



HOUSE OF LORDS

International Agreements Committee

4th Report of Session 2022–23

**Scrutiny of
international
agreements:
UK-Australia free
trade agreement**

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International Agreements Committee

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Evidence is published online at <https://committees.parliament.uk/work/458/australia-trade-negotiations/> and available for inspection at the Parliamentary Archives (020 7219 3074).

Q in footnotes refers to a question in oral evidence.

SUMMARY

The UK-Australia free trade agreement (FTA) is the first trade deal the UK Government has negotiated entirely from scratch after leaving the European Union and, as such, it is politically significant—offering, in the absence of a published trade policy, an insight into the UK Government’s vision for trade after Brexit. Our scrutiny of this agreement has therefore focused, not just on its provisions, but also on lessons for future trade negotiations.

The deal with Australia is significant because it helps pave the way for our entry into the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), a major Government objective. We welcome the Government’s progress in signing new trade agreements and it was right to secure a trade agreement with Australia ahead of market access negotiations with CPTPP, to which Australia is a Party. However, prioritising the speed of the negotiations may have come at the expense of using the UK’s leverage to negotiate better outcomes—for example, on Geographical Indications (GIs) and the environment.

The Government believes the economic benefits of the UK-Australia FTA are likely to be positive, although its assessment of 0.08% increase of UK GDP by 2035 shows a fairly limited—though welcome—impact. However, there may well be additional positive effects over time, particularly in services and digital trade.

In fact, the evidence we received included warm endorsement of the financial and legal services provisions and digital trade, and highlighted benefits for car manufacturers, SMEs and UK professionals. However, some of these benefits should not be overstated: some are speculative (such as those that may accrue from closer regulatory co-operation) while others (such as those for the manufacturing sector) are limited by technical barriers and a luxury car tax.

Farming organisations were concerned by the FTA and it remains to be seen whether the safeguards in the agreement will be robust enough to ensure fair competition and effectively respond to potential surges in Australian agricultural imports. We note that import volumes may be tempered by geographical distance and geopolitical issues, and the fact that Asia is likely to remain Australia’s main export market. Nevertheless, the unconditional approach to agricultural tariff elimination could set a precedent for future negotiations and the Government should take full account of the potential cumulative effects of this agreement and other FTAs on UK farmers and the agricultural sector. The devolved nations are likely to be particularly affected and, therefore, future impact assessments should provide more detail on how FTAs, individually and cumulatively, will impact them.

Although we heard concerns relating to Australia’s agricultural production methods and animal welfare practices, the Trade and Agriculture Commission’s (TAC’s) findings about the impact of the agreement on UK statutory protections in relation to (a) animal or plant life or health, (b) animal welfare, and (c) environmental protection were mainly positive. It concluded that the FTA will not require the UK to change its levels of statutory protection and that the agreement actually reinforces these, going beyond WTO obligations in several areas.

It identified, however, some instances where differences in production and animal welfare standards could lead to UK farmers competing on an unlevel playing field, particularly for Australian agri-food products grown using pesticides not permitted in the UK. The TAC also found that the UK's right to regulate could be constrained through decisions taken by the Joint Committee set up under the agreement.

Imports from Australia will lead to greater consumer choice, which is welcome. Consumers could also benefit from lower prices for imported goods, but it remains to be seen whether the agreement will lead to cheaper prices, and lower food prices in particular.

There are concerns over the lack of ambition in the environmental chapter, particularly if compared to the one included in the UK-New Zealand FTA. Given the UK's generous tariff offer, it could have pressed for more ambitious commitments on climate change, stronger enforcement provisions, and for an explicit reference to the Paris temperature goals. A lack of tie-up of trade policy with the UK's climate objectives is apparent. The recent change in government in Australia presents an opportunity to improve the environmental and climate change provisions in the agreement, and we urge the Government to do so through the Joint Committee.

The Government needs to do more to involve the devolved administrations from an early stage on reserved matters with a devolved impact, such as tariff liberalisation for agricultural goods. Given the importance of agriculture to Scotland, Northern Ireland and Wales, it is essential they are consulted from the outset and throughout the negotiations, and Parliament should be made aware of their views.

The agreement was hailed as a big success by both Parties, but it remains to be seen how exactly the agreement will affect trade flows, possibly not visible until implementation. In particular, how the agreement will affect UK agriculture; how many businesses will make use of the trade preferences and other facilitations; and whether consumers will benefit from cheaper goods. Continued monitoring of the agreement will be essential. The Government has committed to producing monitoring reports every two years, as well as an evaluation report after five and we are grateful to Lord Grimstone for offering to keep us informed of any significant developments.

We welcome the agreement with Australia. While we have identified some risks flowing from the agreement that will need to be monitored—and there has been an inevitable trade-off between the desire to achieve a rapid agreement and the scope of agreement that could be reached—the FTA clearly offers benefits to both Parties. It will be important for the House to debate it, partly because of its own importance, but also as a forerunner of future trade agreements, and to ensure that the Government hears and responds to the issues raised.

Scrutiny of international agreements: UK-Australia free trade agreement

CHAPTER 1: INTRODUCTION

This report and inquiry

1. This is our first report on a free trade agreement negotiated by the UK Government from scratch, that is without reference to a predecessor EU agreement.
2. In 2021, Australia was the UK's 22nd largest trading partner, accounting for 1.1% of total UK trade.¹
3. **In economic terms, the agreement is forecast to have a modest positive impact. The Government's impact assessment anticipates a 0.08% increase to GDP by 2035—although increased collaboration and positive dynamic effects not captured by the modelling may unlock further benefits over time, particularly in services and digital trade.**
4. **This agreement is, however, politically significant, providing an indication of the UK Government's approach to trade after Brexit.**
5. **The agreement also helps pave the way for the UK's accession to CPTPP. As the then High Commissioner told us, Australia "would have been in a strange position to be championing the UK's accession into the CPTPP if we had not been able to do an FTA with you ourselves".² The UK Government was also able to secure a commitment during the negotiations that Australia would not seek additional market access or faster tariff reduction through the CPTPP negotiations, thus providing a degree of certainty for those negotiations.**
6. We opened our inquiry into the UK-Australia free trade agreement (FTA) in July 2020 and held six evidence sessions on the negotiations, the agreement in principle, and the final agreement. We heard further evidence as part of our inquiry on the UK's accession to the CPTPP. In total, we received 53 written submissions. We are grateful to all those who contributed to our inquiry (see Appendix 2).
7. Our findings take into account feedback on the agreement from relevant stakeholders and we have assessed whether the final text reflects the Government's own stated Negotiating Objectives (enclosed at Appendix 3).
8. **We make this report to the House for debate.**

1 DIT, *Trade & Investment Factsheets: Australia* (17 June 2022): https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1082805/australia-trade-and-investment-factsheet-2022-06-17.pdf [accessed 21 June 2022]

2 [Q 93](#) (HE George Brandis)

CHAPTER 2: SERVICES TRADE, DIGITAL TRADE AND INVESTMENT

Services

9. Services dominate the UK economy, accounting for about 80% of total UK economic output and employment.³ It is therefore important that any new trade deals support the services sectors.
10. The Government's Negotiating Objectives for services included securing ambitious market access commitments; and agreeing rules for services sectors; as well as enhancing opportunities for business travel and supporting the Mutual Recognition of Professional Qualifications (MRPQs).⁴
11. The Government has been successful in achieving these objectives. As with all new trade agreements, we will nonetheless need to wait for implementation to judge the precise impacts these provisions will achieve.

Box 1: UK services trade with Australia

Services trade between the UK and Australia was worth £9.3 billion in 2019, with £6.7 billion of UK exports to Australia and £2.6 billion of imports from Australia. The UK's key services exports to Australia were other business services, travel, and insurance and pension. The key imports from Australia were other business services, travel and financial services.

Australia was the UK's 10th largest export market for services.

Source: ONS, 'UK trade in services: service type by partner country, non-seasonally adjusted', (28 April 2022): <https://www.ons.gov.uk/businessindustryandtrade/internationaltrade/datasets/uktradeinservicesservicetypebypartnercountrynonseasonallyadjusted> [accessed 22 June 2022] Note: we have decided to provide data for 2019 as the nearest pre-pandemic comparator

12. Services provisions appear across a range of chapters, including those on cross-border trade in services,⁵ professional services and recognition of professional qualifications,⁶ and temporary entry of business persons.⁷
13. The agreement liberalises services by providing commitments which match either side's best offerings on services. Under the 'most favoured nation' provision, if either Party provides more liberal access to their markets for other countries, they will extend it to each other.⁸ Australia will provide market access commitments at the sub-federal level for the first time.⁹ The agreement also uses a negative listing approach, which means that all sectors are liberalised by default and must follow the commitments in the services

3 House of Commons Library, *Service industries: Key Economic Indicators, Research Briefing*, SN02786, 13 June 2022

4 DIT, *UK-Australia: Free Trade Agreement, The UK's Strategic Approach* (July 2020): https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/901886/uk-strategy-australia-free-trade-agreement.pdf [accessed 21 June 2022] Subsequently: Strategic Approach.

5 Free Trade Agreement between the United Kingdom of Great Britain and Northern Ireland and Australia, CP 689 Volume 1 (17 December 2021), **Chapter 8: Cross-Border Trade in Services**: <https://www.gov.uk/government/publications/ukaustralia-free-trade-agreement-cs-australia-no12022> [accessed 21 June 2022]. Subsequently: UK-Australia FTA

6 **Chapter 10: Professional Services and Recognition of Professional Qualifications**, UK-Australia FTA

7 **Chapter 11: Temporary Entry for Business Persons**, UK-Australia FTA

8 **Article 8.4 Most-favoured-nation-treatment**, UK-Australia FTA

9 **Article 8.3 National Treatment**, UK-Australia FTA

and investment chapters, unless they are listed explicitly as reservations or exceptions.¹⁰

14. Overall, the evidence from stakeholders in services has been positive, including from the legal, financial, professional business services and technology sectors.¹¹

Professional services

15. The Professional Services and Recognition of Professional Qualifications chapter encourages the recognition of professional qualifications and establishes a Professional Services Working Group (PSWG) to enable co-operation. The Royal Institute of British Architects welcomed this, noting that the lack of mutual recognition of qualifications is the biggest non-tariff barrier affecting architects.¹² The Professional and Business Services Council and the Law Society of Scotland also welcomed the establishment of the working group, but noted that the agreement only sets out the framework for mutual recognition and that both Parties will need to use the framework to reap the benefits.¹³
16. For legal services, the agreement contains guarantees that UK lawyers will be able to practise the law of the other Party, other foreign law (to the extent qualified) and international law in Australia using their home qualification.¹⁴ This meets a key request from the Law Society of England and Wales.¹⁵ The agreement further establishes a regulatory dialogue for legal services to share expertise, discuss regulatory matters, and issues affecting the re-qualification of lawyers seeking to practise in the other country,¹⁶ which Penelope Nevill of Twenty Essex Chambers welcomed.¹⁷

Financial services

17. The financial services chapter includes commitments on non-discrimination and market access, which provides legal certainty and locks in market openness for financial services.¹⁸ The Financial Services Regulatory Co-operation Annex sets out the groundwork for future regulatory dialogue.¹⁹
18. Witnesses were positive about the financial services provisions. The City of London Corporation emphasised the importance of regulatory co-operation to reduce trade barriers and welcomed the commitment to regulatory dialogue. It also told us that the financial services chapter sets a useful ‘best practice’ precedent for the insurance and re-insurance sectors in future trade deals.²⁰

10 The reservations and exceptions are listed in the schedules of non-conforming measures for services and investment. Each Party has its own schedules, which are provided in [Annexes I-III](#) to the UK-Australia FTA.

11 Written evidence from The City of London Corporation ([AUT0053](#)); The Professional and Business Services Council ([AUT0047](#)) and [Q 66](#) (Penelope Nevill)

12 Written evidence from Royal Institute of British Architects (RIBA) ([AUT0030](#))

13 Written evidence from The Professional and Business Services Council ([AUT0047](#)) and The Law Society of Scotland ([AUT0045](#))

14 [Article 10.7 Legal Services](#), UK-Australia FTA

15 Written evidence from the Law Society of England and Wales ([AUT0001](#))

16 [Article 10.8](#), UK-Australia FTA

17 [Article 10.7](#), UK-Australia FTA and [Q 78](#) (Penelope Nevill)

18 [Chapter 9 Financial Services](#), UK-Australia FTA

19 [Annex 9C Financial Services Regulatory Cooperation](#), UK-Australia FTA

20 Written evidence from The City of London Corporation ([AUT0053](#))

19. **We welcome the provisions facilitating services trade, including those in relation to legal and financial services, which represent a significant benefit to the UK. We highlight, in particular, the guarantees that UK lawyers will be able to practise the law of the other Party, other foreign law (to the extent qualified) and international law in Australia using their home qualification.**
20. **The establishment of a Professional Services Working Group (PSWG) to facilitate discussions on the mutual recognition of other professional qualifications is a positive step, though this is a framework and does not yet secure such mutual recognition.**
21. **The Government should continue to hold discussions with Australian counterparts and support UK regulators in securing mutual recognition. We ask the Government to clarify whether discussions will be needed with regulators at the sub-federal level in Australia; and, if so, what steps it is taking to engage with individual states.**

Mobility

22. The agreement should make it easier for UK professionals to work in Australia and *vice versa*. Witnesses explained that the current process of obtaining visas to enter Australia for business purposes can be time-consuming, bureaucratic and a barrier to greater investment and exchanges.²¹
23. The Temporary Entry for Business Persons Chapter²² allows UK suppliers of legal and architectural services, for example, to enter and temporarily stay in Australia to supply those services without the need for any further eligibility criteria. Businesses in Australia will no longer have to prove that they cannot find an Australian to temporarily supply a service before they sponsor a visa for a UK professional.²³
24. The agreement also widens the youth mobility scheme, under which 18 to 30-year-olds can travel to the UK or Australia. It now raises the age to 35, which is in line with arrangements Australia had previously negotiated with France, Canada and Ireland.²⁴ UK applicants also no longer have to meet any specified work requirements when applying for an extension of their visa for a second or third year.
25. The Explanatory Memorandum acknowledges that changes to the UK's immigration rules will be required to implement these new provisions.²⁵
26. **We welcome the improvements in mobility arrangements, which can increase services trade. While it is difficult to quantify their impact at this stage, Australia's removal of an economic needs tests and skilled**

21 Written evidence from the Royal Society of British Architects ([AUT0011](#)) and London Market Group ([AUT0015](#))

22 [Chapter 11: Temporary Entry for Business Persons](#), UK-Australia FTA

23 [Article 11.4 Grant of Temporary Entry](#), UK-Australia FTA

24 [Joint Declaration on Agriculture and Agribusiness Workers](#), UK-Australia FTA. See also: Australian Government Department of Home Affairs, 'Latest news' (1 June 2022): <https://immi.homeaffairs.gov.au/what-we-do/whm-program/latest-news> [accessed 21 June 2022]

25 DIT, *Explanatory Memorandum on the Free Trade Agreement between the United Kingdom of Great Britain and Northern Ireland and Australia* (16 December 2021), paras 5.7 and 5.8: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1040885/uk-australia-free-trade-agreement-fta-draft-explanatory-memorandum.pdf [accessed 21 June 2022] Subsequently: EM

occupation list for UK professionals should increase the movement of UK professionals and delivery of services in Australia.

Digital and data

27. The Government's Negotiating Objectives on digital trade included facilitating the free flow of data; preventing data localisation requirements; reducing restrictions on access to the Australian digital market; abolishing customs duties on electronic transmissions; promoting consumer protections online; and protecting users from emerging online harms.²⁶ The Government has been successful in incorporating these into the agreement, but some concerns remain regarding personal data protection.
28. The Digital Trade Chapter²⁷ introduces several novel provisions that go further than the commitments included in the UK-Japan trade agreement. They are mostly about improving co-operation on digital matters. New provisions include those on digital identities,²⁸ regulatory co-operation, and data innovation. Dr Emily Jones *et al* noted that these provisions draw extensively on the Australia-Singapore Digital Economy Agreement.²⁹
29. Although 'soft' commitments, these undertakings to co-operate could lead to further gains. The Professional and Business Services Council told us, "the true value of the digital trade chapter is likely to result from the regulatory dialogue that the FTA will establish between the UK and Australia".³⁰ We will, however, only be able to judge whether they have had a positive effect once the agreement has been implemented. The impact assessment provides little detail on the potential impacts of the digital trade provisions, both in terms of economic impacts on UK industries and consumers, and on the UK regulatory framework.
30. Other key provisions include the free flow of data, a ban on requirements to localise data or transfer source code, and the legal recognition of electronic contracts and signatures. These are standard provisions in modern free trade agreements and have been welcomed.³¹
31. The City of London Corporation noted that Australia does not have a data adequacy ruling from the UK Government, which means that Australia's data protection regime is not interoperable with that of the UK.³² Dr Emily Jones and her team from the Blavatnik School of Government at the University of Oxford further pointed out that Australia does not have data adequacy from the EU. This could present challenges to UK firms when transferring data to Australia, the UK is obliged to safeguard EU data transfers and must be careful not to inadvertently transfer EU data.³³ Data adequacy with the EU is important for UK businesses, enabling personal data to continue to

26 *Strategic Approach*, p 10

27 [Chapter 14: Digital Trade](#), UK-Australia FTA

28 Digital identities are a way for people to quickly and easily prove their identity using digital methods, such as a username and password, instead of traditional physical documents such as passports and driving licences.

29 Written evidence from Emily Jones, Danilo Garrido Alves, Beatriz Kira, and Rutendo Tavengerwei ([AUT0055](#))

30 Written evidence from The Professional and Business Services Council ([AUT0047](#))

31 See, for example, written evidence from techUK ([AUT0027](#)), the Federation of Small Businesses ([AUT0032](#)) and the Professional and Business Services Council ([AUT0047](#)).

32 Written evidence from The City of London Corporation ([AUT0053](#))

33 Written evidence from Emily Jones, Danilo Garrido Alves, Beatriz Kira, and Rutendo Tavengerwei ([AUT0055](#))

flow freely from the EU to the UK, avoiding any new legal barriers. It will be crucial that the Government closely monitors the implementation of the Australia agreement for any developments that could put the EU's adequacy decision at risk.

32. It is unclear how UK consumers' data will be protected after being transferred to Australia, as the agreement only commits Parties to implement their own domestic frameworks for data protection. The consumer rights group Which?, while welcoming the focus on online consumer protection, was concerned that UK consumers' data could be subject to lower levels of protection when transferred on to a third Party via Australia.³⁴ A footnote to Article 14.12 states that compliance with the personal data protection provision can be met in various ways, including through the enforcement of voluntary undertakings of businesses,³⁵ an approach which Emily Jones *et al* state "is much weaker than the UK GDPR regime".³⁶
33. **We welcome the agreement's provisions on digital trade. The ban on data localisation requirements should benefit many sectors, including financial services. The Government's Impact Assessment did not quantify the potential impacts of the digital trade provisions. Given the importance of digital trade, we call on the Government to strengthen their assessments and ensure that it is included in Impact Assessments in future.**
34. **Some questions remain regarding the protection of personal data, given the differences between the UK and Australia's data protection regimes. We ask the Government to explain how it will ensure that UK citizens' personal data exchanged under the agreement will be protected and offer commitments that digital trade provisions in new FTAs will not risk losing the UK's data adequacy decision with the EU.**

Investment

35. The UK is the third largest direct investor in Australia and the second largest recipient of Australian foreign direct investment, making investment a significant part of the trading relationship. In 2019, UK individuals and companies had over £39 billion directly invested in Australia.³⁷
36. The Government's Negotiating Objectives sought to establish rules to guarantee UK investors in Australia the same rights and protections they would receive in the UK, and to maintain the UK's right to regulate in the national interest, including to protect the NHS.³⁸ The Government has been successful in writing these objectives into the agreement.
37. The Investment Chapter includes market access commitments and rules on the fair treatment of investors.³⁹ Annex I contains national treatment provisions for fair treatment of investors and raises Australia's foreign investment screening threshold for UK investors for non-sensitive investments to 1.25

34 Written evidence from Which? ([AUT0046](#))

35 [Article 14.2.2 Personal Information Protection](#), UK-Australia FTA

36 Written evidence from Emily Jones, Danilo Garrido Alves, Beatriz Kira, and Rutendo Tavengerwei ([AUT0055](#))

37 EM, p 2

38 *Strategic Approach*, p 11

39 [Chapter 13: Investment](#), UK-Australia FTA

billion Australian dollars.⁴⁰ Raising the investment screening threshold had been sought by witnesses during the negotiations⁴¹ who welcomed the outcome.⁴²

38. However, the UK Trade Policy Observatory (UKTPO) noted that Australia's investment liberalisation commitments were more restrictive than its commitments on services, with the agreement containing 37 non-conforming measures, or reservations, related to investment, compared to 24 non-conforming measures for cross-border services.⁴³
39. The NHS Confederation and Friends of the Earth welcomed the non-inclusion of investor state dispute settlement (ISDS) provisions, under which individual investors could file complaints against governments and do not have to rely on their home governments to seek redress.⁴⁴ Instead, the Dispute Settlement Chapter contains a traditional state-to-state dispute settlement mechanism whereby only governments can challenge each other.⁴⁵ Civil society organisations had been vocal about their concerns over ISDS at the outset of the negotiations.⁴⁶ Campaign group Keep Our NHS Public raised concerns that ISDS could have a 'chilling effect' on the government's right to regulate in the public interest.⁴⁷
40. The Government's position on ISDS in trade agreements has yet to be clarified, though it has stated in the past that the UK was "one of the world's top users of the investor state dispute resolution mechanisms" and "not a single case has been successful against the UK".⁴⁸ While this agreement does not include ISDS, the CPTPP agreement the UK is seeking to join does.
41. **We welcome the investment provisions in the agreement.**
42. **However, Government policy towards investor-state dispute settlement (ISDS)—though not included in this agreement—remains unclear. We call on the Government to clarify its policy towards ISDS, including its position on other mechanisms for investment protection. The absence of a clear policy begs the question whether the omission of ISDS in this agreement was sought by the Government, or whether it assented to an Australian request to exclude it.**

40 [Annex 1, Schedules of non-conforming measures for services and investment: Schedule of Australia](#), UK-Australia FTA

41 Written evidence from the City of London Corporation and TheCityUK ([AUT0019](#)) and Octopus Group ([AUT0006](#))

42 Written evidence from the Professional and Business Services Council ([AUT0047](#)); Royal Institute of British Architects ([AUT0030](#)) and The City of London Corporation ([AUT0053](#))

43 Written evidence from the UKTPO ([AUT0056](#))

44 Written evidence from NHS Confederation ([AUT0042](#)) and Friends of the Earth ([AUT0038](#))

45 [Chapter 30: Dispute Settlement](#), UK-Australia FTA

46 Written evidence from Trade Justice Movement ([AUT0009](#)); Compassion in World Farming ([AUT0012](#)) and Keep Our NHS Public ([AUT0008](#)) One of the main concerns raised about ISDS was that it would have the effect of constraining the Government from introducing public interest regulatory measures for fear that overseas investors will bring arbitration cases in response.

47 Written evidence from Keep Our NHS Public ([AUT0008](#))

48 Oral evidence taken before the International Trade Committee, 6 March 2019 (Session 2017–19), [Q 822](#) (Dr Liam Fox)

CHAPTER 3: GOODS TRADE

43. The Government's Negotiating Objectives were to "secure broad liberalisation of tariffs on a mutually beneficial basis, taking into account UK product sensitivities, in particular for UK agriculture".⁴⁹ It also aimed to secure tariff free access for UK industrial and agricultural goods into Australia.⁵⁰

Box 2: UK goods trade with Australia

In 2019, total goods trade with Australia was worth approximately £8.8 billion, with UK exports worth approximately £4.6 billion and Australian imports worth £4.2 billion. Australia was the UK's 11th largest goods export market and 15th largest source of imported goods.

The UK's key goods exports to Australia in 2019 were machinery and transport equipment, material manufactures, and miscellaneous manufactures. Key imports were machinery and transport equipment, miscellaneous manufactures and chemicals.

Sources: ONS, UK trade release: Trade in goods: Country by commodity exports, current prices, non-seasonally adjusted, May 2022; ONS, UK trade release: Trade in goods: Country by commodity imports, current prices, non-seasonally adjusted, May 2022; DIT, Impact assessment of the FTA between the UK and Australia, December 2021: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1073969/impact-assessment-of-the-free-trade-agreement-between-the-united-kingdom-of-great-britain-and-northern-ireland-and-australia.pdf [accessed 21 June 2022]

44. The agreement delivers broad tariff liberalisation for goods, most of which will be eliminated almost immediately.⁵¹ It is worth noting that the UK and Australia's starting positions on tariffs were different. Overall, the UK has higher most-favoured nation (MFN) tariffs⁵² than Australia, mostly ranging between 0% to 20%, with a significant number between 20% to 30%, and some tobacco products at 70%.⁵³ By contrast, Australia's tariffs range between 0% to 5%, except for some cheeses which are at 20%.⁵⁴
45. Under the UK-Australia FTA, 98% of UK exports would be able to enter Australia duty-free on entry into force, rising to 100% by the sixth year.⁵⁵ Australia will remove customs duties on industrial iron and steel products in five equal instalments and on cheeses in six equal instalments.⁵⁶ In return, the UK would eliminate its tariffs for 98.5% of goods from entry into force, with a gradual tariff liberalisation for ten products through tariff rate quotas⁵⁷ and retention of tariffs for some pig, chicken, and long-grain rice products.⁵⁸

49 *Strategic Approach*, p 9

50 *Ibid.*

51 The tariff liberalisation schedules for the UK and Australia can be found in the Annexes to [Chapter 2: Trade in Goods](#), UK-Australia FTA

52 Most-favoured nation tariffs are the duties that a World Trade Organization (WTO) country imposes on imports from other members of the WTO, unless the country is part of a preferential trade agreement, such as a free trade agreement or a customs union.

53 [Schedule of tariff commitments of the United Kingdom, Part 2B-4](#), UK-Australia FTA

54 [Schedule of tariff commitments of Australia, Part 2A-2](#), UK-Australia FTA

55 DIT, *Impact Assessment of the FTA between the UK and Australia* (16 December 2021), p 16: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1041629/impact-assessment-of-the-free-trade-agreement-between-the-united-kingdom-of-great-britain-and-northern-ireland-and-australia.pdf [accessed 21 June 2022]

56 [Schedule of tariff commitments of Australia, Part 2A-2](#), UK-Australia FTA

57 [Tariff rate quotas of the United Kingdom, Section 2B Tariff schedule of the United Kingdom](#), UK-Australia FTA

58 [Schedule of tariff commitments of the United Kingdom, Part 2B-4](#), UK-Australia FTA

Agriculture and food

Tariff liberalisation and safeguard mechanisms

46. The agreement contains safeguards to mitigate the impact of unforeseen surges in agricultural imports. However, stakeholders argued that the safeguards do not go far enough to protect UK agriculture.⁵⁹ The safeguards include:

- an interim period of rising tariff rate quotas (TRQs) for sensitive products before tariffs are fully eliminated;
- product-specific safeguards for beef and sheep meat;
- general safeguards

Tariff rate quotas

47. For an interim period—from four to ten years depending on the product—certain agricultural goods will be able to enter the UK tariff free up to a set volume, i.e. they will be subject to so-called tariff rate quotas (TRQs). Tariffs will be due only on imports in excess of the TRQ threshold, which will rise on an annual basis. TRQs are put in place for beef and sheep meat for the first 10 years; for dairy products for the first five years; for barley, wheat and meslin, and broken rice for the first four years; and sugar for the first eight years. With each year, the volume thresholds of the TRQs will increase.⁶⁰

48. The NFU (England & Wales) were disappointed that the TRQs for beef and sheep meat will be calculated on the basis of shipped product weight instead of carcass weight equivalent, and that the TRQs will not be distributed across the year, recognising the seasonality of the UK market.⁶¹

49. While the Government said that UK producers will be able to benefit from increased export opportunities,⁶² we heard from witnesses that export benefits will be limited because Australia already has a very low tariff regime.⁶³

Product-specific safeguards for beef and sheep meat

50. The agreement contains a product-specific safeguard,⁶⁴ which is an ‘emergency’ measure that countries can deploy to restrict imports of certain products if a domestic industry is seriously injured or threatened with serious injury due to increased imports.⁶⁵ Under this, the Government can increase customs duties on beef and sheep meat to 20% on further imports if certain thresholds set out for years 11 to 15 are exceeded.⁶⁶ However,

59 Written evidence from National Farmers Union (England & Wales) ([AUT0054](#)) and the National Sheep Association ([AUT0041](#))

60 [Section 2B Tariff schedule of the United Kingdom](#), UK-Australia FTA

61 Written evidence from National Farmers Union (England & Wales) ([AUT0054](#)) and ([AUT0028](#))

62 The Government’s scoping assessment stated that a key benefit of a trade agreement with Australia would be “reduced barriers to trade in goods, which will make trade easier and cheaper for the UK’s existing exporters to Australia, whilst at the same time benefitting UK consumers”. See: Strategic Approach, p 7

63 Written evidence from Dairy UK ([AUT0021](#))

64 [Part 2B-3 Product specific safeguard measures, Section 2B Tariff schedule of the United Kingdom](#), UK-Australia FTA

65 WTO, ‘Technical Information on Safeguard Measures’: https://www.wto.org/english/tratop_e/safeg_e/safeg_info_e.htm [accessed 21 June 2022]

66 The thresholds to trigger the product-specific safeguards for beef and sheep meat can be found under [Subsection 2B-3-2: Product treatment](#), UK-Australia FTA.

witnesses stated that the safeguard thresholds were too high to be effective.⁶⁷ The trigger threshold for year 15 (170,000mt), for example, is equivalent to approximately half of the UK's annual total beef imports.⁶⁸

General safeguard

51. The agreement includes a general bilateral safeguard, under which the importing Party may suspend the customs duty reduction or elimination; or increase the customs duty to a level that does not exceed the most-favoured-nation duty under WTO rules.⁶⁹ However, the National Farmers Union argued that the bar to trigger action under the general bilateral safeguard is high,⁷⁰ given that to use the safeguard the UK must demonstrate “serious injury or threat of serious injury caused by increased imports of an originating good of the other Party.”⁷¹
52. In addition to the bilateral safeguard in the FTA, the Parties will also have access to the WTO general safeguard, which can be introduced at any time to temporarily restrict the import of a product to protect a specific domestic industry from serious injury caused by an increase in imports.
53. We do not yet know how exactly the agreement will impact the UK market and how effective the above measures will be in managing the transition to zero tariffs. Given the geographical distances and costs involved in shipping agricultural goods to Australia, and the fact that Asia represents Australia's main export market, trade experts told us that it is unlikely that the UK would be overwhelmed with imports from Australia. Emily Rees told the Committee that often “there are better clients in other parts of the world for that produce, and therefore you rarely have full use of the quota that is put forward.”⁷² Additionally, Sam Lowe of Flint Global noted, “There will also be pressure on suppliers from the EU, where I suspect there could be some displacement, so instead of importing from Ireland we might import beef from Australia instead.”
54. However, the UK Government's Impact Assessment estimates a 0.70% reduction in Gross Value Added (GVA) for the agriculture, forestry, and fishing sector,⁷³ and a reduction in gross output of around 3% for beef and 5% for sheep meat.⁷⁴ For some livestock farmers and food producers, the agreement will therefore have a negative effect. The devolved administrations, in particular, have raised concerns that increased beef and lamb imports

67 Written evidence from Farmers Union of Wales ([AUT0031](#)) and National Farmers Union (England & Wales) ([AUT0054](#))

68 Written evidence from National Farmers Union (England & Wales) ([AUT0054](#)). According to the Agriculture and Horticulture Development Board, the UK's total beef imports for 2021 was 241,3000 tonnes: AHDB, ‘UK beef imports up, exports down: 2021 trade review’ (16 February 2022): <https://ahdb.org.uk/news/uk-beef-imports-up-exports-down-2021-trade-review> [accessed 21 June 2022]

69 [Article 3.6 Application of a Bilateral Safeguard Measure](#), UK-Australia FTA

70 Written evidence from National Farmers Union (England & Wales) ([AUT0054](#))

71 [Article 3.9 Notification and Consultation](#), UK-Australia FTA

72 [Q 54](#) (Emily Rees)

73 DIT, *Impact Assessment of the FTA between the UK and Australia* (16 December 2021), p 30: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1041629/impact-assessment-of-the-free-trade-agreement-between-the-united-kingdom-of-great-britain-and-northern-ireland-and-australia.pdf [accessed 21 June 2022]

74 *Ibid.*, p 32

could have a disproportionate negative impact on their agricultural and food sectors.⁷⁵

55. The prospect of zero tariff agreements with other large agricultural producers could result in cumulative pressures on the agri-food sector. UK farming groups and the devolved administrations were concerned that other negotiating partners would seek similar levels of market access, which would have cumulative negative impacts on the UK agricultural sector.⁷⁶
56. **It remains to be seen how UK agriculture will be impacted by the agreement with Australia and whether the tariff rate quotas and safeguards will protect the interests of the UK agricultural sector, and that of the devolved nations in particular.**
57. **Individual UK producers may be adversely affected by increased agricultural imports from Australia. We therefore welcome the Government's assurances that it will be monitoring the usage of TRQs in real time through its licensing system and monitor the implementation of the agreement.**⁷⁷
58. **There is a risk that this agreement could set a precedent for the negotiations with countries closer to the UK market, particularly with other large agricultural producers, such as the US, Canada, Mexico, Argentina and Brazil. The impacts of the UK-Australia agreement may therefore go well beyond this particular FTA.**
59. **The key question is the extent to which liberalisation in agricultural trade in the Australia agreement will be claimed as a precedent in future FTA negotiations. The Government regard each FTA in its own terms, but there will be expectations created for future negotiations.**

Production methods and animal welfare

60. The Government's negotiating objectives stated that it would "ensure high standards and protections for UK consumers and workers and build on our existing international obligations. This will include not compromising on our high environmental protection, animal welfare and food safety standards."⁷⁸
61. Although all imports into the UK must meet our food safety and sanitary and phytosanitary (SPS) measures, this does not cover production methods, including on animal welfare. Witnesses noted these practices diverge between the UK and Australia and raised concerns about Australian practices such as battery-hen cages, hot-iron branding, mulesing,⁷⁹ and longer transport times for animals, as well as use of pesticides which are banned in the UK, and

75 Written evidence from the Northern Ireland Executive ([AUT0051](#)); the Scottish Government ([AUT0049](#)); and Welsh Government, *UK-Australia Free Trade Agreement: A Welsh Government Perspective* (10 May 2022): <https://gov.wales/sites/default/files/publications/2022-05/uk-australia-free-trade-agreement.pdf> [accessed 21 June 2022]

76 Written evidence from National Farmers Union (England & Wales) ([AUT0054](#)); Welsh Government ([AUT0050](#)) and Northern Ireland Executive ([AUT0051](#))

77 Oral evidence taken on 27 April 2022, (Session 2021-22) [Q 26](#) (Lord Grimstone of Boscobel, Matthew Davies and Ian Shepherd)

78 *Strategic Approach*, p 9

79 Mulesing is a practice conducted on merino sheep in order to prevent flystrike, in which folded skin that is susceptible to maggot infestation is removed from the breech area from the sheep. Mulesing does not take place on lambs reared for meat. It is only conducted on merino sheep, which are specially bred for wool and have folded skin that increases wool yields. The TAC concluded that pain relief is provided for the majority of mulesed Australian sheep.

greater reliance on antimicrobials.⁸⁰ We heard concerns that some of these could give Australian agricultural imports an unfair competitive advantage, and the Government should therefore monitor imports closely.⁸¹

Trade and Agriculture Commission findings on agricultural imports from Australia

62. As required by statute, the Trade and Agriculture Commission⁸² (TAC) was instructed by the Secretary of State for International Trade to provide advice to the Government on whether, or to what extent, the agreement is consistent with UK statutory protections relating to animal and plant life or health; animal welfare; and environmental protections. The TAC produced a report that, among other things, considers whether the agreement would lead to increased imports of Australian agricultural goods grown or raised to different standards.⁸³
63. The TAC's key conclusion was that the FTA maintains and reinforces existing statutory protections, and is unlikely to lead to substantive increases of imports into the UK of goods produced to lower standards, including animal welfare standards. It noted a few areas where there were specific issues, which are set out below.
64. The TAC concluded that the agreement would probably lead to increased imports of agricultural goods grown with pesticides not permitted for use in the UK (and produced at lower cost). For example, Australian canola oil and chickpeas are produced using insecticides or fungicides banned in the UK and are likely to be imported in larger volumes due to tariff reductions.⁸⁴ The Government responded in its report pursuant to Section 42 of the Agriculture Act 2020 (the Section 42 Report)⁸⁵:

“This agreement does not create any new permissions or authorisations for imports from Australia. All agri-food products imported into the

80 Written evidence from RSPCA ([AUT0004](#)); the British Veterinary Association (BVA) ([AUT0014](#)); the Pesticide Action Network UK ([AUT0003](#)); Alliance to Save Our Antibiotics ([AUT0018](#)); Compassion in World Farming ([AUT0012](#)); Sustain ([AUT0017](#)); National Farmers Union (England & Wales) ([AUT0054](#)) and Farmers Union of Wales ([AUT0031](#))

81 *Ibid.*

82 The Trade and Agriculture Commission (TAC) is an independent panel which has been tasked with providing advice to the Government on whether, or to what extent, the measures provided for by new free trade agreements (FTAs) covering trade in agricultural products are consistent with the maintenance of UK levels of statutory protection in relation to animal or plant life or health; animal welfare; and environmental protections. The terms of reference were adopted on 6 December 2021 under section 42 of the Agriculture Act 2020. .

83 The TAC was asked to produce a report on the Australia FTA, which the Government published on 13 April 2022. Trade and Agriculture Commission, *Advice to the Secretary of State for International Trade on the UK-Australia Free Trade Agreement* (13 April 2022): https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1068872/trade-and-agriculture-commission-advice-to-the-secretary-of-state-for-international-trade-on-the-uk-australia-free-trade-agreement.pdf [accessed 21 June 2022]. Subsequently: TAC report

84 *TAC report*, p 46

85 Under the Agriculture Act 2020, [Section 42\(1\)](#), a Government report must be laid before Parliament, which considers whether, or to what extent, the provisions related to agriculture in the free trade agreement are consistent with the maintenance of UK levels of statutory protection in relation to the following areas: (1) human, animal or plant life or health; (2) animal welfare; and (3) the environment. This report must be laid prior to the laying of the trade agreement before Parliament for scrutiny under the Constitutional Reform and Governance Act 2010.

UK under this agreement will, as now, have to comply with our import requirements including Maximum Residue Levels (MRLs).”⁸⁶

65. However, we note that this means that goods with small residues of pesticides banned in the UK may still be imported, as long as they remain under a safe threshold and that in the case of canola oil and chickpeas, the agreement is expected to lead to an increase in imports.⁸⁷
66. The TAC raised the potential of increased imports of genetically modified canola oil—the only GMO crop that would benefit from the FTA. However, GMO imports are legal in the UK, provided they are labelled as such. The Government explained in its Section 42 Report that GMO products entering the UK must undergo safety assessments led by the Food Standards Agency and Food Standards Scotland and be appropriately labelled.⁸⁸
67. The TAC also noted that products involving the use of antimicrobials, i.e. pork and chicken, were unlikely to enter the UK in larger quantities, as tariffs for these products are not being reduced.
68. In terms of animal welfare, the TAC found that the agreement could lead to an increase in imports of beef raised in feedlots, and imports from farm animals that may not have been given pain relief during certain procedures. There is also an increased risk of imports from abattoirs not using CCTV. The Government stated in its Section 42 Report that, “Australia have committed to working together on a full range of animal welfare matters. This includes commitments to co-operate with them to strengthen animal welfare standards.”⁸⁹ The TAC concluded that there is a low or no risk of increased imports of meat from animals that have been subjected to much longer transport times, have been mulesed, as well as meat from branded cattle and animals that have not been stunned.⁹⁰
69. Nonetheless, UK farming associations and trade experts argued that the agreement could have set conditions on animal welfare and production standards in return for tariff reduction for Australian imports.⁹¹
70. **We welcome the expert Trade and Agriculture Commission’s report on the agreement and note its finding that the FTA is unlikely to lead to substantive increases of imports into the UK of goods produced to lower standards, including animal welfare standards.**
71. **However, the report also acknowledges that some goods produced to potentially lower standards will enter the UK, including goods produced using pesticides banned in the UK and, in particular, beef that has been raised in feedlots. It is reasonable to assume that Australian producers will enjoy a production cost advantage over UK farmers in those cases. The Government should continue to monitor**

86 DIT, *Report pursuant to Section 42 of the Agriculture Act 2020: UK-Australia Free Trade Agreement* (June 2022), pp 14–15: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1080664/report-pursuant-to-section-42-of-the-agriculture-act-2020-uk-australia-free-trade-agreement.pdf [accessed 21 June 2022]. Subsequently: Government Section 42 Report.

87 *TAC report* p 46

88 *Government Section 42 Report*, p 15

89 *Ibid.*

90 *TAC report*, pp 37–39

91 Written evidence from the RSPCA ([AUT0035](#)); National Farmers Union (England & Wales) ([AUT0054](#)) and [Q 56](#) (Emily Rees)

the levels of pesticide residue on imported goods from Australia and ensure that they remain at safe levels.

72. **It is clear that the Government has prioritised tariff removal over demanding certain conditions on production methods and animal welfare to be met. We call on the Government to set out its rationale for prioritising this approach over available alternatives and to consider further the circumstances under which it may ask for such conditionality.**

The UK Government's right to regulate

73. The TAC report found that the agreement did not require the UK to change its statutory protections in relation to animal or plant life or health, animal welfare, and the environment. It concluded that while the agreement itself does not restrict the UK's rights under the WTO to regulate in these areas, decisions in the Joint Committee "may constrain its freedom to regulate in the future".⁹²
74. The Joint Committee is a governance body at ministerial or senior official level, has the power to adopt interpretations of the agreement and to amend certain trade liberalisation commitments.⁹³ According to the TAC, the Joint Committee could take different interpretations of how to implement sanitary and phytosanitary (SPS) measures⁹⁴—in particular, whether the Parties will treat each other's SPS measures as 'equivalent' to their own, even when they differ in certain respects. The Joint Committee could adopt an interpretation regarding SPS equivalence that could subsequently limit the situations in which the UK is able to reject a request from Australia to have an Australian law treated as equivalent to a UK law, thus limiting its ability to regulate.⁹⁵
75. The TAC noted that these decisions could be taken "without the type of parliamentary scrutiny that would be required for a formal amendment of the agreement".⁹⁶ We have previously raised the issue of amendments made by governance bodies as part of our reports on working practices for treaty scrutiny and identified the risk of a scrutiny gap.⁹⁷
76. The Government responded in its Section 42 Report that, "if the UK and Australia decided to amend the FTA to include a procedure for the recognition of equivalence, then this would be subject to Parliamentary Scrutiny under the Constitutional Reform and Governance Act 2010".⁹⁸ It acknowledged that the Joint Committee could act as a forum for discussion of certain issues, but stated, "If such discussions result in the treaty being materially or significantly amended—or if they result in a new treaty—this would be subject to the full CRaG procedure."⁹⁹

92 *TAC report*, p 43

93 [Articles 29.1 and 29.2](#), UK-Australia FTA

94 Sanitary and phytosanitary measures are directed at risks caused by pests and diseases, as well as from additives, contaminants, and toxins in foods and feedstuffs.

95 *TAC report*, pp 33–34

96 *Ibid.*, p 34

97 European Union Committee, *Treaty scrutiny: working practices* (11th Report, Session 2019–21, HL Paper 97), ; and International Agreements Committee, *Working practices: one year on* (7th Report, Session 2021–22, HL Paper 75)

98 *Government Section 42 Report*, p 5

99 *Government Section 42 Report*, p 6

77. **The TAC has concluded that the UK’s right to regulate will be unaffected in the short term, but could be constrained through decisions taken by the Joint Committee. We welcome the Government’s confirmation that any equivalence decisions or other significant amendments arising from Joint Committee discussions would be subject to formal scrutiny procedures under CRAG.**
78. **However, it is unclear what amendments would be considered “significant” and, consequently, be subject to CRAG.**
79. **Where amendments fall short of the requirement to lay them for parliamentary scrutiny under CRAG—and particularly where the change does not require domestic legislation—there will be a scrutiny gap. We call on the Government to ensure that significant amendments to this agreement that may not engage CRAG are still notified to us.**

Consumer benefits

80. The Government’s Objectives state that as a result of a trade agreement with Australia, “UK consumers may also benefit if cheaper consumer goods become available”.¹⁰⁰ The Government’s impact assessment estimates that the agreement will lead to a reduction in tariffs of at least £38.3 million per year and that consumers could benefit from these in the form of lower prices on final consumer goods as well as intermediate goods. The impact assessment also states that under the agreement, tariff-free imported goods available to UK consumers would increase from 801 to 1893 types of final consumer products.¹⁰¹ We welcome the increase in consumer choice and agree that cheaper goods are to be welcomed. However, as the Government cautions in its impact assessment, tariff reductions do not always translate into cheaper consumer goods and it remains to be seen whether the agreement will lead to lower prices, and lower food prices in particular.
81. The consumer rights organisation Which? welcomed the potential price reductions, but noted that maintaining the UK’s food and product standards remains a high priority for consumers.¹⁰²
82. The Government sought advice from the Food Standards Agency (FSA) and Food Standards Scotland (FSS) in the context of Section 42 of the Agriculture Act 2020. It commissioned the FSA/FSS to “provide advice on whether, or to what extent, the measures in the UK-Australia FTA are consistent with the maintenance of UK levels of statutory protection for human health for the areas within FSA/FSS statutory remit”.¹⁰³
83. The FSA and FSS found that food and feed imports from Australia will “continue to have to meet UK food safety requirements”.¹⁰⁴ This includes, for example, complying with any existing prohibitions and maximum limits for pesticide residues (MRLs) and veterinary medicines, in addition to any

100 *Strategic Approach*, p 33

101 DIT, *Impact Assessment of the FTA between the UK and Australia* (16 December 2021), p 38: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1041629/impact-assessment-of-the-free-trade-agreement-between-the-united-kingdom-of-great-britain-and-northern-ireland-and-australia.pdf [accessed 21 June 2022]

102 Written evidence from Which? (AUT0046)

103 *Government Section 42 Report*, Annex A

104 *Ibid.*

other maximum levels for contaminants. Products of animal origin imported from Australia only do so because Australia is a UK-approved country and individual products have been approved for import. The approval process involves audit and assessment of a country's system of official controls and residue monitoring plan. Products entering the UK have to be accompanied by certificates and a percentage are subject to physical checks to ensure standards are maintained.

84. The FSA/FSS found that no changes to the UK food safety regulatory system are required to give effect to the FTA, and that the Government's and the devolved administrations' regulatory autonomy has been preserved.
85. A side letter has been published alongside the FTA which commits the Parties to co-operate on public health.¹⁰⁵ However, the Government is not seeking input from stakeholders on the broader impact of the agreement on human health.
86. **We welcome the joint FSA/FSS advice which found that the agreement maintains UK levels of statutory protection for human health in relation to food imports.**
87. **While the FSA/FSS have provided advice on food standards, we regret the DIT has not commissioned advice on the impact of the agreement on broader human health issues. We call on the Government to explain why it has not commissioned such advice.**

Manufactured goods

Rules of origin

88. The Negotiating Objectives stated that the Government would seek to "develop simple and modern Rules of Origin that reflect UK industry requirements and consider existing, as well as future, supply chains".¹⁰⁶ The Government has been successful in incorporating these objectives into the agreement.
89. Witnesses told us that the product specific rules of origin are very liberal and likely to be beneficial for the automotive sector.¹⁰⁷ In order to qualify for tariff free trade, only 25% of the value of a car is required to originate in either Party. Sam Lowe noted that although the agreement does not allow for extended cumulation with the EU, the product specific rules of origin are liberal enough to make up for the lack of extended cumulation. However, he also cautioned that very liberal product specific rules of origin may raise the risk of 'circumvention', in which the country of origin of a product could be altered to get around restrictions and WTO commitments.
90. The Society of Motor Manufacturers and Traders (SMMT) also welcomed the generous rules of origin, but cautioned that it did not, of itself, guarantee further exports, given the competition from other car exporting countries with which Australia has FTAs, Australia's luxury car tax (unaffected by the

105 DIT, 'Letter from Anne-Marie Trevelyan MP to Minister Tehanon on UK-Australia FTA health matters', (16 December 2021): https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1053559/uk-australia-free-trade-agreement-fta-uk-side-letter-regarding-public-health-cooperation.pdf [accessed 21 June 2022]

106 *Strategic Approach*, p 9

107 [QQ 74–75](#) (Alessandro Marongiu) and [Q 57](#) (Sam Lowe)

agreement), and the absence of regulatory alignment in the sector.¹⁰⁸ The SMMT estimated that more than 38% of units exported from the UK were at risk of paying the luxury car tax in 2019.¹⁰⁹

91. The UK's trade agreement with New Zealand invites both Parties to consider future diagonal cumulation with developing countries—this would have been a welcome clause in the agreement with Australia.¹¹⁰ Allowing cumulation with developing countries can facilitate economic development by making it easier for the Party to the FTA to use materials from developing countries and still meet the rules of origin requirements.

Technical barriers to trade

92. Technical barriers to trade (TBTs) are significant obstacles to increased trade—often with a greater impact than tariffs. In its Negotiating Objectives the Government pledged to reduce such barriers by removing restrictive measures, promoting international standards and seeking arrangements to make it easier for UK manufacturers to have their products tested against Australian rules before exporting. The agreement includes standard provisions promoting international standards as well as encouraging information exchange on conformity assessment procedures, but does not go very far in removing restrictive measures.
93. The agreement contains a Technical Barriers to Trade Chapter¹¹¹ that commits the Parties to ensuring that any new regulations are non-discriminatory and do not create unnecessary obstacles to trade. It establishes a Committee on Technical Barriers to Trade which will monitor the implementation of the chapter as well as provide a forum for information exchange and for seeking to resolve any differences that may arise regarding the interpretation of the chapter.¹¹²
94. Witnesses indicated that many non-tariff barriers will remain. The automotive industry said the agreement could have included an automotive annex which would have removed further barriers.¹¹³ Make UK, an organisation that represents a wide range of UK manufacturers, noted that the UK and Australia have very different technical standards and regulations and raised concerns about the remaining regulatory barriers. It also caveated that Australia is a relatively small market for UK manufacturing, accounting for only around 1% of total UK manufacturing exports. However, it hoped that the Parties would use the agreement as a framework to continue discussions to reduce technical barriers.¹¹⁴
95. The UK and Australia already have a Mutual Recognition Agreement (MRA) to reduce some technical barriers to trade,¹¹⁵ which was rolled over

108 [QQ 74–75](#) (Alessandro Marongiu)

109 Written evidence from SMMT ([CPT0048](#))

110 [Q 10](#) (Michael Gasiorek)

111 [Chapter 7: Technical Barriers to Trade](#), UK-Australia FTA

112 [Article 7.12 Committee on Technical Barriers to Trade](#), UK-Australia FTA

113 [Q 74](#) (Alessandro Marongiu)

114 [Q 4](#) (Richard Rumbelow)

115 Agreement on Mutual Recognition in Relation to Conformity Assessment, Certificates and Markings between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Australia, CP 28 (18 January 2019): https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/775781/CS_Australia_2.2019_MRA.pdf [accessed 21 June 2022]

from the EU-Australia MRA.¹¹⁶ The MRA should be read alongside the technical barriers to trade chapter, although the MRA is outdated in some areas, having been negotiated mostly in the 1990s with some revisions in the 2000s. Not expanding on the existing MRA was viewed by witnesses as a missed opportunity.¹¹⁷

96. **Although Australia represents a relatively small market for UK manufacturing exports, the reduction in tariffs, customs procedures and rules of origin in the agreement are likely to be beneficial.**
97. **In particular, we welcome the agreement’s liberal rules of origin. We call on the Government to ensure that businesses have support to take advantage of these.**
98. **While the agreement reduces some technical barriers to trade, more needs to be done. Given the significant differences in the Parties’ regulatory regimes, the agreement should be used as an opportunity to achieve this. We call on the Government to set out its plans for further reducing technical barriers to trade.**

Protocol on Ireland/Northern Ireland

99. Northern Ireland has effectively remained inside the EU’s single market for goods as a result of the Protocol on Ireland/Northern Ireland. While this does not prevent the UK from signing trade agreements and including Northern Ireland within their scope, there are concerns regarding the degree to which Northern Ireland can benefit from new trade agreements.
100. Under the Protocol, Australian goods entering Northern Ireland deemed ‘at risk’ of onwards movement to Ireland (and consequently the EU) will be subject to the EU external tariff. If subsequently found not to be ‘at risk’, traders can claim a waiver or a rebate. However, the reimbursement scheme promised by the Government is not yet operational. Certain EU rules will also apply to agri-food goods arriving into Northern Ireland, but it is unclear what this means for sanitary and phyto-sanitary (SPS) controls on Australian agricultural goods imports into Northern Ireland.
101. The Government has yet to articulate how the goods provisions in the Australia agreement will interact with the Protocol on Ireland/Northern Ireland. In response to the *Introductory report* by the Lords’ Protocol on Ireland/Northern Ireland Sub-Committee,¹¹⁸ the Government acknowledged that “there are elements of the Protocol that are not benefiting Northern Ireland importers and consumers, particularly around the way in which the application of EU tariffs on goods ‘at risk’ of entering the EU is determined”.¹¹⁹ Yet the agreement’s explanatory materials do not provide further information on Northern Ireland’s unique challenges and the steps taken by the Government to overcome them.

116 European Commission, ‘Mutual Recognition Agreements’: https://ec.europa.eu/growth/single-market/goods/international-aspects-single-market/mutual-recognition-agreements_en [accessed 21 June 2022]

117 *Q 77* (Alessandro Marongiu) and written evidence from the Welsh Government (*AUT0050*)

118 European Affairs Committee, *Report from the Sub-Committee on the Protocol on Ireland/Northern Ireland: Introductory report* (2nd Report, Session 2021–22, HL Paper 55)

119 HM Government, ‘Government response to the Protocol on Ireland/Northern Ireland Sub-Committee’s introductory report’ (28 September 2021): <https://committees.parliament.uk/publications/7459/documents/78392/default/> [accessed 21 June 2022]

102. **The UK Government has an obligation to ensure that Northern Ireland is able to benefit from any new trade agreements and is not disadvantaged compared to the rest of the UK. The publication of the Northern Ireland Protocol Bill will undoubtedly lead to further debate on this issue.**
103. **Although there is continued uncertainty over the Protocol, the Government will need to ensure that consumers and businesses in Northern Ireland can fully benefit from this (and any future) trade agreements.**
104. **We also call on the Government to ensure that the explanatory materials on future trade agreements routinely cover how trade between Northern Ireland and the other Party will be impacted by the Protocol.**

CHAPTER 4: ENVIRONMENT AND CLIMATE

105. Modern free trade agreements typically include shared commitments to ensure increased trade does not come at the expense of the natural environment. This is reflected in the Government’s Negotiating Objectives stating that the agreement should reaffirm the Parties’ commitments to international standards on the environment and climate change, including the Paris Agreement; and include measures that would allow the UK to maintain its world-leading environmental standards and 2050 net zero emissions target. It also stated the agreement should contain mechanisms for the implementation, monitoring and dispute resolution of environmental provisions.¹²⁰
106. There is an extensive Environment Chapter which includes a section on climate change, affirms the Parties’ existing commitments to address climate change and commits them to continual improvement. It provides that “a Party shall not waive or otherwise derogate from, or offer to waive or otherwise derogate from, its environmental laws in a manner that weakens or reduces the protection afforded in those laws in order to encourage trade or investment between the Parties.”¹²¹
107. The Environment Chapter covers climate change, air quality, marine environment, sustainable forest management, biodiversity, and illegal wildlife trade. Many commitments are aspirational or co-operative, though some are stronger—specifically on controlling ozone depleting substances, ship pollution and the regulation of marine wild capture fisheries. The chapter is subject to dispute settlement.
108. Nonetheless, we received a range of negative responses to the environmental commitments. WWF stated that “the UK government has failed to achieve its stated Negotiating Objectives to ensure high standards and protections for UK consumers”,¹²² while the Professional and Business Services Council considered it “a missed opportunity to include innovative environmental protections”.¹²³ The National Sheep Association considered that “there is a serious risk that we may see environmental gains in Britain but will not see the environmental damage done away from our shores”.¹²⁴ Dr Giulia Claudia Leonelli, an expert in environmental law, suggested that “the wording in the clauses regarding non-regression and future levels of protection is rather weak” and the Article on climate change “far from ambitious”.¹²⁵ The NFU considered that “the terms of the agreement do not create a level playing field in respect of environmental standards”.¹²⁶
109. However, the RSPCA noted that the environmental chapter is stronger than the chapters on animal welfare or SPS, for example in including its own dispute settlement system and an Environment Working Group that can hear representations from civil society. It also noted that “the language on the conservation of marine ecosystems is particularly good”, and that there are clauses on the right to regulate. It noted that the approach drew heavily

120 *Strategic Approach*, p 12

121 [Article 22.3\(6\)](#), UK-Australia FTA

122 Written evidence from WWF ([AUT0057](#))

123 Written evidence from Professional and Business Services Council ([AUT0047](#))

124 Written evidence from National Sheep Association ([AUT0041](#))

125 Written evidence from Dr Claudia Leonelli ([AUT0044](#))

126 Written evidence from the National Farmers Union (England & Wales) ([AUT0054](#))

on that used within CPTPP, which “may not therefore reflect issues most of concern to UK stakeholders”.¹²⁷

110. We note that there is a clear difference between the level of ambition in the New Zealand FTA, compared to the Australian one. For example, the New Zealand agreement has references to the elimination of fossil fuel subsidies, work towards carbon pricing and trade in environmental goods. On behalf of the Government, Lord Grimstone of Boscobel, Minister for Investment, explained that “our underlying position is to be very strong on climate”, but that each agreement reflects “each country’s view of the relative priority it attaches to aspects of climate”.¹²⁸
111. Dr Emily Lydgate suggested that the UK could have driven a harder bargain and considered that the Government “really seemed to prioritise getting the trade agreement across the line over sticking to its guns on the climate issues”.¹²⁹ A number of specific issues were raised by witnesses. Friends of the Earth noted that the reference in Article 22.5 to the Paris Agreement “does not reference limiting warming to 1.5 degrees, nor does it make taking actions which frustrate the Paris Agreement grounds to impose remedies under the FTA”.¹³⁰ WWF stated it “sets a concerning precedent for future trade agreements, as future trade partners, including countries with low environmental standards for farming such as Brazil and the US, are likely to demand similar market access, increasing the cumulative impact liberalisation of agricultural trade without any environmental conditions”.¹³¹
112. The Government’s impact assessment states that greenhouse gas (GHG) emissions within UK-based production should remain largely unchanged, but as the Environmental Law Association notes, this does not take into account any potential increases in transport emissions nor UK-based consumption. The impact assessment does mention the risk of carbon leakage, in which the UK would import more GHG-intensive goods from Australia because of lower standards in Australia, but it does not go into detail. Additionally, the impact assessment does not consider the impacts of deforestation in Australia and how this relates to the UK’s international goals of environmental protection. We note that the Trade and Agriculture Commission concluded that “it cannot be excluded that in some cases [Australian] deforested land is used to produce agricultural products which will be imported in greater quantities into the UK, such as beef and cereal”.¹³² While it was reassuring to hear from the Australian High Commissioner that reforestation efforts have resulted in a net gain in forest growth over the last decade in Australia,¹³³ the risk of further deforestation in favour of arable farming remains.
113. Following the election of a new Australian government under Anthony Albanese on 21 May, we wrote to Lord Grimstone of Boscobel, asking what consideration the Government had given to strengthening the environment chapter, given our understanding that the new administration may be

127 Written evidence from RSPCA ([AUT0035](#))

128 [Q 2](#) (Lord Grimstone of Boscobel)

129 [Q 14](#) (Dr Emily Lydgate)

130 Written evidence from Friends of the Earth England, Wales and Northern Ireland ([AUT0038](#))

131 Written evidence from WWF ([AUT0057](#))

132 *TAC report*, p 66

133 Written evidence from the Australian High Commission ([AUT0058](#))

open to a more ambitious approach towards the environment and climate.¹³⁴ Lord Grimstone responded that there would be “ample opportunities for collaboration” and that “the agreement also establishes a Joint Committee”, which can “modify the FTA in certain instances”.¹³⁵

114. **There are elements of the Environment Chapter which we welcome. These include commitments on environmental protection, including controlling ozone-depleting substances, ship pollution and the regulation of marine wild capture fisheries. We also welcome that the provisions in the climate and environment chapter are subject to dispute resolution.**
115. **However, the disappointment from UK stakeholders about the Environment Chapter is something that the Government should take seriously. Considering that the UK granted Australia generous agricultural market access, it is regrettable that the Government did not press Australia for more ambitious commitments on climate change and that the temperature goals which are fundamental to the Paris Agreement were not explicitly referenced in the FTA. We call on the Government to establish a firm baseline for future agreements which goes beyond the Australia text.**
116. **We call on the Government to review the provisions related to environment and climate issues and to monitor their implementation. The change of government in Australia and the engagement of the electorate on environmental issues gives the Government an opportunity to revisit the Environment Chapter of the agreement. We hope that this will be taken up in the Joint Committee and ask the Government to keep us informed of developments.**
117. **Given Australia’s position on coal, it is regrettable that the agreement did not include any references to reducing or reviewing Australia’s reliance on coal. This contrasts with the trade agreement the UK signed with New Zealand.**
118. **The impact assessment states that the agreement should not significantly change the greenhouse gas (GHG) emissions within UK-based production, but some areas, such as transport-related emissions, have been left out of the calculations, and the potential for increases in carbon leakage is not discussed in detail.**
119. **The Government’s future impact assessments should cover in greater detail transport-related emissions, the potential for increases in carbon leakage, impacts on deforestation and biodiversity. Trade sustainability impact assessments produced for the European Parliament during trade negotiations are more detailed in this regard.**
120. **In the light of our net zero commitments, future FTAs should seek to achieve a net reduction in GHG emissions—which may be achieved by agreements on production methods and procurement.**

134 Letter from Baroness Hayter to Lord Grimstone of Boscobel, 9 June 2022: <https://committees.parliament.uk/publications/22563/documents/166038/default/>

135 Letter from Lord Grimstone of Boscobel to Baroness Hayter, 14 June 2022: <https://committees.parliament.uk/publications/22662/documents/166538/default/>

CHAPTER 5: INTELLECTUAL PROPERTY

Geographical indications¹³⁶

121. The Negotiating Objectives stated that the Government would aim to “promote effective protection of UK geographical indications in a way that ensures consumers are not misled about the origins of goods while ensuring they have access to a range of products”.¹³⁷ However, the intellectual property chapter does not commit Australia to protecting the UK’s agricultural geographical indications (GIs). It sets out that if Australia agrees to include GI protections in a trade deal with another Party—in practice, the EU—the UK would be able to forward its list of GIs to Australia for protection.¹³⁸ It is ironic that in negotiating its first post-Brexit FTA the UK Government has in this respect tied its objectives to the outcome of the EU negotiations.
122. Article 15.34 further states that if Australia does not introduce a GI scheme within two years of the agreement entering into force, both Parties will review the provisions related to GIs and hold discussions. However, there is no requirement for Australia to establish a GI protection scheme at any point.
123. The National Farmers Union (NFU) expressed disappointment at this, particularly in the light of the significant market access granted to Australia:
- “High value UK cheeses carrying the GI designations are likely to be amongst the limited number of categories of food that will benefit from tariff liberalisation into Australia. It is therefore incredibly disappointing and a genuinely missed opportunity that the government has failed to reach an agreement with Australia on the use of GIs.”¹³⁹
124. Cornwall Council and the Scottish Government also noted the importance of GIs to their regions,¹⁴⁰ with the Cornish Pasty, Cornish Clotted Cream and Scotch Whisky being prime examples of products protected by GI status. The importance of GIs to some agricultural producers further shows why commitments here would have been a welcome compensatory provision for the tariff liberalisation.
125. The risks of excluding concrete commitments on GIs in FTAs and relying instead on future discussions have been highlighted by the experience of the UK-Japan Comprehensive and Economic Partnership Agreement (CEPA). CEPA maintained the GIs under the EU-Japan deal and included a process for adding new GIs—which the Government claimed would be better than the EU’s.¹⁴¹ However, the agreement did not include specific timescales and

136 A Geographical Indication (GI) is an intellectual property right for a food, drink or agricultural product that has a quality or characteristic which is attributable to a specific geographic origin. It therefore establishes a link between a product, its quality and place of production. Examples include Scotch whisky and Stilton blue cheese. If a product has GI status, similar products produced elsewhere or to different standards cannot be marketed with reference to the place of origin. So, for example, only cheese produced in Derbyshire, Leicestershire and Nottinghamshire to specified standards can be referred to as Stilton blue cheese in the UK and the EU.

137 *Strategic Approach*, p 11

138 [Article 15.32 System and Standard of Protection for Geographical Indications](#), UK-Australia FTA

139 Written evidence from the National Farmers Union (England & Wales) ([AUT0054](#))

140 Written evidence from Cornwall Council ([AUT0005](#)) and the Scottish Government ([AUT0049](#))

141 See also: International Agreements Committee, [Scrutiny of international agreements: UK-Japan Comprehensive Economic Partnership Agreement](#) (16th Report, Session 2019–21, HL Paper 75).

Japan has yet to sign off on “dozens of British GIs, while the EU has had numerous new requests approved”.¹⁴²

Creative industries

126. Among the Government’s Negotiating Objectives for intellectual property (IP) were to “secure copyright, provisions that support UK creative industries through a balanced and effective global framework”, and:

“secure patents, trademarks, and designs provisions that: protect the UK’s existing IP standards and seek an effective and balanced regime which encourages and supports innovation, protect UK brands and design-intensive goods whilst keeping the market open to fair competition, do not lead to increased medicines prices for the NHS ensure consumer access to modern technology, are consistent with the UK’s existing international obligations, including the European Patent Convention, to which the UK is Party”.¹⁴³

127. The UK-Australia FTA contains a detailed IP chapter which reflects these objectives and stakeholders seem to be broadly supportive of the deal.

128. The Alliance for Intellectual Property (AIP) stated that “the majority of the issues we raised have been addressed, which have significant benefit to IP owners in both the UK and Australia”.¹⁴⁴ There is no suggestion that the UK medicines pricing system, which the NHS Confederation asked to be protected, will be affected. The Federation of Small Business strongly welcomed the commitment for Australia to “make all reasonable efforts to join the UK as a member of the multilateral Hague Agreement on Industrial Designs” as this provides a practical solution for smaller firms to register industrial designs in multiple jurisdictions, saving time and money.¹⁴⁵ The FTA also meets the request from Pact—the trade association representing the UK’s independent television, film and media production sector—for the audio-visual sector to be excluded from any FTA to protect the UK’s public service broadcasting model.¹⁴⁶

129. Not all industry asks were achieved, with AIP noting that the FTA did not remove the caps on the amount of broadcast royalties payable for the use of recordings¹⁴⁷—although the agreement does commit both Parties to further discussion on this matter. The BPI, a trade body for the UK’s recorded music industry, had argued for the caps to be removed, which it termed “a cross subsidy to the Australian broadcasters”.¹⁴⁸

142 ‘Morning Trade UK’, *Politico* (24 February 2022): available at <https://pro.politico.eu/news/146613> [accessed 21 June 2022]

143 *Strategic Approach*, p 11

144 Written evidence from the Alliance for Intellectual Property (AUT0052)

145 Written evidence from the Federation of Small Businesses (AUT0032)

146 Written evidence from Pact (AUT0024)

147 Written evidence from the Alliance for Intellectual Property (AUT0022) submitted ahead of negotiations stated that “In the UK, royalties are paid to rights holders where recorded music is used in broadcasting and in public performance. By contrast, Australia imposes severe legal limitations on such uses of recorded music. The UK Government should seek removal of the caps on the amount of broadcast royalties payable for the use of recordings. This law indirectly limits radio broadcast tariffs to 1% of broadcasters’ gross revenue because a copyright tribunal cannot set higher tariffs than 1%, meaning it cannot set a market rate. In addition, Australian copyright law also provides for a monetary cap (0.5 AUS\$ per person) on the amount that ABC, the public broadcaster, pays for the use of sound recordings. Both of these caps are outdated, lack legal and economic justification, and amount to a direct cross subsidy to the Australian broadcasters from the music industry.”

148 Written evidence from BPI (AUT0025)

Priorities of the pharmaceutical industry

130. The innovation targets put forward by the Association of the British Pharmaceutical Industry around patent extension, orphan medicine protection, prevention of disputes around generics/biosimilars, and the prevention of disclosure requirements, were not achieved.¹⁴⁹
131. **Geographical Indications are important to regions of the UK which feel their agricultural interests have been undermined by the removal of tariffs. It is disappointing that the UK Government has been unable to achieve this negotiating aim. After the agreement is implemented, the Government should encourage Australia to make progress towards reviewing the provisions on GIs and introducing a GI scheme. As we have seen in the case of the UK-Japan FTA, when the agreement does not set out the timescale and detailed steps for GI approval in the partner country, there can be a significant delay in obtaining protection.**
132. **The other parts of the IP chapter have been broadly welcomed and the agreement reflects the aims set out in the Negotiating Objectives. We note that this is an area in which continued co-operation in implementation is important, and that for example the UK should continue to push Australia on the Hague Agreement on Industrial Designs, as well as on other issues raised by UK stakeholders.**

149 Written evidence from the Association of the British Pharmaceutical Industry (ABPI) ([AUT0016](#))

CHAPTER 6: PROCUREMENT

133. The Government's Negotiating Objectives for government procurement were to secure access that goes further than the World Trade Organization Government Procurement Agreement (GPA) and is based on clear and enforceable standards; to develop improved rules; and ensure appropriate regard to public interests and services, such as the NHS.
134. The Procurement Chapter contains new commitments Australia has not offered to any other trading partner. As UK Deputy Chief Negotiator James Clarke told us, Australia "has offered us more than it has offered any other country. It is in the level of access and the amount of procurement spend federally and in some cases sub-federally. It is a really significant amount".¹⁵⁰ The agreement also includes rules in relation to promoting and maintaining environmental, social and labour protections.
135. At the time of writing, legislation to implement the agreement's procurement provisions had already been introduced in the Trade (Australia and New Zealand) Bill. It is further intended by the Government that this will be repealed and replaced by Sections 81–83 and Schedules 9 and 11 of the Procurement Bill. The use of a regulation-making power to implement procurement chapters of future FTAs will be a matter for debate on both bills.
136. **The Government has been broadly successful in incorporating its objectives on procurement into the agreement and we welcome the procurement chapter.**

150 [Q 57](#) (James Clarke)

CHAPTER 7: OTHER CHAPTERS

Small and medium-sized enterprises (SMEs)

137. The Government's Negotiating Objectives on SMEs were to include a dedicated SME chapter; ensure that SMEs have easy access to the information necessary to take advantage of trade opportunities; and to ensure that SME-friendly provisions are included throughout the agreement. This was achieved and welcomed by the Federation of Small Businesses (FSB) which emphasised that "small business chapters in FTAs are an important tool in tackling their underutilisation by smaller firms through addressing issues relating to access to information."¹⁵¹

Competition policy and consumer protection chapter

138. The Negotiating Objectives stated that the Government aimed to provide effective and non-discriminatory competition law and enforcement; strong procedural rights for businesses and people under investigation; ensure consumer rights are protected and promote co-operation between agencies. These objectives have been broadly achieved, as the competition policy and consumer protection chapter requires the UK and Australia to uphold their laws and to co-operate. Consumer organisation Which? welcomed the agreement's "additional emphasis on consumer protection", including independent competition authorities, commitments to maintain laws and regulations providing consumers of goods and services with statutory rights, and an emphasis on consumer redress.¹⁵² However it also expressed disappointment that the agreement did not contain a standalone chapter on consumer protection on the grounds that, akin to the standalone SME chapter, it "would have provided an important steer that consumer interests need to be central to the FTA".¹⁵³ The chapter is not subject to dispute settlement, and while recognising the importance of co-operation and coordination between respective competition and consumer protection authorities, this is subject to implementation.

Other chapters

139. The agreement contains chapters on state-owned enterprises and designated monopolies; innovation; labour; development; trade and gender equality; good regulatory practice; co-operation; transparency and anti-corruption; administrative and institutional provisions; general provisions and exceptions and final provisions. These mostly contain commitments to co-operate and are not subject to dispute settlement (except for the chapter on transparency and anti-corruption, which includes limited dispute settlement). There are also a number of chapters dedicated to the agreement itself, including on the handling of disputes.
140. The chapter on innovation has attracted some comment, with the NHS Confederation welcoming the inclusion of "a mechanism to discuss the impact of innovation on trade including regulatory approaches, commercialisation of new technology and supply chain resilience".¹⁵⁴

151 Written evidence from the Federation of Small Businesses ([AUT0032](#))

152 Written evidence from Which? ([AUT0046](#))

153 *Ibid.*

154 Written evidence from the NHS Confederation ([AUT0042](#))

141. **We welcome the inclusion of a dedicated SME chapter. We note that it remains unclear as to whether such chapters have a positive impact on SME trade engagement. Once the Agreement has been implemented, we therefore call on the Government to monitor the levels of preference usage and provide export (and other) support for SMEs as required.**
142. **We welcome the chapter on competition policy and consumer protection. We note, however, that the UK-New Zealand FTA separates these out into individual chapters. Such inconsistency is unhelpful, and we believe that consumer interests are important enough to deserve a dedicated chapter.**
143. **We welcome the inclusion of an innovation chapter but would welcome further information from the Government about how it could be used for the benefit of UK businesses and consumers.**
144. **We call on the Government to provide clarity on why it has chosen particular chapters to be subject to dispute resolution mechanisms and not others.**

CHAPTER 8: ENGAGEMENT WITH THE DEVOLVED ADMINISTRATIONS AND PARLIAMENT

Consultation and engagement with the devolved administrations

145. Where matters under negotiation related to devolved competence, the devolved administrations were broadly positive about the UK Government's engagement. They expressed concerns, however, regarding the sharing of information pertaining to areas of reserved competence—particularly where they could have a significant impact on devolved areas and their competences.
146. The Welsh Government summed up points also made by the Scottish Government and Northern Ireland Executive:

“Currently there is positive engagement between the Department for International Trade and the Devolved Governments on FTAs as they are negotiated. However, this predominately focuses on areas that are understood to be devolved. We also require access to information on reserved areas and an understanding of UK Government's positions and red-lines before negotiations take place. This would allow us to better understand where these areas intersect with devolved areas or areas of particular interest to us and ensure that UK Government is aware of any sensitivities for Devolved Governments.

For example, one of our key interests in all FTAs relates to tariff liberalisation for sensitive agricultural goods. However, as the setting of tariffs is a reserved matter, limited information is shared with Devolved Governments and we were unable to have meaningful discussions with UK Government on this issue before an AIP ... was reached. This lack of discussion makes it difficult for us to ascertain whether our interests in this area are being protected as negotiations progress.”¹⁵⁵

147. The Government's position is that while they “recognise the importance that the DAs attach to this”, market access negotiations are highly sensitive and that sharing information on tariff liberalisation, particularly in the early stages, could “jeopardise the overall negotiations”.¹⁵⁶ Instead, the Government has shared written summaries with further details on the Negotiating Objectives and encouraged detailed comments. Lord Grimstone acknowledged “I suspect it may never be possible to satisfy them for as long as trade negotiations are a reserved matter”.¹⁵⁷
148. We recognise the UK Government's challenge in balancing the need for confidentiality with keeping the devolved administrations involved, but it is clear that more needs to be done to keep the devolved administrations apprised of progress of those sensitive aspects of trade negotiations which will have a direct impact on their devolved responsibilities.
149. We had previously raised with the Department for International Trade the need for both scoping and impact assessments to include more granular detail, particularly on the impacts of an FTA on the devolved nations.¹⁵⁸ We therefore welcome the Minister telling us that:

155 Written evidence from the Welsh Government ([AUT0050](#))

156 Oral evidence taken on 27 April 2022, [Q 27](#) (Lord Grimstone of Boscobel)

157 *Ibid.*

158 See, for example, International Agreements Committee, *CPTPP: Scrutiny of the Government's Negotiating Objectives* (10th Report, Session 21-22, HL Paper 94).

“We do think that we have to do more work in the public impact assessments to give a more detailed picture of the potential impacts of trade agreements on the devolved nations. We did a review of our modelling techniques, and our analysts are now considering how they can improve the analysis of impacts of FTAs on the nations and regions of the UK.”¹⁵⁹

150. We look forward to receiving improved scoping and impact assessments for future FTAs.
151. **We thank the devolved administrations for the evidence they submitted. In the absence of detailed information provided by the UK Government on the discussions it has had with the devolved administrations, it is vital that we hear from them directly. We reiterate our open invitation to the devolved administrations and legislatures to raise with us any issues they consider to be significant.**
152. **While we accept that the negotiation of trade agreements is a reserved competence, trade agreements will have a significant impact not just on devolved policy areas, but also on devolved economies more generally (even in reserved areas) and interests.**
153. **We remain concerned about the adequacy of the information shared with the devolved administrations regarding matters that are reserved, such as tariff liberalisation for sensitive agricultural goods.**
154. **We call on the Government to ensure that consultation with the devolved administrations and legislatures is comprehensive, transparent, detailed and timely, and that their views are represented throughout the negotiations, including on reserved matters that may have an impact on them.**
155. **We welcome that the Government has conducted a modelling review to provide a more detailed sub-national assessment of the impact of FTAs. We look forward to receiving assessments with more detailed information on the impact of FTAs on the nations and regions of the UK.**

Government engagement with Parliament and the Committee

156. We welcome the Government responding to our call for evidence and for engaging with us throughout our inquiry. In particular, we are grateful to Lord Grimstone of Boscobel, Minister for Investment, and his officials for appearing before the Committee and for his written updates. The written updates could, however, have been more detailed—they covered what had been discussed, but rarely gave a flavour of the obstacles encountered and choices faced by negotiators.
157. We would like to put on record our appreciation for the work undertaken by Lord Grimstone and his officials to facilitate scrutiny beyond the limited statutory requirements set by the Constitutional Reform and Governance Act 2010 (CRAG). Constructive collaboration led to two significant developments positively impacting scrutiny of the Australia FTA, as well as any new FTAs we expect to scrutinise in future.

¹⁵⁹ Oral evidence taken on 27 April 2022, (Session 2021–22) [Q 27](#) (Lord Grimstone of Boscobel)

158. First, in respect of the Australia FTA, the Government committed to providing us (and the Commons' International Trade Committee) with a copy of the signed agreement and draft explanatory materials at least three months before laying the agreement under CRAG. This commitment has been honoured.
159. Second, the Government agreed and implemented our recommendation for an exchange of letters to present in a single document all the scrutiny commitments made by DIT across different fora. This means we now have a clear and shared understanding of the steps the Government will take, as a minimum, to support the parliamentary scrutiny of new trade agreements.¹⁶⁰
160. **We welcome the collaborative and constructive engagement we have had with DIT officials and Lord Grimstone throughout the negotiations. In particular, we welcome that our recommendation for an exchange of letters to consolidate existing parliamentary scrutiny commitments in respect of trade agreements has been accepted and implemented.**
161. **Whilst we are grateful for the time we had to scrutinise this FTA prior to its formal laying under CRAG, we were only able to scrutinise this agreement after all decisions had already been taken. The Government commitment to facilitate a debate on the Negotiating Objectives if requested by the committee was made too late for this particular agreement. We reiterate the recommendation we made in our *Working practices: one year on* report that it is important that consultation and dialogue with our committee starts before a mandate is established, so the final mandate can be informed by Parliament.**

160 Exchange of letters between Baroness Hayter and Lord Grimstone of Boscobel, 19 May 2022: <https://committees.parliament.uk/publications/22312/documents/164995/default/>

CHAPTER 9: LOOKING AHEAD

A trade policy is needed

162. The Government has yet to publish a comprehensive trade policy. Although the Government has articulated its aims and objectives for individual negotiations, these are not embedded within a wider framework, which should set out the Government's priorities for all trade negotiations and how trade can be leveraged to support the Government's external and domestic policy objectives, including on the environment, climate, levelling up and human rights.
163. A published trade policy would also help those scrutinising trade agreements understand the framework within which negotiators are operating and why specific choices are being made. At present, it is unclear how the Government is seeking to balance the competing interests of different sectors and areas across the UK, or how its trade objectives fit into its security, defence, environmental, domestic or development agendas.

Monitoring and evaluation

164. Monitoring and evaluating the impact of the agreement is essential if the Government is to learn lessons for future trade agreements, inform policy-making and enable mitigation measures to be developed.
165. This is vital because predicting the precise impact of trade agreements is notoriously difficult. Our report has identified several instances where the impact cannot be measured with a degree of certainty until implemented. These have included:
- the number of businesses, including SMEs, able to take advantage of the agreement's preferences and opportunities;
 - Australia's usage of the interim TRQs and the effectiveness of the safeguards to protect sensitive agricultural sectors, across the UK as a whole and in the devolved nations;
 - the impact of Australia's different production methods and whether they may afford Australia an unfair competitive advantage;
 - the impact of the agreement on the environment and climate;
 - the impact on consumer choice and prices;
 - the risks of rules of origin 'circumvention'.
166. Monitoring is key to ensuring that the predicted benefits of an FTA actually materialise, are maximised for businesses and consumers, and any unintended negative consequences are addressed promptly.
167. The Government has committed to evaluating the impact of the agreement, and publishing two types of report:¹⁶¹

161 DIT, *Impact Assessment of the FTA between the UK and Australia* (16 December 2021), p 56: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1041629/impact-assessment-of-the-free-trade-agreement-between-the-united-kingdom-of-great-britain-and-northern-ireland-and-australia.pdf [accessed 21 June 2022]

- (1) a monitoring report—to be published roughly every two years after entry into force, focused on trade flows and the work of the governance committees to facilitate co-operation
 - (2) a comprehensive evaluation report—to be produced within five years of the agreement entering into force to show where the agreement has worked well and where it has worked less well, including suggestions for improvement. This report will seek stakeholder feedback and include findings obtained through monitoring.
168. Lord Grimstone told us that although his department would not be providing a running commentary on its monitoring work, it would “if the monitoring produced things which were of material importance, ... communicate that in one way or the other to the committee”. He also undertook to update the committee following any regular review sessions.¹⁶²
169. **We welcome the Government’s commitment to monitoring and evaluation and call on it to keep us (and the International Trade Committee in the Commons) informed on progress and outcomes, and make any reports available to Parliament by depositing copies in the libraries of both Houses.**
170. **The UK-Australia trade agreement is the first ‘new’ trade agreement where the UK is not simply replicating the trade arrangements we had as part of the EU, making it an important indicator of its post-Brexit trade policy.**
171. **However, it is regrettable that the agreement cannot be placed within the context of a published trade policy. We ask the Government to publish a comprehensive trade policy before it signs another trade agreement with a major economy. This will enable trade policy to be understood in relation to other policy priorities, to see how Government assesses the impacts and trade-offs of trade liberalisation, to set the Negotiating Objectives in context, and to inform public consultation and Parliamentary scrutiny.**

162 Oral evidence taken on 27 April 2022, (Session 2021–22) [Q 26](#) (Lord Grimstone of Boscobel)

SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

Introduction

1. In economic terms, the agreement is forecast to have a modest positive impact. The Government's impact assessment anticipates a 0.08% increase to GDP by 2035—although increased collaboration and positive dynamic effects not captured by the modelling may unlock further benefits over time, particularly in services and digital trade. (Paragraph 3)
2. This agreement is, however, politically significant, providing an indication of the UK Government's approach to trade after Brexit. (Paragraph 4)
3. The agreement also helps pave the way for the UK's accession to CPTPP. As the then High Commissioner told us, Australia "would have been in a strange position to be championing the UK's accession into the CPTPP if we had not been able to do an FTA with you ourselves". The UK Government was also able to secure a commitment during the negotiations that Australia would not seek additional market access or faster tariff reduction through the CPTPP negotiations, thus providing a degree of certainty for those negotiations. (Paragraph 5)

Services trade, digital trade and investment

4. We welcome the provisions facilitating services trade, including those in relation to legal and financial services, which represent a significant benefit to the UK. We highlight, in particular, the guarantees that UK lawyers will be able to practise the law of the other Party, other foreign law (to the extent qualified) and international law in Australia using their home qualification. (Paragraph 19)
5. The establishment of a Professional Services Working Group (PSWG) to facilitate discussions on the mutual recognition of other professional qualifications is a positive step, though this is a framework and does not yet secure such mutual recognition. (Paragraph 20)
6. The Government should continue to hold discussions with Australian counterparts and support UK regulators in securing mutual recognition. We ask the Government to clarify whether discussions will be needed with regulators at the sub-federal level in Australia; and, if so, what steps it is taking to engage with individual states. (Paragraph 21)
7. We welcome the improvements in mobility arrangements, which can increase services trade. While it is difficult to quantify their impact at this stage, Australia's removal of an economic needs tests and skilled occupation list for UK professionals should increase the movement of UK professionals and delivery of services in Australia. (Paragraph 26)
8. We welcome the agreement's provisions on digital trade. The ban on data localisation requirements should benefit many sectors, including financial services. The Government's Impact Assessment did not quantify the potential impacts of the digital trade provisions. Given the importance of digital trade, we call on the Government to strengthen their assessments and ensure that it is included in Impact Assessments in future. (Paragraph 33)
9. Some questions remain regarding the protection of personal data, given the differences between the UK and Australia's data protection regimes. We ask

the Government to explain how it will ensure that UK citizens' personal data exchanged under the agreement will be protected and offer commitments that digital trade provisions in new FTAs will not risk losing the UK's data adequacy decision with the EU. (Paragraph 34)

10. We welcome the investment provisions in the agreement. (Paragraph 41)
11. However, Government policy towards investor-state dispute settlement (ISDS)—though not included in this agreement—remains unclear. We call on the Government to clarify its policy towards ISDS, including its position on other mechanisms for investment protection. The absence of a clear policy begs the question whether the omission of ISDS in this agreement was sought by the Government, or whether it assented to an Australian request to exclude it. (Paragraph 42)

Goods trade

12. It remains to be seen how UK agriculture will be impacted by the agreement with Australia and whether the tariff rate quotas and safeguards will protect the interests of the UK agricultural sector, and that of the devolved nations in particular. (Paragraph 56)
13. Individual UK producers may be adversely affected by increased agricultural imports from Australia. We therefore welcome the Government's assurances that it will be monitoring the usage of TRQs in real time through its licensing system and monitor the implementation of the agreement. (Paragraph 57)
14. There is a risk that this agreement could set a precedent for the negotiations with countries closer to the UK market, particularly with other large agricultural producers, such as the US, Canada, Mexico, Argentina and Brazil. The impacts of the UK-Australia agreement may therefore go well beyond this particular FTA. (Paragraph 58)
15. The key question is the extent to which liberalisation in agricultural trade in the Australia agreement will be claimed as a precedent in future FTA negotiations. The Government regard each FTA in its own terms, but there will be expectations created for future negotiations. (Paragraph 59)
16. We welcome the expert Trade and Agriculture Commission's report on the agreement and note its finding that the FTA is unlikely to lead to substantive increases of imports into the UK of goods produced to lower standards, including animal welfare standards. (Paragraph 70)
17. However, the report also acknowledges that some goods produced to potentially lower standards will enter the UK, including goods produced using pesticides banned in the UK and, in particular, beef that has been raised in feedlots. It is reasonable to assume that Australian producers will enjoy a production cost advantage over UK farmers in those cases. The Government should continue to monitor the levels of pesticide residue on imported goods from Australia and ensure that they remain at safe levels. (Paragraph 71)
18. It is clear that the Government has prioritised tariff removal over demanding certain conditions on production methods and animal welfare to be met. We call on the Government to set out its rationale for prioritising this approach over available alternatives and to consider further the circumstances under which it may ask for such conditionality. (Paragraph 72)

19. The TAC has concluded that the UK's right to regulate will be unaffected in the short term, but could be constrained through decisions taken by the Joint Committee. We welcome the Government's confirmation that any equivalence decisions or other significant amendments arising from Joint Committee discussions would be subject to formal scrutiny procedures under CRAG. (Paragraph 77)
 20. However, it is unclear what amendments would be considered "significant" and, consequently, be subject to CRAG. (Paragraph 78)
 21. Where amendments fall short of the requirement to lay them for parliamentary scrutiny under CRAG—and particularly where the change does not require domestic legislation—there will be a scrutiny gap. We call on the Government to ensure that significant amendments to this agreement that may not engage CRAG are still notified to us. (Paragraph 79)
 22. We welcome the joint FSA/FSS advice which found that the agreement maintains UK levels of statutory protection for human health in relation to food imports. (Paragraph 86)
 23. While the FSA/FSS have provided advice on food standards, we regret the DIT has not commissioned advice on the impact of the agreement on broader human health issues. We call on the Government to explain why it has not commissioned such advice. (Paragraph 87)
 24. Although Australia represents a relatively small market for UK manufacturing exports, the reduction in tariffs, customs procedures and rules of origin in the agreement are likely to be beneficial. (Paragraph 96)
 25. In particular, we welcome the agreement's liberal rules of origin. We call on the Government to ensure that businesses have support to take advantage of these. (Paragraph 97)
 26. While the agreement reduces some technical barriers to trade, more needs to be done. Given the significant differences in the Parties' regulatory regimes, the agreement should be used as an opportunity to achieve this. We call on the Government to set out its plans for further reducing technical barriers to trade. (Paragraph 98)
 27. The UK Government has an obligation to ensure that Northern Ireland is able to benefit from any new trade agreements and is not disadvantaged compared to the rest of the UK. The publication of the Northern Ireland Protocol Bill will undoubtedly lead to further debate on this issue. (Paragraph 102)
 28. Although there is continued uncertainty over the Protocol, the Government will need to ensure that consumers and businesses in Northern Ireland can fully benefit from this (and any future) trade agreements. (Paragraph 103)
 29. We also call on the Government to ensure that the explanatory materials on future trade agreements routinely cover how trade between Northern Ireland and the other Party will be impacted by the Protocol. (Paragraph 104)
- Environment and climate**
30. There are elements of the Environment Chapter which we welcome. These include commitments on environmental protection, including controlling ozone-depleting substances, ship pollution and the regulation of marine wild

capture fisheries. We also welcome that the provisions in the climate and environment chapter are subject to dispute resolution. (Paragraph 114)

31. However, the disappointment from UK stakeholders about the Environment Chapter is something that the Government should take seriously. Considering that the UK granted Australia generous agricultural market access, it is regrettable that the Government did not press Australia for more ambitious commitments on climate change and that the temperature goals which are fundamental to the Paris Agreement were not explicitly referenced in the FTA. We call on the Government to establish a firm baseline for future agreements which goes beyond the Australia text. (Paragraph 115)
32. We call on the Government to review the provisions related to environment and climate issues and to monitor their implementation. The change of government in Australia and the engagement of the electorate on environmental issues gives the Government an opportunity to revisit the Environment Chapter of the agreement. We hope that this will be taken up in the Joint Committee and ask the Government to keep us informed of developments. (Paragraph 116)
33. Given Australia's position on coal, it is regrettable that the agreement did not include any references to reducing or reviewing Australia's reliance on coal. This contrasts with the trade agreement the UK signed with New Zealand. (Paragraph 117)
34. The impact assessment states that the agreement should not significantly change the greenhouse gas (GHG) emissions within UK-based production, but some areas, such as transport-related emissions, have been left out of the calculations, and the potential for increases in carbon leakage is not discussed in detail. (Paragraph 118)
35. The Government's future impact assessments should cover in greater detail transport-related emissions, the potential for increases in carbon leakage, impacts on deforestation and biodiversity. Trade sustainability impact assessments produced for the European Parliament during trade negotiations are more detailed in this regard. (Paragraph 119)
36. In the light of our net zero commitments, future FTAs should seek to achieve a net reduction in GHG emissions—which may be achieved by agreements on production methods and procurement. (Paragraph 120)

Intellectual property

37. Geographical Indications are important to regions of the UK which feel their agricultural interests have been undermined by the removal of tariffs. It is disappointing that the UK Government has been unable to achieve this negotiating aim. After the agreement is implemented, the Government should encourage Australia to make progress towards reviewing the provisions on GIs and introducing a GI scheme. As we have seen in the case of the UK-Japan FTA, when the agreement does not set out the timescale and detailed steps for GI approval in the partner country, there can be a significant delay in obtaining protection. (Paragraph 131)
38. The other parts of the IP chapter have been broadly welcomed and the agreement reflects the aims set out in the Negotiating Objectives. We note that this is an area in which continued co-operation in implementation is important, and that for example the UK should continue to push Australia

on the Hague Agreement on Industrial Designs, as well as on other issues raised by UK stakeholders. (Paragraph 132)

Procurement

39. The Government has been broadly successful in incorporating its objectives on procurement into the agreement and we welcome the procurement chapter. (Paragraph 136)

Other chapters

40. We welcome the inclusion of a dedicated SME chapter. We note that it remains unclear as to whether such chapters have a positive impact on SME trade engagement. Once the Agreement has been implemented, we therefore call on the Government to monitor the levels of preference usage and provide export (and other) support for SMEs as required. (Paragraph 141)
41. We welcome the chapter on competition policy and consumer protection. We note, however, that the UK-New Zealand FTA separates these out into individual chapters. Such inconsistency is unhelpful, and we believe that consumer interests are important enough to deserve a dedicated chapter. (Paragraph 142)
42. We welcome the inclusion of an innovation chapter but would welcome further information from the Government about how it could be used for the benefit of UK businesses and consumers. (Paragraph 143)
43. We call on the Government to provide clarity on why it has chosen particular chapters to be subject to dispute resolution mechanisms and not others. (Paragraph 144)

Looking ahead

44. We thank the devolved administrations for the evidence they submitted. In the absence of detailed information provided by the UK Government on the discussions it has had with the devolved administrations, it is vital that we hear from them directly. We reiterate our open invitation to the devolved administrations and legislatures to raise with us any issues they consider to be significant. (Paragraph 151)
45. While we accept that the negotiation of trade agreements is a reserved competence, trade agreements will have a significant impact not just on devolved policy areas, but also on devolved economies more generally (even in reserved areas) and interests. (Paragraph 152)
46. We remain concerned about the adequacy of the information shared with the devolved administrations regarding matters that are reserved, such as tariff liberalisation for sensitive agricultural goods. (Paragraph 153)
47. We call on the Government to ensure that consultation with the devolved administrations and legislatures is comprehensive, transparent, detailed and timely, and that their views are represented throughout the negotiations, including on reserved matters that may have an impact on them. (Paragraph 154)
48. We welcome that the Government has conducted a modelling review to provide a more detailed sub-national assessment of the impact of FTAs. We

look forward to receiving assessments with more detailed information on the impact of FTAs on the nations and regions of the UK. (Paragraph 155)

49. We welcome the collaborative and constructive engagement we have had with DIT officials and Lord Grimstone throughout the negotiations. In particular, we welcome that our recommendation for an exchange of letters to consolidate existing parliamentary scrutiny commitments in respect of trade agreements has been accepted and implemented. (Paragraph 160)
50. Whilst we are grateful for the time we had to scrutinise this FTA prior to its formal laying under CRAG, we were only able to scrutinise this agreement after all decisions had already been taken. The Government commitment to facilitate a debate on the Negotiating Objectives if requested by the committee was made too late for this particular agreement. We reiterate the recommendation we made in our *Working practices: one year on* report that it is important that consultation and dialogue with our committee starts before a mandate is established, so the final mandate can be informed by Parliament. (Paragraph 161)
51. We welcome the Government's commitment to monitoring and evaluation and call on it to keep us (and the International Trade Committee in the Commons) informed on progress and outcomes, and make any reports available to Parliament by depositing copies in the libraries of both Houses. (Paragraph 169)
52. The UK-Australia trade agreement is the first 'new' trade agreement where the UK is not simply replicating the trade arrangements we had as part of the EU, making it an important indicator of its post-Brexit trade policy. (Paragraph 170)
53. However, it is regrettable that the agreement cannot be placed within the context of a published trade policy. We ask the Government to publish a comprehensive trade policy before it signs another trade agreement with a major economy. This will enable trade policy to be understood in relation to other policy priorities, to see how Government assesses the impacts and trade-offs of trade liberalisation, to set the Negotiating Objectives in context, and to inform public consultation and Parliamentary scrutiny. (Paragraph 171)

APPENDIX 1: LIST OF MEMBERS, DECLARATIONS OF INTEREST AND COMMITTEE STAFF

Lord Astor of Hever

No relevant interests

Lord Gold

David Gold & Associates LLP

Chairman Balance Legal Capital

Baroness Hayter of Kentish Town (Chair)

Senior Non-Executive Director, Association of British Insurers

Lord Kerr of Kinlochard

Chairman, Centre for European Reform

Deputy Chairman, Scottish Power plc

Lord Lansley

A family member has a sheep farm in North Wales

Baroness Liddell of Coatdyke

Honorary Vice President, Britain Australia Society

Trustee, Northcote Trust

Association Member, Bupa

Board member, Australian Chamber Orchestra

Lord Morris of Aberavon

Family members farm in various parts of Wales and England, but I have no direct interest in farming

Lord Oates

Director, H&O Communications

Lord Razzall

Director, North Atlantic Mining Associates Limited

Director, ZeU Technologies Inc

Shareholdings, ZeU Technologies Inc

Shareholdings, St-Georges Eco-Mining Corporation

Shareholdings, Tindra plc

The Earl of Sandwich

No relevant interests

Lord Udny-Lister

Advisor to the Group Chairman of HSBC

Lord Watts

No relevant interests

The Committee staff are Jennifer Martin-Kohlmorgen (Clerk), Andrea Ninomiya (Policy Analyst), and Robert Cocks (Committee Operations Officer).

Specialist Advisers

David Henig

Adviser to the UK Trade and Business Commission

Part-time Adviser to Cavendish Advocacy on trade matters UK Director of the European Centre for International Political Economy (ECIPE)

Self-employed consultant on general trade policy matters

Alex Horne

Counsel, Hackett & Dabbs LLP

Visiting Professor at Durham University

Special Adviser, United Nations Development Programme (Pacific Region)
Special Adviser, House of Commons' Women and Equalities Committee.

APPENDIX 2: LIST OF WITNESSES

Evidence is published online at <https://committees.parliament.uk/work/458/ukaustralia-trade-negotiations/> and available for inspection at the Parliamentary Archives (020 7219 3074).

Evidence received by the Committee is listed below in chronological order of oral evidence session and in alphabetical order. Those witnesses marked with ** gave both oral and written evidence. Those marked with * gave oral evidence and did not submit any written evidence. All other witnesses submitted written evidence only

Oral evidence in chronological order

- | | | |
|----|--|---------------------------------|
| ** | Hon. George Brandis QC (High Commissioner for Australia to the United Kingdom at Australian High Commission) | <u>QQ 1-10</u> |
| * | Simon Smalley (Minister-Counsellor (Agriculture) at Australian High Commission) | |
| * | Stephen Dietz (First Secretary (Trade) at Australian High Commission) | |
| * | George Riddell, Ernst & Young LLP | <u>QQ 11-23</u> |
| ** | Dr Emily Lydgate (Deputy Director at UK Trade Policy Observatory, University of Sussex) | |
| ** | Anna Sands, WWF | |
| * | Dmitry Grozoubinski, explaintrade.com | <u>QQ 52-65</u> |
| * | Emily Rees, Trade Strategies | |
| * | Sam Lowe, Flint Global | |
| ** | Nick von Westenholz, National Farmers Union (NFU) | <u>QQ 66-82</u> |
| * | Beatrice Morrice, National Farmers' Union of Scotland (NFU Scotland) | |
| ** | Alessandro Marongiu, Society of Motor Manufacturers and Traders (SMMT) | |
| * | Penelope Nevill, Twenty Essex Chambers | |
| ** | Hon. George Brandis QC (High Commissioner for Australia to the United Kingdom at Australian High Commission) | <u>QQ 83-93</u> |
| * | Kieran Macdonell, Australian High Commission | |
| * | Kyle Naish, Australian High Commission | |
| ** | Lord Grimstone of Boscobel Kt, Minister for Investment | <u>QQ 94-95</u> |
| * | Graham Matthew Davies (Deputy Director, Chief Negotiator, New Zealand FTA at Department for International Trade) | |

- * Ian Shepherd (Policy Director, Goods, Regulatory Environment and Gulf Cooperation Council at Department for International Trade)

Alphabetical list of all witnesses

- | | | |
|----|---|--------------------------------|
| | Alliance for Intellectual Property | <u>AUT0052</u> |
| | Alliance to Save Our Antibiotics | <u>AUT0018</u> |
| | The Association of the British Pharmaceutical Industry | <u>AUT0016</u> |
| | Australian Department of Foreign Affairs and Trade | <u>AUT0026</u> |
| | BPI | <u>AUT0025</u> |
| ** | Hon. George Brandis QC (High Commissioner for Australia to the United Kingdom at Australian High Commission) (<u>QQ 1–10</u> , <u>QQ 83–93</u>) | <u>AUT0058</u> |
| | British Veterinary Association | <u>AUT0014</u> |
| | | <u>AUT0019</u> |
| | City of London Corporation | <u>AUT0053</u> |
| | Prof David Collins, City, University of London | <u>AUT0033</u> |
| | Compassion in World Farming | <u>AUT0012</u> |
| | Cornwall Council | <u>AUT0005</u> |
| | Dairy UK | <u>AUT0021</u> |
| * | Graham Matthew Davies (Deputy Director, Chief Negotiator, New Zealand FTA at Department for International Trade) (<u>QQ 94–95</u>) | |
| ** | Department for International Trade (<u>QQ 94–95</u>) | <u>AUT0020</u> |
| * | Stephen Dietz (First Secretary (Trade) at Australian High Commission) (<u>QQ 1–10</u>) | |
| | Farmers Union of Wales | <u>AUT0031</u> |
| | Federation of Small Businesses | <u>AUT0032</u> |
| | Friends of the Earth England, Wales and Northern Ireland | <u>AUT0038</u> |
| ** | Lord Grimstone of Boscobel Kt, Minister for Investment (<u>QQ 94–95</u>) | <u>AUT0020</u> |
| * | Dmitry Grozoubinski, explaintrade.com (<u>QQ 52–65</u>) | |
| | Lord Jasset Harlech | <u>AUT0034</u> |
| | Keep Our NHS Public | <u>AUT0008</u> |
| | Law Society of England and Wales | <u>AUT0001</u> |
| | | <u>AUT0023</u> |
| | Law Society of Scotland | <u>AUT0045</u> |

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|----|---|---|
| | Dr Giulia Claudia Leonelli, Birkbeck College, University of London | AUT0044 |
| ** | Alessandro Marongiu, Society of Motor Manufacturers and Traders (SMMT) (QQ 66–82) | AUT0029 |
| | London Market Group | AUT0015 |
| * | Beatrice Morrice, National Farmers' Union of Scotland (NFU Scotland) (QQ 66–82) | |
| ** | Sam Lowe, Flint Global (QQ 52–65) | AUT0039 |
| ** | Dr Emily Lydgate (Deputy Director at UK Trade Policy Observatory, University of Sussex) (QQ 11–23) | AUT0056 |
| * | Kieran Macdonell, Australian High Commission (QQ 83–93) | |
| * | Beatrice Morrice, National Farmers' Union of Scotland (NFU Scotland) (QQ 66–82) | |
| * | Kyle Naish, Australian High Commission (QQ 83– 93) | |
| ** | National Farmers Union (England & Wales) (QQ 66–82) | AUT0007 AUT0028 AUT0054 |
| | National Office of Animal Health (NOAH) | AUT0002 |
| | National Sheep Association | AUT0041 |
| * | Penelope Nevill, Twenty Essex Chambers (QQ 66– 82) | |
| | NHS Confederation | AUT0042 |
| | Northern Ireland Executive | AUT0051 |
| | Octopus Group | AUT0006 |
| | Pact | AUT0024 |
| | PAN UK | AUT0003 |
| | Professional and Business Services Council | AUT0047 |
| ** | Emily Rees, Trade Strategies (QQ 52–65) | AUT0040 |
| * | George Riddell, Ernst & Young LLP (QQ 11–23) | |
| | Royal Institute of British Architects | AUT0011 AUT0030 |
| | RSPCA | AUT0004 AUT0035 |
| ** | Anna Sands, WWF (QQ 11–23) | AUT0057 |
| | Scottish Government | AUT0049 |
| * | Ian Shepherd (Policy Director, Goods, Regulatory Environment and Gulf Cooperation Council at Department for International Trade) (QQ 94–95) | |

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|----|--|-------------------------|
| * | Simon Smalley (Minister-Counsellor (Agriculture) at Australian High Commission) (QQ 1-10) | |
| ** | Society of Motor Manufacturers and Traders (SMMT) (QQ 66-82) | AUT0029 |
| | Sustain: the alliance for better food and farming | AUT0017 |
| | techUK | AUT0048 |
| | Trade Justice Movement | AUT0027 |
| | UK Environmental Law Association | AUT0009 |
| ** | UKTPO-University of Sussex (QQ 11-23) | AUT0043 |
| | Professor Albert Sanchez-Graells, University of Bristol Law School | AUT0056 |
| | Welsh Government | AUT0037 |
| ** | Nick von Westenholz, National Farmers Union (NFU) (QQ 66-82) | AUT0050 |
| | Which? | AUT0007 |
| | | AUT0028 |
| | | AUT0054 |
| ** | WWF (QQ 11-23) | AUT0046 |
| | | AUT0057 |

APPENDIX 3: EXTRACT FROM THE UK GOVERNMENT STRATEGY FOR THE UK-AUSTRALIA FTA

Public Negotiating Objectives for a Free Trade Agreement with Australia

On 17 June 2020, the UK Government published its Negotiating Objectives for a free trade agreement with Australia. The Negotiating Objectives are included in a larger document entitled UK-Australia free trade agreement: the UK's strategic approach.¹⁶³ The document has four chapters:

- Chapter 1: Strategic Case
- Chapter 2: Outline Approach
- Chapter 3: Public consultation
- Chapter 4: Scoping Assessment

Chapter 2: Outline Approach contains the Negotiating Objectives.¹⁶⁴ Relevant extracts of that chapter are enclosed below.

Overall objectives

- Agree an ambitious and comprehensive Free Trade Agreement (FTA) with Australia that strengthens our economic relationship with a key like-minded partner, promoting increased trade in goods and services and greater cross-border investment.
- Strengthen our economic partnership focusing on technology, innovation and research and development (R&D). An FTA with Australia provides an opportunity to enhance co-operation on shared global and economic challenges, including supporting innovation and R&D across our economies. We will seek to set a new precedent with Australia by establishing an ambitious framework for co-operation in these areas, focusing on the role of trade policy in facilitating innovation.
- Increase the resilience of our supply chains and the security of our whole economy by diversifying our trade.
- Futureproof the agreement in line with the Government's ambition on climate and in anticipation of rapid technological developments, such as Artificial Intelligence.
- The Government has been clear that when we are negotiating trade agreements, the National Health Service (NHS) will not be on the table. The price the NHS pays for drugs will not be on the table. The services the NHS provides will not be on the table. The NHS is not, and never will be, for sale to the private sector, whether overseas or domestic.
- Secure an agreement which works for the whole of the UK and takes appropriate consideration of the UK's constitutional arrangements and obligations.
- Throughout the agreement, ensure high standards and protections for UK consumers and workers and build on our existing international obligations. This will include not compromising on our high environmental protection, animal welfare and food safety standards.

¹⁶³ *Strategic Approach*

¹⁶⁴ *Ibid.*, pp 9–13

*Trade in Goods**Goods Market Access*

- Secure broad liberalisation of tariffs on a mutually beneficial basis, taking into account UK product sensitivities, in particular for UK agriculture.
- Secure comprehensive access for UK industrial and agricultural goods into the Australian market through the elimination of tariffs.
- Develop simple and modern Rules of Origin that reflect UK industry requirements and consider existing, as well as future, supply chains supported by predictable and low-cost administrative arrangements.

Customs and Trade Facilitation

- Secure commitments to efficient and transparent customs procedures which minimise costs and administrative burdens for businesses.
- Ensure that processes are predictable at, and away from, the border.

Technical Barriers to Trade

- Reduce technical barriers to trade by removing and preventing trade-restrictive measures in goods markets, while upholding the safety and quality of products on the UK market.
- Seek arrangements to make it easier for UK manufacturers to have their products tested against Australian rules in the UK before exporting.
- Promote the use of international standards, to further facilitate trade between the Parties.

Sanitary and Phyto-Sanitary standards

- Uphold the UK's high levels of public, animal, and plant health, including food safety.
- Enhance access for UK agri-food goods to the Australian market by seeking commitments to improve the timeliness and transparency of approval processes for UK goods.

Good Regulatory Practice and Regulatory Co-operation

- Reduce regulatory obstacles, facilitate market access for UK businesses and investors, and improve trade flows by ensuring a transparent, predictable and stable regulatory framework to give confidence and stability to UK exporting businesses and investors.
- Secure commitments to key provisions such as public consultation, use of regulatory impact assessment, retrospective review, and transparency, as well as regulatory co-operation.

Transparency

- Ensure world class levels of transparency between the UK and Australia, particularly with regards to the publication of measures (such as laws and regulations) affecting trade and investment, public consultation, and the right of appropriate review of these measures.
- Commit, subject to the UK's compliance with its data protection legislation, to prompt and open information sharing between the UK and Australia by setting up regular data sharing to support understanding of the usage and effectiveness of the agreement.

Trade in Services

- Secure ambitious commitments from Australia on market access and fair competition for UK services exporters.
- Agree best-in-class rules for all services sectors, as well as sector-specific rules, to support our world-leading services industry, including key UK export sectors, such as financial services, professional and business services and transport services.
- Ensure certainty for UK services exporters in their continuing access to the Australian market and transparency on Australian services regulation.

Public Services

- Protect the right to regulate public services, including the NHS and public service broadcasters.
- Continue to ensure that decisions on how to run public services are made by UK Governments, including the devolved administrations (DAs), and not our trade partners.

Business Mobility

- Increase opportunities for UK service suppliers and investors to operate in Australia by enhancing opportunities for business travel and supporting the Mutual Recognition of Professional Qualifications (MRPQs).

Digital Trade

- Secure cutting-edge provisions which maximise opportunities for digital trade across all sectors of the economy.
- Include provisions that facilitate the free flow of data, whilst ensuring that the UK's high standards of personal data protection are maintained and include provisions to prevent unjustified data localisation requirements.
- Promote appropriate protections for consumers online and ensure the Government maintains its ability to protect users from emerging online harms.
- Support the reduction or abolition of business and consumer restrictions relating to access to the Australian digital market.
- Ensure customs duties are not imposed on electronic transmissions.
- Promote a world-leading eco-system for digital trade that supports businesses of all sizes across the UK.

Telecommunications

- Promote fair and transparent access to the Australian telecommunications market and avoid trade distortions.
- Secure greater accessibility and connectivity for UK consumers and businesses in the Australian market.

Financial Services

- Expand opportunities for UK financial services to ease frictions to cross-border trade and investment, complementing with co-operation on financial regulatory issues.

Investment

- Agree rules that ensure fair and open competition, and address barriers to UK investment across the Australian economy.
- Establish comprehensive rules which guarantee UK investors investing in Australia the same types of rights and protections they receive in the UK, including non-discriminatory treatment and ensuring that their assets are not expropriated without due process and fair compensation.
- Maintain the UK's right to regulate in the national interest and, as the Government has made clear, continue to protect the NHS.

Intellectual Property (IP)

- Secure copyright, provisions that support UK creative industries through a balanced and effective global framework.
- Secure patents, trade marks, and designs provisions that:
 - protect the UK's existing IP standards and seek an effective and balanced regime which encourages and supports innovation
 - protect UK brands and design-intensive goods whilst keeping the market open to fair competition
 - do not lead to increased medicines prices for the NHS
 - ensure consumer access to modern technology
 - are consistent with the UK's existing international obligations, including the European Patent Convention, to which the UK is Party
- Secure provisions that promote the transparent and efficient administration and enforcement of IP rights, and facilitate cross-border collaboration on IP matters.
- Restate the UK's continued commitment to the Doha Declaration TRIPS Agreement (Agreement on Trade-Related Aspects of Intellectual Property Rights) and Public Health, and agreed flexibilities that support access to medicines, particularly during public health emergencies in developing countries.
- Promote effective protection of UK geographical indications in a way that ensures consumers are not misled about the origins of goods while ensuring they have access to a range of products.

Competition

- Provide for effective competition law and enforcement that promotes open and fair competition for UK firms at home and in Australia.
- Provide for transparent and non-discriminatory competition laws, with strong procedural rights for businesses and people under investigation.
- Ensure core consumer rights are protected.
- Promote effective co-operation between enforcement agencies on competition and consumer protection matters.

State-Owned Enterprises (SOEs)

- Provide for open and fair competition between commercially oriented SOEs and private businesses, by preventing discrimination and unfair practices.

- Secure transparency commitments on SOEs.
- Ensure that UK SOEs, particularly those providing public services, can continue to operate as they do now.

Government Procurement

- Secure access that goes beyond the level set in the World Trade Organization (WTO) Government Procurement Agreement (GPA) and is based on clear and enforceable rules and standards.
- Develop improved rules, where appropriate, to ensure that procurement processes are simple, fair, open, transparent and accessible for all potential suppliers in a way that supports and builds on our commitments in the WTO GPA.
- Ensure appropriate regard to public interests and services, including the need to maintain existing protections for key public services, such as NHS health services.

Sustainability

- Seek sustainability provisions, including on environment and climate change, that meet the ambition of both Parties on these issues.
- Ensure Parties reaffirm their commitment to international standards on the environment, climate change and labour.
- Ensure Parties do not waive or fail to enforce their domestic environmental or labour protections in ways that create an artificial competitive advantage.
- Include measures which allow the UK to maintain the integrity, and provide meaningful protection, of the UK's world-leading environmental and labour standards.
- Secure provisions that support and help further the Government's ambition on climate change and achieving Net Zero carbon emissions by 2050, including promoting clean growth, trade in low carbon goods and services, supporting research and development collaboration, maintaining both Parties' right to regulate in pursuit of decarbonisation and reaffirming our respective commitments to the United Nations Framework Convention on Climate Change and the Paris Agreement.
- Apply appropriate mechanisms for the implementation, monitoring and dispute resolution of environmental and labour provisions.

Anti-corruption

- Secure provisions that address the trade- distorting effects of corruption on global trade and fair competition to help maintain the UK's high standards in this area.
- Ensure appropriate mechanisms for the implementation, monitoring and dispute resolution of anti-corruption provisions.

Trade and Development

- Seek to ensure that relevant parts of the agreement support the Government's objectives on trade and development, including through co-operation on the monitoring of, and response to, the impact of FTAs on developing countries.
- Support the continued delivery of the Sustainable Development Goals.

Trade Remedies

- Ensure provisions support market access, uphold our WTO commitments, and are underpinned
- by transparency, efficiency, impartiality and proportionality.
- Secure provisions which facilitate trade liberalisation while protecting against unfair trading practices.

Dispute settlement

- Establish appropriate mechanisms that promote compliance with the agreement and seek to ensure that state-to-state disputes are dealt with consistently, fairly and in a cost-effective, transparent and timely manner whilst seeking predictability and certainty for businesses and stakeholders.

Small and Medium-sized Enterprises (SMEs)

Support UK SMEs to seize the opportunities of UK- Australia trade by:

- ensuring a dedicated SME chapter to facilitate co-operation between the UK and Australia on SME issues of mutual interest.
- ensuring that SMEs have easy access to the information necessary to take advantage of the trade opportunities generated by the agreement.
- ensuring that throughout the agreement SME- friendly provisions are included that support businesses trading in both services and goods.

Trade and Women's Economic Empowerment

- Seek to advance women's economic empowerment and seek co-operation on this aim.
- Promote women's ability to access the benefits of the UK-Australia agreement in recognition of the disproportionate barriers that women can face in economic participation.

General Provisions

- Ensure flexibility for the Government to protect legitimate domestic priorities by securing adequate general exceptions to the agreement.
- Provide for prompt and open information sharing between the UK and Australia, including via preference utilisation data sharing to support understanding of the usage and effectiveness of the agreement.
- Seek opportunities for co-operation on issues related to economic growth, with a particular focus on services, digital innovation, R&D and the low-carbon economy.
- Provide for regular review of the economic relationship between the UK and Australia and the operation of the agreement, including taking into account developments in emerging markets and technologies. Allow for the agreement to be amended when necessary.

Territorial Application

- Provide for application of the agreement to all four constituent nations of the UK, taking into account the effects of the Protocol on Ireland/Northern Ireland to the EU Withdrawal Agreement.
- Provide for further coverage of the agreement to the Crown Dependencies and Overseas Territories as appropriate.