion, with the EU having a large trade surplus of almost €7 billion. Both imports and exports grew by around 15% compared with 2018. In 2019, Japan was the 5th largest destination country for EU exports of agricultural goods. In 2019, EU exports of agricultural goods accounted for €7.28 billion (11.9% of total EU exports to Japan in 2019). The main categories of agricultural goods exported to Japan in 2019 were pork meat (19.1%, for a value of €1.39 billion), cigars and cigarettes (18%) and wine, vermouth, and vinegar (13.2%). EU imports of agricultural goods reached €347 million in 2019 (an increase of 14.9% compared with 2018) and consisted mainly of spirits and liqueurs (17%), soups and sauces (15%), and fatty acids and wax (14%). Table 1 below lists these top three categories exported/ imported.

² In the first year since the EU-Japan EPA came into force, Japanese tariffs were reduced twice, on 1 February and 1 April 2019, because the fiscal year for Japan's annual instalments starts on 1 April. See Paragraphs 2 and 3 of Part 1 of Annex 2-A. Annex 2-A can be found [here](#).

Table 1: The top three categories of agricultural goods exported from the EU to Japan/ imported from Japan to the EU in 2019 (by values)³

EXPORT		IMPORT
Pork meat (€1.39 billion/ 19.1%)	1	Spirits and liqueurs (€59.0 million/ 17%)
Cigars and cigarettes (€1.31 billion/ 18%)	2	Soups and sauces (€52.1 million/ 15%)
Wine, vermouth, and vinegar (€961 million/ 13.2%)	3	Fatty acids and wax (€48.6 million/ 14%)

(Reference: Eurostat DS-018995⁴)

With regard to imports from Japan in 2019, there were noticeable increases for chemicals and transport equipment, in particular passenger cars.

Japan has communicated an average Preference Utilisation Rate (PUR) for imports of EU goods of 52.9 % for the period from February to December 2019, calculated as the ratio of EU exports to Japan benefitting from trade preferences under the EU-Japan EPA divided by total exports eligible for preference under the agreement⁵. This means that more than half of all EU goods eligible for tariff preferences actually benefitted from those preferences, which is a promising result for the first year of implementation. At the sector level, most EU agricultural exports by and large enjoyed the tariff preferences (86.3% on average) with particularly high rates for meats (99%) and wine (93%), dairy products (77%), and cheeses (77%). The rates for industrial goods were significantly lower, both in Japan and in the EU, usually as a result of more complex supply chains and, often, smaller preference margins.⁶⁷

II. Committee on Trade in Goods

The first meeting of the Committee on Trade in Goods took place on 14 November 2019 in Brussels.⁸ Highlights of the meeting are as follows:

- Supporting utilisation of tariff preferences: the EU and Japan decided to carry out activities to promote awareness and to discuss, via their SME contact points, ways to enhance the information made available to SMEs through their websites.
- Schedule for the exchange of trade statistics.
- EU policies on export subsidies and export refunds.

³ Each percentage in parentheses in this Table indicates the proportion of the total value of EU exports/imports of agricultural goods to/from Japan represented by the value of total EU exports/imports to/from Japan in the relevant category. Each value in this Table, other than that of pork meat export, is calculated by multiplying such percentage of the relevant category by the total value of the exports/imports of agricultural goods stated in this report (namely, €7.28 billion/ €347 million, respectively), rather than extracting the actual value data from statistics.

⁴ Eurostat database is available [here](#).

⁵ The formula is as follows: PUR = The value of exports actually using a preferential tariff rate under the EU-Japan EPA/ The value of exports eligible for a preferential tariff rate under the EU-Japan EPA.

⁶ The term “preference margin” means the absolute difference between the most-favoured-nation rate of duty and the preferential tariff rate under the EU-Japan EPA for the product.

⁷ More detailed information on EU-Japan trade in goods statistics can be seen [here](#).

⁸ The Joint Minutes of the meeting are available [here](#).

- Japan's state of play in TRQ management and the revised quota management methodology introduced in June 2019.
- Discussion of recently negotiated trade agreements: the Parties exchanged questions and views on the potential market impact of concessions granted to third countries, based on Article 2.8(4).

III. Motor Vehicles

On 11 November 2019, the first meeting of the Working Group on Motor Vehicles and Parts (the “Vehicles Working Group”) took place in Geneva.⁹ The Parties discussed, among other things, the harmonisation of their respective domestic regulations on vehicle construction. The Vehicles Working Group decided to work toward the addition of UN Regulations 53, 85, 145, and 146 to Appendix 2-C-1 of the EU-Japan EPA (a brief summary of each of these UN Regulations appears in Table 2 below).¹⁰ Under Article 5(1) of Annex 2-C, each Party is required to accept, in its market, products that are certified as satisfying the technical requirements of the UN Regulations specified in Appendix 2-C-1 as being compliant with its domestic technical regulations and conformity assessment procedures, without requiring any further testing, documentation, certification, or marking.

In Japan, if devices or parts which are listed in the Regulation for Type Designation of Devices (the “Type Designation Regulation”)¹¹ receive type approval from a foreign country in accordance with the applicable UN Regulation, such devices or parts shall be exempt from testing in Japan as well. In order to obtain this status, each UN Regulation is to be listed in the table in Article 5 of the Type Designation Regulation.¹² However, as of the one-year anniversary of the EU-Japan EPA’s entry into force, only UN Regulations 85, 145, and 146 had been listed in the table in Article 5 of the Type Designation Regulation; UN Regulation 53 had yet to be listed.

Table 2: Summary of UN Regulations to be added to Appendix 2-C-1 of the EU-Japan EPA

UN Regulations	Summarised descriptions
53	Approval of two-wheeled vehicles with regard to the installation of lighting and light-signalling devices
85	Approval of internal combustion engines or electric drive trains for four-or-more-wheeled vehicles with regard to the measurement of power
145	Approval of vehicles with regard to anchorage systems for child restraint systems without using seatbelts (ISOFIX system), etc.
146	Approval of motor vehicles and their components with regard to safety-related performance of hydrogen-fuelled two and three-wheeled vehicles (e.g., specifications of the compressed hydrogen storage system)

⁹ The Joint Minutes of the meeting are available [here](#).

¹⁰ “UN Regulations” refers to the regulations established as addenda to the Agreement concerning the Adoption of Harmonized Technical United Nations Regulations for Wheeled Vehicles, Equipment, and Parts which can be Fitted and/or Used on Wheeled Vehicles and the Conditions for Reciprocal Recognition of Approvals Granted on the Basis of these United Nations Regulations (commonly referred to as the 1958 Agreement) adopted by the World Forum for Harmonization of Vehicle Regulations (WP.29) within the framework of the United Nations Economic Commission for Europe. The text of the UN Regulations is available [here](#).

¹¹ The Type Designation Regulation is available [here](#) (Japanese only).

¹² Customarily, the UN Regulations are also specified in the Public Notice on Details of the Safety Standards for Road Transportation Vehicles (the “Notice on the Details”). The Notice on the Details can be seen on the website of the Ministry of Land, Infrastructure, Transport and Tourism, [here](#) (Japanese only).

In addition to the above, at the meeting, the Parties exchanged information concerning:

- Japanese domestic legislation on Automated Emergency Braking System (AEBS).
- Cooperation in developing new regulations in the automated driving area.
- Introduction of In-Service Conformity (ISC) rules for checking the durability of emissions throughout the lifetime of a vehicle.
- Visibility and embossment/marketing requirements for electric vehicles.
- Policies related to the sustainability of batteries, including Life Cycle Assessments (LCA).
- The status of implementation of Conformity of Production procedures (COP).
- Recent developments on non-regulatory measures regarding small-engine cars in Japan.

IV. Wine

On 1 February 2019, the same day the EU-Japan EPA came into effect, the first meeting of the Working Group on Wine took place via videoconference.¹³ The highlights of the meeting were as follows:

- A decision on the forms to be used for certificates for the import of wine products originating in Japan into the EU, and the modalities concerning self-certification, was adopted, in accordance with Article 2.28(2)(a).¹⁴
- Modalities for cooperation between the contact points designated by the EU for each of its Member States, and by Japan, were decided in accordance with Article 2.28(2)(b).¹⁵
- The Parties acknowledged the exchange of notifications confirming that their procedures for the authorisation of oenological practices (i.e., additives used in oenological processes), as referenced in Section B of Part 1 and Section B of Part 2 of Annex 2-E, respectively, have been completed in accordance with Article 2.25(3).
- The Parties confirmed they would take necessary steps to authorise the so called “phase two” and “phase three” oenological practices referred to in the relevant sections of Annex 2-E, as described in Articles 2.26(1), (2), 2.27(1) and (2).¹⁶

In Japan, before additives may be used in certain oenological processes related to the production of wine, they must be approved as safe and usable, on an individual basis, by both the Minister of Health, Labour and Welfare and the Commissioner of the National Tax Agency (the “NTA”).¹⁷ Sections C and D of Part 1 of Annex 2-E list additives for which the Parties are willing to complete the approval within two years (the “phase-two additives”) and three years (the “phase-three additives”), respectively. One year after the EU-Japan EPA entered into force, out of all the phase-two and phase-three additives,

¹³ The agenda and minutes of the meeting are available [here](#).

¹⁴ The document adopted (Decision No 1/2019) is available [here](#).

¹⁵ The document adopted (Decision No 2/2019) is available [here](#).

¹⁶ Article 2.25 provides for “phase one”, which describes the Parties’ actions beginning on the date the EU-Japan EPA entered into force. Article 2.26 provides for “phase two”, which involves the steps the Parties are expected to take within two years (see Article 2.29(1)(a), (2) and (3)). Article 2.27 provides for “phase three”, which contains the steps the Parties are expected to take within three years of the EU-Japan EPA’s entry into force (see Article 2.29(1)(b))

¹⁷ Specifically, to be used in Japan, additives must be: (1) designated as safe by the Minister of Health, Labour and Welfare, and (2) included in the list of “substances that are not regarded as ingredients of alcoholic beverages” as indicated in a notice issued by the Commissioner of the NTA.

only Argon and Kaolin have been approved;¹⁸ the other additives are still waiting to be approved as safe and usable by the Minister of Health, Labour and Welfare and the Commissioner of the NTA.

V. TRQ Management

On 13 June 2019, MAFF announced a review of the management of some TRQs under the EU-Japan EPA.¹⁹ The aim of the review was to prevent granting quotas to non-genuine applicants who had no real intention of importing the relevant products to Japan. As a result of the review, applicants' eligibility criteria have been narrowed down so that only legitimate applicants who submit the required supporting documents can apply for the quotas. Moreover, it was decided that additional documentation would be required at the import stage and at the time of subsequent use or sale of items subject to the quota to confirm that there was actual demand for the applicant's goods. Furthermore, with regard to the lottery system that existed as part of the TRQ management procedure prior to the review, for certain items, such as dairy products, the timing of submission of the relevant documents was changed from after the lottery to before the lottery.

Chapter 3: Rules of Origin and Origin Procedures / Chapter 4: Customs Matters

I. Committee on Rules of Origin and Customs-Related Matters

After the entry into force of the agreement, EU operators and Japanese importers faced difficulties with claiming preferential tariff treatment under the EU-Japan EPA due to the excessive request for information on the origin of a product by Japan Customs. Therefore, on 26 June 2019, at the first meeting of the Committee on Rules of Origin and Customs-Related Matters, which was held in Brussels, the Parties discussed clarification and further simplification of rules of origin procedures.²⁰ At this meeting, the Parties confirmed that they will take certain actions, including simplification of the rules of origin procedures, issuance of guidelines, and facilitation of communications between the customs authorities of the Parties, and also between the customs authorities and stakeholders; there has been progress in implementation of these measures, as described in Section II below.

II. Progress Made by the Parties in Implementing the Actions Confirmed at the Committee Meeting

In accordance with Article 4.4(5), Japan Customs has been working to encourage utilisation of the EU-Japan EPA by providing simplified procedures to allow the relevant parties to benefit from preferential tariff treatment. The primary areas of progress since implementation of the EU-Japan EPA are summarised in three points: simplification of rules of origin procedures, providing user-friendly guidelines, and establishing channels to collect operators' opinions to improve customs procedures further. The details are as follows.

A. Simplifying procedures for answering Japan Customs' requests for additional explanations on originating status

When an importer makes a claim for preferential tariff treatment based on a statement on origin, Japan Customs may request that the importer provide a further explanation on the originating status of the

¹⁸ Argon and Kaolin are phase three additives.

¹⁹ The published material is available [here](#) (Japanese only).

²⁰ The agenda, joint minutes and conclusions of the Committee on Rules of Origin and Customs-Related Matters are available [here](#).

product(s), in addition to the statement on origin, pursuant to Article 3.16(3). Since November 2019, if an importer cannot provide an additional explanation on originating status, under the simplified procedure, the importer is required only to insert the codes indicating that no further explanation is available when lodging the electronic import declaration via the Nippon Automated Cargo and Port Consolidated System (NACCS).²¹ This simplification of procedures through the use of electronic means complies with Articles 4.4(5) and 4.5(b).

Additionally, in the guideline mentioned below, Japan Customs clarified that an importer is not asked to obtain additional information from the exporter who made out the statement on origin in order to reply to Japan Customs' request for an explanation at the time of the import declaration, and the exporter is not obliged to provide such information at the time of the import declaration. Furthermore, an importer who states that he/she cannot provide an additional explanation, other than the statement on origin issued by the exporter, does not need to specify a reason why he/she cannot do so. According to this guideline, the absence of an additional explanation, other than the statement on origin, at the time of the import declaration will not lead to a rejection of the claim or a denial of preferential tariff treatment under the EU-Japan EPA.²²

B. Publication of guidelines regarding origin procedures under the EU-Japan EPA

1. Guideline of Japan Customs

In December 2019, Japan Customs published a "guideline for the statement on origin/importer's knowledge and verification under the Japan-EU EPA".²³ In this guideline, Japan Customs clarified the interpretation of the relevant articles in the EU-Japan EPA, as follows:

(1) Definition of "exporter"

Producers and trading companies can make out the statement on origin, acting as an "exporter" (Article 3.17(1)).

(2) The documents on which the statement on origin can be made out

Article 3.17(2) states that the statement on origin shall be made out on an invoice or "any other commercial document." This guideline clarified which documents are regarded as "other commercial documents" and provided instructions on the method for making out a statement on origin on these "other commercial documents." These pieces of information increased predictability for EU exporters and Japanese importers who apply for preferential tariff treatment.

2. Guidelines of the Directorate General for Taxation and Customs Union ("DG TAXUD")

The EU is also making efforts to enhance the predictability and the transparency of customs procedures. The guidelines provided by the EU can be found at the website of the DG TAXUD.²⁴

²¹ Japan Customs: "Announcement regarding an additional explanation of the originating status of a product, which Japan Customs requests at the time of import declaration". Available [here](#).

²² Even if preferential tariff treatment has been granted upon importation, despite the absence of an additional explanation (Article 3.16(1) and (3)), such preferential tariff treatment could be subject to verification (Article 3.21) and denial (Article 3.24).

²³ More information [here](#).

²⁴ More information [here](#).

C. Hotline and opinion box

A “hotline” was established between the customs authorities of the Parties to facilitate exchanges of specific information regarding implementation of the EU-Japan EPA rules of origin. Additionally, the customs authorities of the Parties established an “opinion box” (EU: TAXUD-E5_EU_JAPAN_EPA@ec.europa.eu, Japan: epa-roo-center@customs.go.jp) to improve interactions with stakeholders by collecting opinions via email.

Chapter 5: Trade Remedies

Chapter 5 of the EU-Japan EPA provides that each Party may apply bilateral safeguard measures, while confirming that each Party may apply anti-dumping and countervailing duties, as well as global safeguard measures, pursuant to the relevant WTO Agreements. In Japan, the domestic law that establishes the substantive and procedural requirements with regard to bilateral safeguard measures is the Act on Temporary Measures Concerning Customs (the “TMCC Act”). Specifically, Article 7-7 of the TMCC Act provides that the Japanese government may apply bilateral safeguard measures pursuant to the provisions of the relevant EPAs. Article 10-2 of the Enforcement Order of the TMCC Act specifies the definition of the “relevant EPAs” to which certain provisions of the TMCC Act, including the provisions of Article 7-7, apply. On 1 February 2019, the same day when the EU-Japan EPA entered into force, an amendment to the Enforcement Order of the TMCC Act added Item 17 to Article 10-2, in order to include the EU-Japan EPA in the definition of the “relevant EPAs”. This expanded the scope of application of the relevant provisions of the TMCC Act to include the EU-Japan EPA. This was a necessary step to ensure that Japan observes the obligations set out in Chapter 5 of the EU-Japan EPA.

There is no Specialised Committee or Working Group for this chapter.

Chapter 6: Sanitary and Phytosanitary Measures

I. Committee on Sanitary and Phytosanitary Measures

The first meeting of the Committee on Sanitary and Phytosanitary Measures was held in Tokyo in October 2019²⁵. At the meeting, the Parties discussed the simplification of the Japanese SPS procedures for import and the risk assessment of EU Member States, evaluating EU Member States in groups when Japan conducts risk assessments, simplification of the procedures for the risk assessment on plant quarantine as well as the project for the mutual recognition of zoning decisions in the area of animal health. The Parties committed to explore possible use of e-certification in relation to phytosanitary commodities, pursuant to Article 6.7(10), regarding electronic certification.

The committee also highlighted Japan's amendment of the Food Sanitation Act,²⁶ which was promulgated on 13 July 2018 and will come into effect within two years. The main points of the amendment include institutionalisation of food hygiene control rules in compliance with HACCP (Hazard Analysis and Critical Control Points), improvement of sanitation regulations for food apparatus, containers and packaging in accordance with international rules, and the establishment of new rules related to health certificates required upon the export of food, in order to comply with the rules and regulations of the importing countries.

²⁵ The joint minutes for the first meeting of the Committee on Sanitary and Phytosanitary Measures can be found [here](#).

²⁶ Amendment to the Food Sanitation Act, available [here](#).

II. Listing of Establishments and Facilities of Beef and Other Products of Animal Origin

With regard to the listing of establishments and facilities which comply with the EU's import conditions pursuant to Article 6.9(1),²⁷ Japan has published a new list of certified establishments and facilities producing gelatine and collagen to be exported to the EU.²⁸ In addition, Japan has started to request suppliers of poultry²⁹ and meat products, milk products, eggs, and egg products³⁰ to apply to be certified as listed establishments or facilities, although there are no published lists at this point. With regard to the certification of establishments and facilities producing fishery products, in addition to the existing certification by the Ministry of Health, Labour and Welfare (the "MHLW"), Japan now also requires certification from the Fisheries Agency of the MAFF.³¹

Chapter 7: Technical Barriers to Trade

I. Committee on Technical Barriers to Trade

The first meeting of the Committee on Technical Barriers to Trade took place on 15 November 2019 in Brussels.³²

The committee discussed Japan's laws and regulations concerning TBT which had been revised after the entry into force of the EU-Japan EPA, namely the revision of the Law on Securing Quality, Efficacy and Safety of Products Including Pharmaceuticals and Medical Devices³³ (the "Pharmaceuticals and Medical Devices Act").

In addition, the Parties at the committee exchanged information on their regulatory plans concerning chemical substances that could be restricted, and confirmed they will continue their discussions on potentially restricted substances in the future.

²⁷ For example, please see the existing listings of establishments and facilities, which were already published before the entry into force of the EU-Japan EPA, accessible through the relevant ministries' websites, as follows: the Plant quarantine (the website of the MAFF) is available [here](#); Meat Processing Establishments Eligible for Export to EU (the website of the MAFF) available [here](#); Export of animal casings to the EU (the website of the Ministry of Health, Labour and Welfare) available [here](#); Fishery products (the website of the Ministry of Health, Labour and Welfare) available [here](#); Live bivalve mollusks (the website of the Ministry of Health, Labour and Welfare) available [here](#).

²⁸ List of Establishments Handling Gelatine and Collagen for Export to the EU, available [here](#) (Japanese only).

²⁹ Notice by the Ministry of Health, Labour and Welfare and the rules for exporting poultry to the EU available [here](#) (Japanese only; being updated on a continuous basis)

³⁰ Rules for exporting meat product, milk product egg and egg products to the EU, available [here](#) (Japanese only; being updated on a continuous basis).

³¹ Rules regarding certification of establishments related to fishery products by the Fisheries Agency, available [here](#) (Japanese only).

³² The joint minutes for the first meeting of the Committee on Technical Barriers to Trade can be found [here](#).

³³ The current Pharmaceuticals and Medical Devices Act can be found [here](#) (Japanese); or [here](#) (English translation, as of 31 March 2015); the draft of the proposed amendment can be found [here](#) (Japanese only).

Furthermore, the Parties at the committee exchanged information on the role of lot codes to support market surveillance activities regarding wines and spirits. Japan explained, at the committee, the steps that have already been undertaken, including relevant ministries³⁴ notice in 2017 that alerted the associations of alcohol-related industries of undesirable cases resulting from the alteration of lot codes on product labels, particularly for alcoholic beverages.

II. Amendment of the Pharmaceuticals and Medical Devices Act

Japan has been undergoing a legislative procedure for the revision of the Pharmaceuticals and Medical Devices Act.

One of the main points of the amendment is the introduction of systems such as the “Pioneering Examination Designation System”. In the system, the competent authority conducts a fast-track review of certain pharmaceuticals that are developed ahead of the global industry and which are expected to have significant efficacy at the early stage of clinical trials.

The amendment also legalises a verification system for the import of drugs that are unapproved in Japan.

Further, the amendment also includes the improvements to electronic publication of labelling requirements (*tempu-bunsho*), which requires the manufacturers of certain pharmaceuticals, medical devices and regenerative medicine products to disclose the precautionary statements about their products, which are currently printed on containers or enclosed instruction papers, on websites, with an access code printed on the relevant container.

III. Amendment of the Food Sanitation Act

The recent amendment of the Food Sanitation Act³⁵ includes new regulations regarding “apparatus (utensils)”³⁶ and “containers and packaging” (collectively as “UCP”),³⁷ in order to ensure international consistency on safety regulations regarding UCP.³⁸ The amendment introduces a positive list³⁹ system regarding food UCP, which only permits listed substances whose safety is assured to be used for UCP. The amendment also requires that the MHLW shall establish criteria concerning sanitary management of business facilities where utensils or containers and packaging are manufactured and other measures necessary for public health.

³⁴ The Ministry of Economy, Trade and Industry, the MHLW and the MAFF.

³⁵ The amendment of the Food Sanitation Act was promulgated on 13 July 2018 and will come into effect within two years. Amendment to the Food Sanitation Act, available [here](#).

³⁶ Defined as tableware, kitchen utensils, and other machines, implements, and other articles which are used for collecting, producing, processing, cooking, storing, transporting, displaying, delivering, or consuming food or additives and which come into direct contact with food or additives.

³⁷ Defined as articles which contain or wrap food or additives and are offered "as is" when delivering food or additives.

³⁸ Overview of amendments to the Food Sanitation Act regarding UCP is available [here](#).

³⁹ The specified substances will be listed on the MHLW website [here](#).

Chapter 8: Trade in Services, Investment Liberalisation, and Electronic Commerce

I. Committee on Trade in Services, Investment Liberalisation, and Electronic Commerce under the EU-Japan EPA

The first meeting of the committee took place on 13 November 2019 in Brussels. With regard to updates on the investment climate, the Parties exchanged information on the latest developments of their respective investment screening regimes and reaffirmed their commitment to preserving and improving the quality of the investment climate. The Parties also discussed the implementation of provisions dealing with postal and courier services, such as the article on border procedures and the provisions on the entry and temporary stay of natural persons for business purposes, especially the obligation to grant entry and temporary stay to intra-corporate transferees and their family members within their respectively stipulated periods of time under Annex 8-C.

Regarding electronic commerce, the Parties discussed their cooperation with and active participation in multilateral fora on this topic, such as the ongoing WTO negotiations on electronic commerce. In line with Article 8.81, they also discussed their reassessment of the need for including provisions on the free flow of data into the EPA.⁴⁰

II. Information on Relevant Legislative Developments in Japan

Japan was not required to adopt any new measures or to amend its laws and regulations in order to implement its obligations under Section B (Investment Liberalisation) of Chapter 8. However, after the entry into force of the EU-Japan EPA, the Foreign Exchange and Foreign Trade Act (the “FEFTA”) and related regulations have been amended several times. In 2019, the scope of foreign investment subject to prior notification requirement under the FEFTA, which is listed in the Schedules of Japan in Annex 8-B as measures non-conforming to national treatment obligation provided under Article 8.8, was expanded. The amendments of the FEFTA and related regulations are as follows;

1. On 1 August 2019, the scope of designated industries subject to prior notification requirement was expanded, with the aim of addressing cyber security issues by seeking to prevent situations that could have a serious impact on Japan’s national security, such as the leakage of important technology related to security and the destruction of Japan’s defence production and technological infrastructure.⁴¹ The amendment expanded the scope of designated industries relating to information and communication technology, and required a prior notification to be submitted when foreign direct investment is aimed at manufacturing components and equipment related to information processing (e.g., manufacturing mobile phones, personal computers, semiconductor memory media), and manufacturing software related to information processing. The amendment also expanded the scope of designated industries related to information and communication services (e.g., regional and long-distance telecommunications, and internet support services).

⁴⁰ European Commission, “Joint Minutes of the First Meeting of the Committee on Trade in Services, Investment Liberalisation, and Electronic Commerce under the Agreement between the European Union and Japan for an Economic Partnership”, dated 13 November 2019, available [here](#).

⁴¹ Ministry of Finance, “Additions of Designated Industries Subject to Prior Notification Regarding Foreign Direct Investment”, dated 27 May 2019 available [here](#) (Japanese only). Public Notice of Minister of Finance and other Ministers supervising relevant designated business sectors, No. 1 of 2014 was partially amended by Public Notice No. 1 of May 2019 (available in Japanese [here](#)). Public Notice of Minister of Finance and other Ministers supervising relevant designated business sectors, No. 3 of 2017 was partially amended by Public Notice No. 2 of May 2019 (available in Japanese [here](#)).

2. On 26 October 2019, the definition of foreign direct investment was expanded. Submission of prior notifications not only for the acquisition of shares which was already subject to the prior notification requirement but also for the acquisition of voting rights is required by this amendment.⁴²
3. On 22 November 2019, the Japanese Diet passed the FEFTA amendment bill, by which the threshold for prior notification with regard to the acquisition of a listed company's stocks or voting rights was lowered from the current 10%, to 1% of the total number of shares or voting rights.⁴³ An exemption system was also introduced, so as to balance the drastic lowering of the threshold and avoid scaring off foreign investors.⁴⁴ The detailed rules will be provided by the government in early 2020.

III. Other

In line with Article 8.67 and Annex 8-A (Annex for Regulatory Cooperation on Financial Regulation), the inaugural meeting of the Joint EU-Japan financial regulatory forum was held in Tokyo on 11 October 2019. The participants discussed the regulatory cooperation framework under the EU-Japan EPA; notably the progress and way forward to strengthen their bilateral cooperation and the possibility of coordination in international forums such as the G20 and the Financial Stability Board. In addition, Japan Financial Services Agency (the "JFSA") and the EU participants discussed the EU's equivalence and the Japanese deference frameworks, including possible enhancements in information exchange between both jurisdictions.⁴⁵ The JFSA and Single Resolution Board of the EU exchanged letters on cooperation in the area of banking resolution. They also agreed to co-hosting a Japan-Banking Union resolution workshop as part of continued cooperation between the two jurisdictions.⁴⁶

Chapter 9: Capital Movements, Payments and Transfers, and Temporary Safeguard Measures

No regulatory changes were required for Japan to implement Chapter 9. With regard to restrictive measures prescribed in Article 9.4, either Article 9, Article 16, or Article 21 of the FEFTA are considered to be the basis for adopting such restrictive measures. In Japan, restrictive measures based on these provisions of the FEFTA have been rarely adopted, and, to the extent we can confirm by publicly

⁴² Ministry of Finance, "Overview of the Amendment on Cabinet Order Regarding Foreign Direct Investment, etc.", available [here](#) (Japanese only); and Ministry of Finance, "Partial Amendment of Cabinet Order and Ministerial Ordinance with regard to Inward Direct Investment", dated 26 September 2019, available [here](#) (Japanese only). The Cabinet Order on Inward Direct Investment etc. (Cabinet Order No. 261 of 1980) was partially amended by Cabinet Order No. 111 of September 2019 (available in Japanese [here](#)). The Order on Inward Direct Investment etc. (Order No. 1 of 1980) was partially amended by Order No. 5 of September 2019 (available in Japanese [here](#)).

⁴³ Ministry of Finance, "Amendment Bill of the Foreign Exchange and Foreign Trade Act", dated on October 21, 2019, available [here](#); and The House of Representatives, Japan, "Progress of Bill Deliberation", available [here](#) (Japanese only).

⁴⁴ Ministry of Finance, "Exemption from Prior-notification Required for Designated Business Sectors", dated on October 21, 2019, available [here](#).

⁴⁵ European Commission and Financial Services Agency of Japan, "Joint Statement on the Inaugural Meeting of the Joint EU-Japan financial regulatory forum", dated 11 October 2019 available [here](#).

⁴⁶ European Commission and Financial Services Agency of Japan, "Joint Statement on the Inaugural Meeting of the Joint EU-Japan financial regulatory forum", dated 11 October 2019 available [here](#).

available information, no such restrictive measures covered by Article 9.4 have been adopted since the entry into force of the EU-Japan EPA.

Chapter 10: Government Procurement

I. Committee on Government Procurement

On 27 November 2019, the first meeting of the Committee on Government Procurement was held in Tokyo, in order to monitor the effective implementation of the Government Procurement chapter.⁴⁷ The committee discussed issues such as information exchanges on government procurement, activities to raise awareness of the opportunities opened up by the EU-Japan EPA to firms to participate in public tenders, and legislative and non-legislative measures taken to implement the Chapter on Government Procurement, including the issues mentioned above and other issues, such as the single point of access referred to in Article 10.4 and the collection and reporting of statistics (Article 10.13).

II. Actions taken by the government of Japan and procuring entities to implement the Chapter on Government Procurement

A. Actions taken to open the railway equipment and infrastructure procurement market

In order to domestically implement the EPA with regard to government procurement by the local governments, Japan has amended the Cabinet Order Specifying Special Provisions for Procurement Procedures for Goods, etc., or Specified Services by Local Governments⁴⁸ (the “Cabinet Order”), which came into force on 1 February 2019. This amendment also includes an amendment regarding the railway equipment and infrastructure procurement market, the effective date of which was extended by one year, commencing on 1 February 2020, in order to assure relevant parties enough time to prepare for its implementation. After the effective date of this amendment (i.e., 1 February 2020), EU suppliers will have access to railway equipment and infrastructure contracts procured by sub-central entities in Japan (i.e., prefectures and designated cities), which was previously protected by the so-called Operational Safety Clause under the Japanese Annexes included in Appendix I to the Agreement on Government Procurement (the “GPA”). Specifically, the new amendment eliminated former Article 3(iii) of the Cabinet Order which excluded the procurement of goods and services related to the operational safety of transportation from the scope of government procurement covered by the Cabinet Order. In addition, new Article 5(1) of the Cabinet Order specifically limits the suppliers who may participate in open tender bidding for procurement related to the operational safety of transportation to domestic suppliers and EU suppliers.

EU suppliers will also have access to the Japanese market for railway equipment and infrastructure procured by certain non-governmental entities (Hokkaido Railway Company, Japan Freight Railway Company, Japan Railway Construction, Transport and Technology Agency, Shikoku Railway Company and Tokyo Metro Co., Ltd.) after 1 February 2020.

⁴⁷ The agenda and joint minutes for the first meeting of the Committee on Government Procurement are available [here](#).

⁴⁸ Amendment bill Cabinet Order Specifying Special Provisions for Procurement Procedures for Goods, etc. or Specified Services by Local Governments (Cabinet Order No. 372 of 1995), available [here](#) (Japanese only).

Railway-related entities of prefectures or designated cities⁴⁹ and railway companies or institutions listed in Annex 3 to Appendix I of the GPA (i.e., Hokkaido Railway Company; Japan Freight Railway Company; Japan Railway Construction, Transport and Technology Agency; Shikoku Railway Company, and Tokyo Metro Co., Ltd.)) have been also making efforts to implement the opening of railway procurement related to the operational safety of transportation.⁵⁰

B. Actions taken by local governments and non-governmental entities to implement the additional obligations relating to procurement

The Japanese government has also taken measures to implement the additional obligations regarding procurement by sub-central entities, including core cities, local independent administrative agencies, independent administrative agencies, and other non-governmental entities listed in Annex 3 to Appendix I of the GPA. Such additional rules include reinforced transparency rules and enforcement measures including: making information about public tenders more easily accessible (a single point of access for procurement information); fairer assessments of EU companies' technical abilities and experience when they bid for public tenders in Japan, and setting new standards for the remedies available to bidding companies if they think they have been treated unfairly. The relevant ministries have instructed the above entities to implement the additional obligations set forth in the EU-Japan EPA. The Japanese government has also conducted explanatory meetings to provide notice that the relevant entities must amend their rules in accordance with the EU-Japan EPA, and to raise awareness of the EU-Japan EPA and the Government Procurement Chapter.

Chapter 11: Competition Policy

The EU-Japan EPA requires the Parties to uphold its competition law provisions concerning certain anticompetitive practices in an effective manner, and to provide for procedural fairness and transparency, etc. Although it appears that no specific legislative actions are required by the “Competition Policy” Chapter, the legal developments described below, consistent with that chapter, have been implemented in Japan since the EU-Japan EPA entered into force. There is no Specialised Committee or Working Group for this chapter.

I. Transparency: New guidelines concerning the digital industry

Article 11.7 states that the Parties shall apply their competition law in a transparent manner, and shall promote transparency in their competition policy. The Japan Fair Trade Commission (the “JFTC”) issued various guidelines to increase the transparency of the application of the Antimonopoly Act⁵¹ (a major Japanese law regulating competition) as well as its competition policy, and to illustrate the framework and criteria for the JFTC’s review in more detail than described in the Antimonopoly Act.

A typical example is merger regulation on the digital industry. As the number of M&As in the digital industry has been increasing in Japan, the JFTC has revised its merger guidelines to ensure increased

⁴⁹ They are listed in Annex 2 to Appendix I of the GPA.

⁵⁰ For example, the following railway companies have at least stated the thresholds applicable to the procurement open to EU-suppliers on their websites, and plan to make procurement information available to EU suppliers: [Tokyo Metro Co., Ltd.](#); [Japan Railway Construction, Transport and Technology Agency](#). Please also see the websites of [Hokkaido Railway Company](#); [Japan Freight Railway Company](#); [Shikoku Railway Company](#).

⁵¹ The unabbreviated name of the act is “Act on Prohibition of Private Monopolization and Maintenance of Fair Trade”.

clarity and transparency in the framework of the JFTC's review.⁵² The revised guidelines indicate that the JFTC will consider the unique nature of the digital industry during its merger reviews, for example, the indirect network effect⁵³ derived from multi-sided markets, where consumers and businesses are connected via a given platform. Furthermore, to increase the predictability of the merger reviews, the revised guidelines also provide a detailed explanation about a refusal to deal, including a data supply foreclosure, which is one of the major concerns in vertical mergers involving digital platform operators.

Another example is the new guidelines concerning the acquisition and use of consumers' personal information by digital platform operators.⁵⁴ These guidelines describe what kinds of conduct in relation to digital platformers' acquisition and use of personal information are likely to be regarded as anticompetitive conducts, referred to as an "abuse of a superior bargaining position" in the Antimonopoly Act. For example, these guidelines describe conduct which is likely to violate the Antimonopoly Act: four methods of acquiring personal information, and two methods of using personal information.

II. Attorney-client privilege

Article 11.6 states that the Parties shall respect procedural fairness for all enterprises, irrespective of the nationality and ownership of the enterprises. An amendment to the Antimonopoly Act, dated 19 June 2019, allowed for claims that, during the course of administrative investigation procedures concerning cartel and bid-rigging cases, investigators at the JFTC should not be permitted access to documents containing confidential communications with attorneys regarding their legal advice.⁵⁵ The attorney-client privilege will lead to enhanced procedural fairness, by securing opportunities to consult with attorneys and obtain appropriate legal guidance. Furthermore, when the JFTC carries out its investigation concerning alleged cartel cases in Japan, documents stating the contents of consultations with foreign attorneys regarding relevant international cartel cases are also excluded from the scope of the submission order from the JFTC,⁵⁶ which appears consistent with the intention of Article 11.6.

Chapter 12: Subsidies

I. Notification

Article 12.5(1) and (2) indicate that each Party is expected to fulfil the notification requirements stipulated in this chapter by either:

1. providing a direct notification to the other Party every two years;
2. making information about the subsidies publicly available on the Party's official website; or
3. providing a notification of the relevant subsidies pursuant to Article 25.2 of the WTO Agreement on Subsidies and Countervailing Measures (the "SCM Agreement").

⁵² JFTC website, available [here](#).

⁵³ "Indirect network effect" refers to the effect where the utility for users on one side of a multi-sided market increases, as the number of users on the other side of the market increases.

⁵⁴ JFTC website, available [here](#).

⁵⁵ JFTC website, available [here](#).

⁵⁶ JFTC website, available [here](#).

On 28 June 2019, Japan notified the WTO of its subsidies and other relevant measures pursuant to the SCM Agreement.⁵⁷ However, as subsidies for the service sectors are not covered by the SCM Agreement, and Art. 12.5(3) of the EU-Japan EPA establishes notification obligations concerning certain service sectors, Japan is still required to fulfill the notification requirement regarding subsidies for such service sectors, if any.

II. Cooperation between the Parties

Within and beyond the scope of the EU-Japan EPA, the Parties have been cooperating to bring appropriate discipline to industry subsidies. As part of such cooperation, on 14 January 2020, the EU, Japan, and the U.S. agreed that the current list of subsidies prohibited under the WTO rules, especially the SCM Agreement, is insufficient to tackle market- and trade-distorting subsidies granted or maintained in certain jurisdictions.⁵⁸ They also agreed that unlimited guarantees and subsidies to an insolvent or ailing enterprise in the absence of a credible restructuring plan, both of which are prohibited under Article 12.7, need to be unconditionally prohibited under the WTO Agreement.

III. Other

There is no Specialised Committee or Working Group for this chapter, and there were no relevant legislative developments in Japan regarding this chapter.

Chapter 13: State-owned Enterprises, Enterprises Granted Special Rights or Privileges, and Designated Monopolies

Article 13.5 requires each Party to ensure that each of its state-owned enterprises (the “SOE”s) acts under non-discriminatory principles with regard to foreign entities and in accordance with commercial considerations. While Japan has no general legislation on SOEs, activities and functions of each SOE are regulated under individual legislation. Typical Japanese entities that are considered “SOEs” pursuant to the definition at the EU-Japan EPA include the Japan Bank for International Cooperation (the “JBIC”), the Development Bank of Japan (the “DBJ”), and Japan Post Holdings (the “JP Holdings”). There are no updates or amendments to the legislation on the JBIC, the DBJ, and the JP Holdings in terms of non-discriminatory principles or actions in accordance with commercial considerations, although major SOEs in Japan were considered to be already required to act in those ways even prior to the entry into force of the EU-Japan EPA.⁵⁹ There is no Specialised Committee or Working Group for this chapter.

⁵⁷ G/SCM/N/343/JPN, available [here](#)

⁵⁸ The European Union News Archive, available [here](#).

⁵⁹ For example, JP Holdings companies shall comply with major business laws (e.g., securities laws, insolvency laws, tax laws, and competition laws) in the same manner as other ordinary private enterprises, which appears to secure non-discriminatory principles governing the JP Holdings.

With regard to “actions in accordance with commercial considerations”, JP Holdings companies conduct business on a self-funded basis, and no funds or subsidies have been provided to those companies by the Japanese government. In addition to this financial independence from the government, insolvency laws apply to JP Holdings companies in the same manner as they do to private companies; therefore, in order to avoid bankruptcy, JP Holdings companies are expected to conduct business in a manner that maximises profits, just as private companies do.

Chapter 14: Intellectual Property

I. Committee on Intellectual Property

On 28 November 2019, the first meeting of the Committee on Intellectual Property took place in Tokyo,⁶⁰ and the following issues were discussed:

- *Copyright*: The latest legislative developments and issues related to copyright and related rights, in particular copyright systems relating to the digital environment, including measures tackling piracy on the Internet, terms of protection, use of phonograms, and resale rights.
- *Design protections*: Reform of the EU design protection rules, in particular, the protection of spare parts.
- *Patent*: The EU's unitary patent protection system, extension of the scope and term of the grace period, the Unified Patent Court, Standard Essential Patents, including the guide to licencing negotiations and review of the Essentiality check guidelines, the 2019 revision of the Patent Act and other relevant legislation in Japan, and supplementary protection certificates in the EU.
- *Trade secrets*: Trade secrets, including the revision of the Unfair Competition Prevention Act in Japan and Directive 2016/943 in the EU.
- *Enforcement*: Intellectual property enforcement, including border enforcement and countermeasures regarding the sale of counterfeit goods on the internet, in particular through ecommerce platforms.
- *GIs*: Legislative and policy developments on GIs, including the EU's deposit of its instruments of accession to the Geneva Act.
- Cases of possible infringement concerning the protection of KOBE BEEF GI in certain EU Member States.
- Modalities to amend Annex 14-B (List of GIs).

II. GIs

One of the main commitments agreed upon in this chapter was the protection of GIs; Japan was required to take action in this regard, including an amendment to its legislation. The current status of updates to GI protections that have taken place since the EU-Japan EPA entered into force are as follows.

A. GI Protections for EU agricultural products and alcoholic beverages

The Japanese government took measures to ensure the protection of the GIs listed in Annex 14-B (List of GIs) as committed to in the EU-Japan EPA. On 1 February 2019, the Minister of Agriculture, Forestry and Fisheries designated the 71 GIs for EU agricultural products pursuant to Article 23(1) of the GI Act.⁶¹ Additionally, the Commissioner of the NTA confirmed that the 139 GIs for EU alcoholic beverages are protected pursuant to Paragraph 6 of the Labeling Standard for GIs of Alcoholic Beverages (the "Labeling Standard").⁶²

⁶⁰ The Joint Minutes of the meeting are available [here](#).

⁶¹ MAFF website, "The list of the designated GIs of the EU agricultural products", available [here](#) (Japanese only).

⁶² The Labeling Standard is available [here](#) (Japanese only).

B. Limiting the transition period for prior uses of GIs

Japan is required to prohibit prior uses of GIs for EU alcoholic beverages after a transition period of five years starting from the date of protection of the GI. In connection with this commitment, Japan is supposed to amend Paragraph 10(3) of the Labeling Standard, which is a notice issued by the Commissioner of the NTA that establishes exceptions for admitting prior uses of GIs. However, this transition period (i.e., five years) has not been explicitly established in the Labeling Standard yet.

C. Adjustment of GI specifications for certain EU cheeses

In principle, the GIs of EU products are protected in Japan based on the equivalent conditions as established in the specifications registered in the EU; however, some specifications have been modified tentatively considering the circumstances regarding products' distribution in Japan. For example, with regard to certain cheeses, the EU specification states that "the cutting and packing of the cheese shall be entirely carried out in the place of production", but this specification has been modified to include cheeses cut or packed in Japan as one of the authentic products which is entitled to the GI protection. The Parties will complete the review into whether or not such modification is appropriate within three years of the EU-Japan EPA's entry into force, and will adopt a solution which is acceptable to both Parties by the end of the seven-year transitional period.⁶³

D. Adding new GI names to the EU-Japan EPA

The Parties discussed modalities to amend Annex 14-B (List of GIs) at the first meeting of the Committee on Intellectual Property, and will continue discussions aiming to reach an agreement related to the addition of new GIs at the next Joint Committee meeting.

III. Copyright protection

With regard to protection for the public use of phonograms, the Parties exchanged information and had discussions on the latest legislative developments and issues related to copyright and related rights, in particular, the public use of phonograms. The Parties confirmed the importance of the exchange of information, discussions, and cooperation on those matters at the meeting referenced above.

IV. Border Enforcement for Intellectual Property Rights

During the first meeting of the Committee on Intellectual Property, the EU stressed that the importation of goods for personal use that infringe intellectual property rights (the "IPR") should be abolished. At the meeting, the Parties acknowledged the need to enhance the sharing of information regarding the common challenges they face in the field of IPR enforcement. In accordance with this consensus, Japan Customs is promoting the purchase of IPR-compliant goods, especially targeting young people, in cooperation with the Japan Patent Office and other relevant ministries,⁶⁴ as well as strengthening border enforcement of IPR.⁶⁵

⁶³ The GI explanatory material published by the MAFF is available [here](#) (Japanese only). A summary of the transitional period and a list of the cheeses to which this applies is on page 24.

⁶⁴ More information [here](#).

⁶⁵ General information on IPR border enforcement by Japan Customs can be found [here](#).

Chapter 15: Corporate Governance

The EU-Japan EPA proclaims that the Parties “shall take appropriate measures to develop an effective corporate governance framework” and also puts emphasis on: (a) the timely disclosure of information, (b) the effective exercise of shareholders’ rights, and (c) monitoring of company management by the board of directors. Although it appears that there are no specific legislative actions required by the “Corporate Governance” Chapter of the EU-Japan EPA, since the EU-Japan EPA’s entry into force, the primary efforts described below, consistent with such intentions of the EU-Japan EPA, have been implemented in Japan. There is no Specialised Committee or Working Group for this chapter.

I. Amendment of corporate laws

In 2019, both the Companies Act of Japan and an administrative order concerning securities law in Japan were amended.⁶⁶ The amendments encompassed several measures to enhance corporate governance systems, including the following primary items:

1. A requirement for companies to disclose more information concerning directors’ remuneration, including a basic concept and each company’s stance concerning how to decide its amount;
2. A requirement for listed companies to demonstrate their past five year’s record of the Total Shareholders Return (TSR), a major financial indication, in their annual securities reports; and
3. The addition of rules on liability insurance for directors and officers (D&O insurance), which covers financial losses arising from shareholder lawsuits.

II. Issuance of guidelines on group governance system

In June 2019, the Ministry of Economy, Trade and Industry (the “METI”) published guidelines⁶⁷ on group governance systems, describing desirable precautionary actions for securing effective corporate governance for companies with subsidiaries. The guidelines extend the spirit of Japan’s Corporate Governance Code (the “Code”), which is mainly for single-company business management, and complement the Code by showing desirable ways for effective corporate governance, in order to improve the corporate value of the entire company group. One feature of the guidelines is a chapter focusing on securing effective corporate governance concerning listed subsidiaries in Japan, primarily through the appointment of independent outside director(s).

Chapter 16: Trade and Sustainable Development

I. Committee on Trade and Sustainable Development

The first meeting of the Committee on Trade and Sustainable Development (the “TSD”) took place on 29-30 January 2020 in Tokyo⁶⁸. The committee discussed the main implementation measures taken after the EU-Japan EPA entered into force, including information regarding TSD, in particular, information regarding update on implementation of MEAs, update on developments on trade and

⁶⁶ Executive summary of the amendment can be found [here](#) and the result of the public consultation can be found [here](#) (both, Japanese only).

⁶⁷ The guidelines can be found [here](#) (Japanese only).

⁶⁸ The joint minutes and agenda for the Committee on Trade and Sustainable Development can be found [here](#).

environment, information on relevant ongoing cooperation activities, update on implementation of MEAs on Climate Change, and cooperation on trade and climate. With regard to trade and labour, the committee also discussed update on ratification and implementation of ILO conventions and potential cooperative activities. The below section II. elaborates and supplements the discussions made in the committee.

With regard to cooperation on TSD issues, as explained in the committee dialogue, Japan has been implementing the provisions on domestic advisory groups through its existing consultative mechanism, in particular the Central Environment Council under the Ministry of the Environment (the “MOE”)⁶⁹ and the Labour Policy Council⁷⁰ under the MHLW.

In addition, pursuant to Article 16.16, the first meeting of the Joint Dialogue with Civil Society regarding TSD was held on 31 January 2020, in which the participants exchanged views on TSD, including cross-cutting aspects of TSD, trade and the environment, and trade and labour.⁷¹

II. Actions taken by the government of Japan to implement the Chapter on Trade and Sustainable Development

A. Multilateral Environmental Agreements

With regard to the multilateral environmental agreements ratified by Japan, Japan has taken the following implementation measures. Pursuant to the Convention on Biological Diversity, Japan previously mapped out the National Biodiversity Strategy, which will end in 2020.⁷² In order to draft the next National Biodiversity Strategy, Japan has set up a new study group and held its first meeting on 7 January 2020.⁷³ With regard to the Basel Convention and the Strategic Approach to International Chemicals Management (the “SAICM”), Japan established the SAICM National Implementation Plan of Japan in 2012, which came to an end in 2020. Subsequently, Japan is preparing a report on its progress, and plans to submit the report to the SAICM office.⁷⁴

Japan has also been working toward realisation of the “Osaka Blue Ocean Vision”, shared at the G20 Osaka Summit,⁷⁵ which aims to reduce additional pollution by marine plastic litter to zero by 2050.

⁶⁹ Information on the Central Environment Council can be found [here](#) (Japanese only).

⁷⁰ Information on the Labour Policy Council can be found [here](#) (Japanese only).

⁷¹ The agenda for the Joint Dialogue with Civil Society can be found [here](#); the list of participants can be found [here](#).

⁷² Information on the National Biodiversity Strategy 2012-2020 can be found [here](#) (Japanese only).

⁷³ Information on the study group for the next National Biodiversity Strategy can be found [here](#) (Japanese only).

⁷⁴ Information on the national implementation of the SAICM can be found on the website of the MOE [here](#) (Japanese only).

⁷⁵ Information on the Osaka Blue Ocean Vision can be found at the website of the Ministry of Foreign Affairs of Japan [here](#) (English); or [here](#) (Japanese).

Other notable Japan's movement to address climate change are⁷⁶ the publication of its long-term strategy under the Paris Agreement,⁷⁷ engagement in UNFCCC negotiations,⁷⁸ further encouragement of innovation,⁷⁹ and participating in the Task Force on Climate-related Financial Disclosures (the "TCFD"),⁸⁰ ESG Finance,⁸¹ and Joint Crediting Mechanism (the "JCM") projects.⁸²

B. Ratification and Implementation of ILO conventions

Concerning the continued and sustained efforts towards the ratification of fundamental ILO Conventions, On 26 June 2019, National Diet of Japan both in the House of Representatives and Councillors, unanimously adopted "Resolution concerning Japan's further contributions to the International Labour Organization (ILO) for the commemoration of the centenary of its foundation". The resolution reflects the determination of the legislative body and its contribution to the ILO activities, including towards the ratification of outstanding core conventions - ILO C105 (Abolition of Forced Labour Convention, 1957) and C111 (Discrimination (Employment and Occupation) Convention, 1958).

In connection to the above, relevant Japanese ministries continue holding discussions concerning the ratification of the two Conventions.

As regards other Conventions, in January 2019 Japan ratified the 2016 amendments to the Maritime Labour Convention. The ratification of the 2018 amendments is undergoing. No other ILO conventions has been ratified since the EU-Japan EPA⁸³ entered into force.

Chapter 17: Transparency

This chapter deals with the general, country-wide system of enactment, maintenance, and enforcement of each Party's laws and regulations. There were no issues or developments in relation to

⁷⁶ Information on Japan's efforts on climate change can be found on the website of the Ministry of Foreign Affairs [here](#) (English); or [here](#) (Japanese).

⁷⁷ Japan established the outlines of Japan's Long-term strategy under the Paris Agreement in June 2019, a copy of which can be found at the MOE website available [here](#) (Published in English). Information on Japanese engagement regarding the Paris Agreement can also be found on website of the Ministry of Foreign Affairs [here](#) (Japanese only).

⁷⁸ Information on engagement by the Japanese government regarding climate change can be found on the website of the Ministry of Foreign Affairs [here](#) (English); or [here](#) (Japanese).

⁷⁹ In January 2020, Japan established a strategy for technological innovation for the Paris Agreement, which can be found [here](#) (Japanese only).

⁸⁰ MOE has published a practical guide on implementing the guidance provided by the TCFD, which can be found on the [MOE website](#) (The practical guide is published both in English and in Japanese). METI has also published case scenarios and a list of companies and entities endorsing implementation of the TCFD, which can be found [here](#).

⁸¹ Information on the High Level Meeting on ESG Finance can be found [here](#) (Japanese only).

⁸² For further engagement by the Japanese government on JCM see the website of the Ministry of Foreign Affairs available [here](#) (English); or [here](#) (Japanese). See also the website of Carbon Markets Express [here](#) (English); or [here](#) (Japanese).

⁸³ For the ILO Conventions ratified by Japan, see the ILO website [here](#). For further information on the ratification and implementation of ILO conventions by Japan, see the website of the MHLW [here](#) (Japanese only), and the website of ILO Japan branch available [here](#) (English); or [here](#) (Japanese).

this chapter since the EU-Japan EPA entered into force. There is no Specialised Committee or Working Group for this chapter.

Chapter 18: Good Regulatory Practices and Regulatory Cooperation

I. Committee on Regulatory Cooperation

On 20 January 2020, the first meeting of the Committee on Regulatory Cooperation was held via a video conference. The Parties discussed the scope and functioning of the committee as well as matters related to Section A of Chapter 18, including possible ways to reflect discussions conducted by other Specialised Committees and EU-Japan cooperation fora and opinions of business stakeholders, in the activity of the committee.⁸⁴

Among other things, the Parties exchanged information on their following practices to ensure “early information on planned regulatory measures” as stipulated in Article 18.6.

EU:

All planned major regulatory measures and initiatives in annual work programmes of the European Commission are available on its website.

Japan:

1. A list of laws expected to be submitted to the National Diet is compiled and publicised by the Cabinet Secretariat;
2. All laws and regulations under the public consultation process are listed online via the “e-Gov” system; and
3. The ministries publicise online overviews of long-term policy strategies or relevant documents.

The Parties, in order to have a broad overview of ongoing discussion on cooperative activities concerning regulatory measures between the EU and Japan, decided to draft ahead of the next meeting a list of activities discussed in other EPA Specialised Committees and regulatory fora beyond the EPA.

II. Other

There were no legislative developments in Japan relating to this chapter between 1 February 2019 and 31 January 2020.

Chapter 19: Cooperation in the Field of Agriculture

I. Committee on Agricultural Cooperation

The Committee on Agricultural Cooperation had its first meeting on 22 July 2019 in Tokyo.

The discussion between the Parties focused on the environmental and climate change dimension of agricultural activities and cooperation on organic farming.⁸⁵

⁸⁴ The agenda and joint minutes of the Committee on Regulatory Cooperation are available [here](#).

⁸⁵ More information [here](#).

The following day, the delegations from the Parties had a site visit to facilitate understanding of the current status of agriculture in Japan.⁸⁶

II. Other

There were no relevant legislative developments for the purposes of implementation of this chapter. There were, however, numerous policy developments that MAFF has taken in the field of organic farming. For example, each year, MAFF publishes “Basic policy on the Promotion of Organic Agriculture” pursuant to the Act of Promotion of Organic Agriculture, which includes measures aimed at expansion of production in organic agriculture in Japan and cultivating greater demand for such agricultural products.⁸⁷ In order to facilitate organic agriculture, MAFF has a subsidy program which assists organisations that engage in activities such as providing technical support to those practicing organic farming for the first time, establishing a reliable supply system of organic agricultural products, and liaising with organic farming communities and local governments. MAFF also publishes organic agriculture “best practices” on its website.⁸⁸

MAFF also supports environmentally friendly agriculture. In accordance with the Law Concerning Promotion of Multifunctional Roles of Agriculture, a subsidy program is established to promote a way of agriculture that reduces the use of synthetic fertilisers and pesticides by at least 50% with a view to preventing global warming or conserving biodiversity.⁸⁹

Japan expects that the agricultural cooperation between the Parties will promote technical cooperation and information exchange at the production and manufacturing stages of agricultural, forestry, and fishery products and foods, and contribute to further enhancement of associated technologies.⁹⁰

Chapter 20: Small and Medium-Sized Enterprises

Chapter 20 provides for information sharing by means of each Party establishing a website and points of contact between the Parties for the purpose of enhancing cooperation on matters of relevance to small and medium-sized enterprises. This was implemented not through legislative measures but by establishing a [website](#), which qualifies as a “publicly accessible website” specified in Article 20.2(1), as it contains information and links listed in Articles 20.2(1)-(4). In particular, the information corresponding to Articles 20.2(3) and (4) can be found [here](#). There is no Specialised Committee or Working Group for this chapter.

Chapter 21: Dispute Settlement

In order to establish an effective and efficient mechanism for settling disputes between the Parties concerning the interpretation and application of the provisions of the EU-Japan EPA, Chapter 21 provides for two sets of proceedings, namely, mediation and panel procedures. In order to provide for the details of these proceedings, the three rules below were adopted as annexes to the Joint

⁸⁶ More information [here](#).

⁸⁷ The latest version is available [here](#) (Japanese only).

⁸⁸ Information on organic agriculture can be found on MAFF’s website [here](#) (Japanese only). The English website available [here](#) does not contain as much information.

⁸⁹ More information [here](#) (English); or [here](#) (Japanese only).

⁹⁰ More information [here](#).

Committee Decision⁹¹ adopted at the first meeting of the EU-Japan EPA Joint Committee,⁹² which was held on 10 April 2019.

- Mediation Procedure (pursuant to Article 21.6(2))⁹³
- Rules of Procedure of a Panel (pursuant to Article 21.30)⁹⁴
- Code of Conduct for Arbitrators (pursuant to Article 21.30)⁹⁵

In particular, the “Rules of Procedure of a Panel” sets out detailed procedural rules which must be followed when conducting the panel procedure described in Section C of Chapter 21.

In addition, on 26 August 2019, the Joint Committee adopted a Decision establishing a list of 20 individuals who are willing and able to serve as arbitrators, pursuant to Article 21.9(1).⁹⁶

Given that there are no domestic legislation amendments required to implement this Chapter, there were no relevant legislative developments in Japan regarding Chapter 21.

Chapter 22: Institutional Provisions

I. Joint Committee

On 10 April 2019, the Joint Committee established by Article 22.1(1) had its first meeting in Tokyo, Japan, co-chaired by the European Commissioner for Trade, Cecilia Malmström, and the Minister for Foreign Affairs of Japan, Taro Kono.⁹⁷

According to the Joint Minutes, Commissioner Malmström and Minister Kono confirmed the joint commitment of the Parties to fully and efficiently implement the EU-Japan EPA and to facilitate the use of the tariff and other preferences to the full extent, for the benefit of citizens, consumers and businesses, and established contact points pursuant to Article 22.6(1).

⁹¹ Decision No 1/2019 of 10 April 2019 of the Joint Committee of the EU-Japan EPA [2019/1035] *OJ L 167, 24.6.2019, pp. 81–94* available [here](#).

⁹² The Joint Committee had a mandate to “adopt at its first meeting the Rules of Procedure of a Panel and the Code of Conduct for Arbitrators as referred to in Article 21.30, as well as the Mediation Procedure referred to in Article 21.6(2).” pursuant to Article 22.1(4(f)). See the joint minutes for the Joint Meeting [here](#). An electronically converted PDF of the same document is available [here](#).

⁹³ Annex 2 to Decision No 1/2019 of 10 April 2019 of the Joint Committee of the EU-Japan EPA [2019/1035] *OJ L 167, 24.6.2019, pp. 81–94* available [here](#), pp. 84–86.

⁹⁴ Annex 3 to Decision No 1/2019 of 10 April 2019 of the Joint Committee of the EU-Japan EPA [2019/1035] *OJ L 167, 24.6.2019, pp. 81–94* available [here](#), pp. 87–92.

⁹⁵ Annex 4 to Decision No 1/2019 of 10 April 2019 of the Joint Committee of the EU-Japan EPA [2019/1035] *OJ L 167, 24.6.2019, p. 81–94* available [here](#), pp. 93–94.

⁹⁶ Decision No 2/2019 of the Joint Committee under the Agreement between the European Union and Japan for an Economic Partnership of 26 August 2019 on the establishment of the list of individuals who are willing and able to serve as arbitrators [2019/1600] *PUB/2019/1 OJ L 248, 27.9.2019, p. 99–100* available [here](#).

⁹⁷ The Agenda and the Joint Minutes of the meeting can be found respectively [here](#) and [here](#).

As stated in the Decision adopted at the meeting,⁹⁸ pursuant to Articles 22.1(4)(e), 21.6(2), and 21.30, the Rules of Procedure of the Joint Committee, the Mediation Procedure, the Rules of Procedure of a Panel, and the Code of Conduct for Arbitrators were adopted.

II. Specialised Committees and Working Groups

With respect to the Specialised Committees which are established under the auspices of the Joint Committee pursuant to Article 22.3(1), the following Specialised Committees had their first meetings on the following dates:⁹⁹

1. Committee on Trade in Goods: 14 November 2019
2. Committee on Rules of Origin and Customs-Related Matters: 26 June 2019
3. Committee on Sanitary and Phytosanitary Measures: 28-30 October 2019
4. Committee on Technical Barriers to Trade: 15 November 2019
5. Committee on Trade in Services, Investment Liberalisation and Electronic Commerce: 13 November 2019
6. Committee on Government Procurement: 27 November 2019
7. Committee on Intellectual Property: 28 November 2019
8. Committee on Trade and Sustainable Development: 29-30 January 2020
9. Committee on Regulatory Cooperation: 20 January 2020
10. Committee on Agricultural Cooperation: 22 July 2019

With respect to the Working Groups which are established under the auspices of the Committee on Trade in Goods pursuant to Article 22.4(1), the following Working Groups had their first meetings on the following dates:¹⁰⁰

1. Working Group on Wine: 1 February 2019
2. Working Group on Motor Vehicles and Parts: 11 November 2019

Details of the discussions at the meetings of Specialised Committees and Working Groups can be found, where appropriate, in the preceding sections of this report.

III. Other

As this chapter provides for establishment and functions of the Joint Committee, Specialised Committees, and Working Groups, there were no relevant legislative developments in Japan regarding this chapter.

Chapter 23: Final Provisions

With regard to Chapter 23, which contains general provisions for matters such as amendments and termination of the EU-Japan EPA, there were no relevant activities to report which took place after the entry into force of the EU-Japan EPA. There is no Specialised Committee or Working Group for this chapter.

⁹⁸ More information [here](#).

⁹⁹ The Agendas, Reports, and Joint Minutes can be found [here](#).

¹⁰⁰ The Agendas, Reports, and Joint Minutes can be found [here](#).

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