



House of Commons
International Trade Committee

UK trade negotiations: Parliamentary scrutiny of free trade agreements

Fourth Report of Session 2022–23

*Report, together with formal minutes relating
to the report*

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The International Trade Committee

The International Trade Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Department for International Trade and its associated public bodies.

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Summary

We have now undertaken scrutiny of the first two wholly-new free trade agreements (FTAs) negotiated and signed by the UK Government since leaving the European Union. As we have recorded in our reports on those FTAs, the process has not always gone smoothly nor met our expectations or those set by the Government's original commitments.

We welcome the new Secretary of State's positive approach to engaging with us to date, and hope our report provides a helpful foundation for further constructive discussions.

In reflecting on our experience of the scrutiny process and evidence received, we have developed recommendations to help the Government better support strong parliamentary scrutiny of FTAs in the short, medium and long term.

As a central element of our long-term recommendations, we ask the Government to review fully how it works with others—including Parliament—through the whole FTA negotiation cycle, reporting within this parliamentary Session.

We consider the statutory provisions for parliamentary scrutiny to be insufficient and that the additional commitments the Government has made do not go far enough or have enough force. Consequently, we ask the Government to include these in its review and bring amendments arising from this before Parliament within the next twelve months. We also recommend that, as part of its review, the Government systematically considers how other parliamentary democracies undertake scrutiny, to identify potential improvements to the current UK process. We further ask the Government to consider in its review how it engages with Parliament and its committees specifically, including how it can involve and sight us more closely on details before and during negotiations.

There are other areas where we ask the Government to take further steps, which should be undertaken in the medium term. We reiterate the importance of the Government producing a single coherent strategy document, adding calls for it to also produce a clear set of common negotiating principles and a clear analysis of the cumulative impact of FTAs on UK nations, regions and sectors. We note the interest in 'non-trade' issues being included in future FTAs, as some—including human rights—have been in the past. We ask the Government to confirm its position on how and where these issues should be addressed.

In the short-term, we ask the Government to accept specific recommendations to enable better scrutiny of any FTAs which are signed before it concludes its longer-term review. We ask the Government to ensure that Parliament is able to debate and potentially influence the Government's strategic approach and objectives for individual FTAs before negotiations start. Recent commitments have provided welcome additional clarity around parts of the timeline for scrutinising FTAs, but they still do not go far enough. We ask for stronger commitments, including around sharing documents in advance and when it will trigger the short statutory scrutiny period.

The Government has the prerogative to undertake trade negotiations, but the House of Commons has a statutory power to delay ratification if it considers this appropriate. The House was not granted a meaningful opportunity to debate the Australia FTA and our report, nor the chance to vote on whether to delay ratification, and it remains unclear whether this will be the case for the New Zealand FTA. We ask the Government to ensure that a timely request for a debate on a substantive motion is granted, by making the parliamentary time available.

1 Introduction

1. In the past year the Government has concluded negotiations on,¹ and we have undertaken scrutiny of,² the UK's first two wholly-new free trade agreements (FTAs) since leaving the European Union (EU), with Australia and New Zealand. The Department for International Trade (DIT) is currently negotiating a number of other new FTAs, including with the Gulf Cooperation Council (GCC) and India,³ as well as accession to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP).⁴
2. In addition to our FTA-specific inquiries, we are also undertaking an inquiry on *UK trade negotiations* covering cross-cutting and strategic aspects of the UK Government's trade negotiations approach and policy.
3. The Government has previously said that it remained "open to reviewing how we can further support Parliament in its scrutiny role",⁵ including by "reviewing scrutiny arrangements and making improvements where required".⁶ It has already taken some positive steps in this direction for recent scrutiny,⁷ and we welcome the new Secretary of State's further commitments and acknowledgement of the importance of our scrutiny work,⁸ as well as the Minister for Trade Policy's open-mindedness towards our and other Members' desire for more scrutiny and debate.⁹
4. The way in which FTAs are scrutinised at all stages is important. We and our predecessor committees have received evidence affirming this across various inquiries. We have reflected on this evidence and our experience of scrutinising the first two new FTAs.
5. The first two FTAs appear to have been relatively straightforward, but we have already seen that there is potential for considerably more complex or contentious issues to arise from current negotiations.¹⁰ In such cases, strong arrangements will be vital to ensuring that Parliament can scrutinise the Government's approach and reasons for the decisions and trade-offs it has made.

1 Department for International Trade, '[UK-Australia Free Trade Agreement](#)', accessed 29 September 2022; Department for International Trade, '[UK-New Zealand Free Trade Agreement](#)', accessed 29 September 2022

2 International Trade Committee, First Report of Session 2022–23, [UK trade negotiations: Scrutiny of Agreement with Australia](#), HC 444, International Trade Committee, Second Report of Session 2022–23, [UK trade negotiations: Agreement with Australia](#), HC 117, and International Trade Committee, Third Report of Session 2022–23, [UK trade negotiations: Agreement with New Zealand](#), HC 78

3 Department for International Trade, '[UK approach to negotiating a free trade agreement with India](#)', accessed 29 September 2022; Department for International Trade, '[UK launches ambitious trade deal with Gulf nations](#)', accessed 29 September 2022

4 Department for International Trade, '[UK position on joining the CPTPP trade agreement](#)', accessed 29 September 2022

5 International Trade Committee, Second Special Report of Session 2019–21, [UK-Japan Comprehensive Economic Partnership Agreement: Government Response to the Committee's Second Report of Session 2019–21](#), HC 1163, para 9

6 Rt Hon Anne-Marie Trevelyan MP to Angus Brendan MacNeil MP, [19 July 2022](#)

7 Exchange of letters between Lord Grimstone and Baroness Hayter, [19 May 2022](#)

8 Rt Hon Kemi Badenoch MP to Angus Brendan MacNeil MP, [15 September 2022](#)

9 HC Deb, 12 October 2022, [col 164WH](#)

10 See, for example: Oral evidence taken on 13 July 2022, HC (2022–23) 79, [Qq43, 45](#), in relation to negotiations with the Gulf Cooperation Council and human and labour rights

6. We consider this period after concluding the scrutiny of FTAs with Australia and New Zealand to be the right time to share some reflections and recommendations on the process, taking account of evidence received across relevant inquiries.

7. **We commend this report to the new Secretary of State and the Government, to support them in developing their approach to free trade agreements (FTAs) in the context of various live and forthcoming negotiations. In particular, we offer some key examples of how the parliamentary scrutiny of FTAs could be improved upon, not as an exhaustive list, but as the start of what we hope will be a constructive conversation with the Government.**

8. *The Government should undertake a full review of how it informs and engages with others before, during and after FTA negotiations. The review should include consultation with stakeholders and others, with a public report produced before the next parliamentary Session. We specifically ask the Government to consider how it involves Parliament and its committees in the FTA process, working with us—and the House of Lords International Agreements Committee (IAC)—to agree improvements.*

9. **We appreciate that carrying out this review meaningfully will not be a quick job, but action is required for any FTAs agreed before the review concludes. We ask the Government to accept our recommendations for immediate improvements to its processes which feed into our scrutiny, and apply these to any FTA negotiations completed before the review concludes, in addition to considering them for the long term in that review.**

10. We note the Public Administration and Constitutional Affairs Select Committee's wider inquiry into *The scrutiny of international treaties and other international agreements in the 21st century*.¹¹ We have focused specifically on the parliamentary scrutiny of FTAs and hope that this report and the Government's response will prove useful to that inquiry.

11. **We have mainly focused in this report on where we can provide insight and support to the Government on specific matters, but we acknowledge that wider parliamentary processes are not for us to resolve or discuss alone. We would expect that the Government will want to engage with other relevant parliamentary bodies, including the Public Administration and Constitutional Affairs, Procedure and Liaison committees, in considering and taking forward our wider-reaching recommendations.**

11 Public Administration and Constitutional Affairs Committee, '[The Scrutiny of International Treaties and other international agreements in the 21st century](#)', accessed 26 September 2022

2 Context of scrutiny

The Government's trade strategy

12. We have repeatedly asked the Government to publish a single wider and long-term strategy for trade negotiations¹²—a recommendation supported by the National Audit Office.¹³ The Government has continually refused to do this, instead pointing to various documents that it says cumulatively provide this view, including the strategic cases for individual FTAs.¹⁴

13. Written evidence has told us that “British trade policy currently lacks clarity, strategy and coherence”,¹⁵ and that it “would be strongly advisable if DIT were to publish a trade strategy setting out its objectives and ensuring that trade agreements and decisions are taken with the aims of that strategy in mind”.¹⁶ Stakeholders have also told us that the absence of a clear trade strategy means that “the UK’s approach to trade is not clear and is being established on a deal-by-deal basis”,¹⁷ and that “the UK is at significant risk of pursuing trade deals for their own sake”.¹⁸

14. We have recently restated the case for a single trade strategy and made further recommendations about what it should cover, and asked the Government to address these as part of its response to this report.¹⁹

15. The Government cannot make sufficiently clear what it wants to achieve through trade policy by pointing to information scattered through assorted documents. Additionally, individual FTA strategic cases do not provide a clear picture of how the totality of FTAs (negotiated, in negotiation or to be negotiated) contribute to its goals. We reiterate our call for the Government to produce a single strategy document that sets out in a coherent manner what it wants to achieve with its negotiations and how the FTAs it is negotiating will collectively support this. The strategy document should also set out which other FTAs the Government aims to negotiate beyond the current list and how these will help meet its strategic aims.

‘Non-trade’ related issues

16. We have received evidence suggesting that wider issues, such as human and labour rights, sustainable development and climate change, should be considered as part of trade

12 See, for example: International Trade Committee, Second Report of Session 2022–23, [UK trade negotiations: Agreement with Australia](#), HC 117, paras 22–26

13 National Audit Office, [Progress on Trade Negotiations Report](#), December 2021, para 25a

14 International Trade Committee, First Special Report of Session 2022–23, [UK trade negotiations: Scrutiny of Agreement with Australia and Agreement with Australia: Government Response to the Committee’s First and Second Reports](#), HC 704, paras 16–20

15 Protection Approaches (TFP0018) para 3.1

16 UK Steel (TEN0032) para 10

17 WWF-UK (TEN0022) para 1

18 UK Steel (TEN0032) para 10

19 International Trade Committee, Third Report of Session 2022–23, [UK trade negotiations: Agreement with New Zealand](#), HC 78, paras 26, 94, 292

deals.²⁰ On the other hand, the Institute of Economic Affairs told us that “the inclusion of non-trade policy areas acts against the democracy and prosperity enhancing effects of FTAs”.²¹

17. The Government has not always been clear about the extent to which it thought these issues should form part of FTAs or the process of negotiating them,²² and recent messages have seemed contradictory. For example, it has said that FTAs “are not generally the most effective or targeted tool to advance human rights issues”,²³ and that “there are often better ways to do that”.²⁴ However, it has also said that the UK “is committed to promoting and protecting freedom around the globe” and this is reflected in “our approach to championing free and fair trade”,²⁵ that it “will not pursue trade to the exclusion of human rights”,²⁶ and that “wherever appropriate, human rights are included in free trade agreements”.²⁷

18. In respect of human rights, it is important to note that there has been a significant shift in Government policy. The UK, when a member of the EU, supported the inclusion of a standard human rights clause in each of the EU’s trade agreements.²⁸ This standard clause was non-negotiable and did not seek to distinguish between different countries and their human rights records. The omission of a dedicated human rights clause from the FTAs with Australia and New Zealand suggests that the UK is not taking the same approach as the EU in this regard.

19. We asked the Government to explain what its approach was to language on the protection of human rights in the negotiations with Australia, and what it would be for future negotiations.²⁹ It responded that the action it takes in response to human rights violations “goes wider than trade, drawing on all levers at our disposal”.³⁰

20. We are concerned that, by not pursuing the inclusion of a standard human rights clause in UK FTAs, the Government has relinquished an important lever for promoting ‘British values’—and it is unclear what the benefit is of taking this approach.

21. We note that there are significant ‘non-trade’ issues which are nevertheless trade-related and are sometimes included in FTAs. The Government should confirm fully which ‘non-trade’ issues it will seek to: (i) address in future FTAs; (ii) reinforce in future FTAs as well as through other means; and (iii) omit from future FTAs to address solely

20 See, for example: World Vision UK ([TFP0005](#)); Friends of the Earth ([TFP0009](#)); Open Doors UK and Ireland ([TFP0012](#)); British Exporters Association ([TEN0020](#)); Institute for Public Policy Research ([TEN0029](#)); Which? ([TEN0030](#)); Traidcraft Exchange ([TDC0004](#)); ActionAid UK ([TDC0012](#))

21 The Institute of Economic Affairs ([TFP0006](#)) para 19

22 International Trade Committee, Second Report of Session 2022–23, [UK trade negotiations: Agreement with Australia](#), HC 117, paras 27–31

23 International Trade Committee, First Special Report of Session 2022–23, [UK trade negotiations: Scrutiny of Agreement with Australia and Agreement with Australia: Government Response to the Committee’s First and Second Reports](#), HC 704, para 23

24 HC Deb, 12 October 2022, [col 163WH](#)

25 Department for International Trade ([TFP0017](#)) para 23

26 HC Deb, 7 September 2022, [col 258](#)

27 HC Deb, 12 October 2022, [col 163WH](#)

28 See, for example: House of Lords Library, [Human Rights and Trade Deals](#), September 2019; HM Government, *Good Businesses: Implementing the UN Guiding Principles on Business and Human Rights*, Cm 9255, May 2016

29 International Trade Committee, Second Report of Session 2022–23, [UK trade negotiations: Agreement with Australia](#), HC 117, para 33

30 International Trade Committee, First Special Report of Session 2022–23, [UK trade negotiations: Scrutiny of Agreement with Australia and Agreement with Australia: Government Response to the Committee’s First and Second Reports](#), HC 704, para 22

through other means. If the Government will seek to omit from future FTAs ‘non-trade’ issues that were previously included in FTAs, for example on human rights, it should confirm what steps it is taking to ensure they are adequately addressed via other means.

Precedent

22. We have previously noted stakeholders’ concerns about the precedents set by the new FTAs, for example on agricultural trade liberalisation,³¹ and the Government’s view that one FTA does not set a precedent for another.³²

23. When we challenged the Government on this position,³³ it responded that “No single deal sets a blueprint for future deals”,³⁴ separately noting that “the market access provisions under the Agreement with Australia do not impact our negotiating positions for bilateral market access discussions with other CPTPP Parties”.³⁵

24. While the Government will have specific objectives for each set of negotiations with a particular country, it has indicated that there are certain common core negotiating principles—notably around not diluting UK food-production standards.³⁶

25. **We remain concerned that the Government has underestimated the effect— or perceived effect—of negotiated FTAs on expectations for future FTA negotiations, particularly in terms of fundamental baseline principles. The Government should publish in one document a clear set of core common negotiating principles. These should be updated and revised as necessary to take account of any shifts in the Government’s baseline negotiating position resulting from FTA negotiations.**

Cumulative impact

26. We have noted the concerns of stakeholders that the cumulative gains and losses across FTAs could have a significant impact on businesses and industries.³⁷ The Government has said that it seeks to produce individual impact assessments on the basis of the latest modelling, taking into account developments including already-negotiated FTAs.³⁸ However, these assessments are necessarily focused on the context of the individual FTA.

31 International Trade Committee, Second Report of Session 2022–23, [UK trade negotiations: Agreement with Australia](#), HC 117, paras 76, 88, 157

32 International Trade Committee, Second Report of Session 2022–23, [UK trade negotiations: Agreement with Australia](#), HC 117, para 34

33 International Trade Committee, Second Report of Session 2022–23, [UK trade negotiations: Agreement with Australia](#), HC 117, para 36

34 International Trade Committee, First Special Report of Session 2022–23, [UK trade negotiations: Scrutiny of Agreement with Australia and Agreement with Australia: Government Response to the Committee’s First and Second Reports](#), HC 704, para 25

35 International Trade Committee, First Special Report of Session 2022–23, [UK trade negotiations: Scrutiny of Agreement with Australia and Agreement with Australia: Government Response to the Committee’s First and Second Reports](#), HC 704, para 14

36 Oral evidence taken on 6 July 2022, HC (2022–23) 117, [Qq281–283, 288](#)

37 International Trade Committee, Second Report of Session 2022–23, [UK trade negotiations: Agreement with Australia](#), HC 117, paras 434, 437; International Trade Committee, Third Report of Session 2022–23, [UK trade negotiations: Agreement with New Zealand](#), HC 78

38 See, for example: International Trade Committee, First Special Report of Session 2022–23, [UK trade negotiations: Scrutiny of Agreement with Australia and Agreement with Australia: Government Response to the Committee’s First and Second Reports](#), HC 704, paras 152–154

We have previously recommended that there should also be a standalone analysis of the cumulative impacts of FTAs to date, where the impacts are distinguished from wider economic or other factors, but not received a clear response.³⁹

27. We repeat our recommendation that the Government should produce a document which demonstrates how new FTAs—as a group—are affecting UK trade and the economy, including at the national, regional and sectoral levels, and update this following the ratification of each new FTA.

Parliamentary arrangements

28. The Constitutional Reform and Governance Act 2010 (CRaG) provisions for FTA scrutiny may be relatively new,⁴⁰ but the Act essentially puts on a statutory footing custom and practice that was first established in 1924.⁴¹ Additional scrutiny arrangements beyond CRaG were codified in an exchange of letters between DIT and the IAC in May 2022.⁴² Further scrutiny commitments were subsequently made by the previous Secretary of State for International Trade (in July 2022) and her successor (in September 2022).⁴³ The annex to this report provides a summary of CRaG requirements for FTA scrutiny,⁴⁴ and of subsequent Government commitments.

29. Our predecessor Committee stated that the processes under CRaG were “insufficient”.⁴⁵ The Government responded that CRaG “provides a sound framework within which to scrutinise a wide range of treaties”, while noting that it was “less than a decade old” and had been “the subject of wide consultation prior to Parliament agreeing it”.⁴⁶ More recently, it has confirmed that it still believes “that CRaG continues to provide a robust framework”.⁴⁷

30. However, the passage of CRaG through Parliament took place in a significantly different context to that of today.⁴⁸ In particular, the UK had not yet decided to leave the EU, meaning that Parliament could not have anticipated the need to undertake scrutiny of a large number of new FTAs by means of the processes under CRaG.

31. Our reflections on the experience of scrutinising the UK’s FTAs with Australia and New Zealand, discussed in this report, highlight areas where the provisions in CRaG have indeed proved to be insufficient. We consider the fact that the Government has since

39 International Trade Committee, Second Report of Session 2022–23, [UK trade negotiations: Agreement with Australia](#), HC 117, para 436; International Trade Committee, First Special Report of Session 2022–23, [UK trade negotiations: Scrutiny of Agreement with Australia and Agreement with Australia: Government Response to the Committee’s First and Second Reports](#), HC 704, paras 150–154

40 Constitutional Reform and Governance Act 2010, [Part 2](#)

41 Erskine May, 25th edition (2019), para 7.36, [footnote 2](#). See also: [Explanatory notes to the Constitutional Reform and Governance Act 2010](#), paras 33–36; [Parliamentary scrutiny of treaties: up to 2010](#), Standard Note [SN/IA/4693](#), House of Commons Library, September 2009.

42 Exchange of letters between Lord Grimstone and Baroness Hayter, [19 May 2022](#)

43 Rt Hon Anne-Marie Trevelyan MP to Angus Brendan MacNeil MP, [19 July 2022](#), Rt Hon Kemi Badenoch MP to Angus Brendan MacNeil MP, [15 September 2022](#)

44 See also: International Trade Committee, Second Report of Session 2022–23, [UK trade negotiations: Agreement with Australia](#), HC 117, para 3

45 International Trade Committee, Sixth Report of Session 2017–19, [UK trade policy transparency and scrutiny](#), HC 1043, para 44

46 International Trade Committee, Sixth Special Report of Session 2017–19, [UK trade policy transparency and scrutiny: Government Response to the Committee’s Sixth Report](#), HC 2027, p 4

47 HC Deb, 12 October 2022, [col 162WH](#)

48 UK Parliament, [‘Constitutional Reform and Governance Act 2010 Stages’](#), accessed 27 September 2022

made additional—welcome—non-statutory scrutiny commitments (discussed in the next section) to be further evidence that CRaG does not go far enough to ensure strong parliamentary scrutiny.

32. The provisions for parliamentary scrutiny of treaties set out in the Constitutional Reform and Governance Act 2010 (CRaG) do not reflect the changes made since the UK left the European Union and so are therefore not fit to scrutinise future FTAs.

33. While we welcome the Government’s commitment to support scrutiny, the additional non-statutory undertakings it has given for FTA scrutiny—as set out in the exchange of letters between Lord Grimstone and Baroness Hayter—do not yet go far enough. Further, it has at times shown a reluctance to meet the spirit, if not the letter, of those commitments. The Government’s rejection of our requests to be allowed to publish a report before it triggered CRaG, and for it to provide time for a debate on our report, suggest that these commitments are either not firm enough or not clear enough.

34. The Government must include Part 2 of CRaG in the review of scrutiny arrangements we have recommended. Following that review, it must bring forward amendments to CRaG which will bring its current non-statutory commitments into law. The amendments must also address the recommendations in this report and arising from its review. These amendments should be brought before Parliament no later than a year from now.

International comparisons

35. The Government has stated that it supports scrutiny with commitments that go beyond the minimum required by CRaG, claiming its “openness to scrutiny by Parliament [...] is at least as strong as any other Westminster-style democracies”.⁴⁹ It has also stated that the UK has an FTA parliamentary scrutiny “system that compares very well with other parliamentary systems around the world”.⁵⁰

36. We have received written evidence that suggests the UK “falls some way short of that which exists in the European Parliament and in other states”.⁵¹ We have also been told that a model of early and ongoing parliamentary consultation, such as that used in the US and EU, “needs to form the basis of a [negotiating] mandate being created” to ensure increased scrutiny and transparency in trade negotiations.⁵²

49 International Trade Committee, Second Special Report of Session 2019–21, [UK-Japan Comprehensive Economic Partnership Agreement: Government Response to the Committee’s Second Report of Session 2019–21](#), HC 1163, para 9. See also: HC Deb, 12 October 2022, [col 163WH](#).

50 HC Deb, 19 July 2022, [col 844](#)

51 Alex Horne (Barrister and Visiting Professor, Durham University) ([UKT0046](#)) para 27. See also: Trade Justice Movement ([COP0004](#)) para 25; Greener UK ([TEN0027](#)) para 17; Traidcraft Exchange ([TIN0019](#)) para 5.

52 NFU ([GCC003](#)) paras 52–53

Table 1: Comparison of international parliamentary scrutiny approaches

Before Negotiations	UK	US ⁵³	EU ⁵⁴	AUS	CAN	NZ
Right to regulate international trade	–	✓	–	–	–	–
Right to advance notice of intent to start negotiations	✓	✓	✓	–	✓	✓
Government call for public input	✓	✓	✓	✓	✓	✓
Power to set objectives	–	✓	✓	–	–	–
Consent required to open negotiations	–	✓	✓	–	–	–
Right to be consulted before negotiations	✓	✓	✓	–	–	✓
Right to be kept informed	✓	✓	✓	–	✓	✓
Right to view objectives	✓	✓	✓	✓	✓	✓
Right to debate objectives	✓	✓	✓	–	–	–
Right to view impact assessments	✓	–	✓	–	✓	–
During Negotiations	UK	US	EU	AUS	CAN	NZ
Right to be kept informed	✓	✓	✓	✓	✓	✓
Right to take part in negotiations	–	✓	✓ ⁵⁵	–	–	–
Access to negotiating texts	–	✓	✓	–	–	–
Committee scrutiny	✓	✓	✓	–	✓	–
After Negotiations	UK	US	EU	AUS	CAN	NZ
Right to advance notice of signature	✓	✓	✓	–	–	–
Pre-signature final version made public	–	✓	✓	–	–	–
Consent required for signature and/or conclusion of negotiations	–	✓	✓	–	–	–
Right to advanced notice of signed treaty tabling	✓	✓	✓	–	–	–
Scrutiny period (days)	21	60 ⁵⁶	✓ ⁵⁷	15/20	21	15

53 The Trade Promotion Authority (TPA) laws that ordinarily govern FTA negotiation and ratification expired on 01/07/21. This table is based upon the delegation of powers established through the TPA, however future TPA renewal and potential changes may alter this.

54 The commitments in the 2010 Framework Agreement on relations between the European Parliament and the European Commission are treated as akin to legally binding provisions.

55 For multilateral negotiations, the 2010 Framework Agreement foresees the possibility of the inclusion of an EP delegation as observers during international negotiations ([Kerremans et al, 2019](#))

56 Committees have 45 sitting days to report, their chambers then have 15 sitting days to debate.

57 Time limits may be set by agreement between the European Parliament and the Council in an urgent situation. Otherwise, the scrutiny period is not time-limited. (See [Art 218 of the TFEU](#))

Explanatory materials tabled ⁵⁸	✓	✓	✓	✓	✓	✓
Right to debate	✓	✓	✓	✓	✓	✓
Right to vote	—	✓	✓	—	✓	—
Right to veto	—	✓	✓	—	— ⁵⁹	—
Required legislative changes to have passed prior to ratification	✓	✓	✓ ⁶⁰	✓	✓	✓

✓	Legal requirement
✓	Non-statutory commitment
—	No provision

Main sources: *How Parliament treats treaties*, Briefing paper 9247, June 2021; Emily Jones and Anna Sands, “Ripe for reform: UK scrutiny of international trade agreements”, Global Economic Governance Working Paper 144, September 2020; Professor Bart Kerremans, Johan Adriaensen, Francesca Colli, and Evelyn Coremans, “Parliamentary Scrutiny of Trade Policies across the Western World”, March 2019.

37. As the table shows, the US and EU legislatures have extensive statutory scrutiny arrangements throughout the entirety of the FTA negotiation process, including oversight of and consultation on objectives and negotiation progress, and a debate and vote on the FTA before ratification. Other legislatures have no statutory scrutiny powers until after an FTA is signed, with no guarantee of a parliamentary debate or meaningful vote before FTA ratification: their main role is the enactment of any legislation required for an FTA to come into effect.

38. **International comparisons show that there is more the Government could do to enable strong parliamentary scrutiny of FTAs, as the statutory processes and structures needed to allow greater oversight and scrutiny of FTA negotiations are lacking. As part of its review, the Government should undertake and publish a systematic comparison of the engagement and scrutiny processes of broadly comparable democracies—not just ‘Westminster-style’ ones. It should then explore with us (and the IAC) how processes can be strengthened in line with equivalent arrangements in other legislatures.**

Committee capacity

39. We have been appointed by the House of Commons to “examine the expenditure, administration and policy” of DIT and its associated bodies.⁶¹ The model for departmental

58 This includes an Impact Assessment (EU, US, New Zealand, and UK), an Interest Analysis (New Zealand and Australia), and/or an Explanatory Memorandum (UK and Canada). The materials are scoped and named differently across each jurisdiction.

59 The National Assembly of Québec does vote on ratification. If the treaty is rejected by the National Assembly of Québec the FTA is not annulled; but the parts touching on provincial competences are not applicable within Québec. (Jones and Sands, 2020, p.21)

60 Mixed agreements must be ratified at Member State level and are subject to the ratification rules and procedures of each of those countries. Non-mixed agreements are only subject to the ratification rules and procedures of the EU.

61 House of Commons, *Standing Orders: Public Business 2020*, HC 804, Standing Order No. 152 (Select committees related to government departments)

committees, first established in 1979,⁶² does not envisage their carrying out regular, detailed scrutiny of international agreements as one of their primary functions, as this was done by the EU.

40. We have noted previously the difficulties caused to our planning for and undertaking of departmental and FTA scrutiny by uncertainty over the timeline for recent FTAs and ongoing negotiations⁶³—and the new Secretary of State has recently committed to providing indicative timelines.⁶⁴

41. **Scrutinising several sets of overlapping FTA negotiations in close succession has a significant impact on our capacity to fulfil our important core remit as a departmental select committee.**

42. **We consider that the work of scrutinising the volume of FTAs would require a greater allocation of resources to our Committee.**

43. **We also consider that it is possible to consolidate existing commitments and make new ones without locking in the full timeframe for all future FTAs, providing greater certainty ahead of individual FTA indicative timelines. For example, the Government could commit to allowing at least a specific number of sitting days or weeks between different stages. *The Government should consider how further fixed commitments on timings can be brought into effect, discussing options with us.***

Other trade-related international agreements

44. Not all agreements which deal with trade are titled FTAs.⁶⁵ Other types include Digital Economy Agreements, Enhanced Trade Partnerships, Digital Trade Agreements, Memoranda of Understanding and Economic Partnership Agreements.⁶⁶ For the purposes of FTA scrutiny, what matters is not the title used but whether they are treaties and how they are ratified.⁶⁷

45. The contents of different agreements can have varying legal weight, regardless of the title used. Nonetheless, it is not clear in overarching terms what agreements with different titles will typically cover—in terms of scope and subject matter—and so which ones should trigger CRaG or additional scrutiny procedures, including non-statutory commitments. Nor is it clear why and how the Government chooses to pursue an agreement with one title instead of or as well as another. Further, where some agreements do not trigger CRaG or additional procedures, in practice they may not receive the same level of scrutiny despite being significant trade-related agreements in their own right. This is important: we were

62 HC Deb (1979–80) 969, [cols 33–252](#)

63 See, for example: International Trade Committee, First Report of Session 2022–23, [UK trade negotiations: Scrutiny of Agreement with Australia](#), HC 444, paras 9–11

64 Rt Hon Kemi Badenoch MP to Angus Brendan MacNeil MP, [15 September 2022](#)

65 The Government has defined an FTA as an agreement that is notifiable under the World Trade Organization (WTO), which relates to whether it creates a customs union or free trade area. See: Agriculture Act 2020, [section 42\(7\)](#); General Agreement on Tariffs and Trade, [Article XXIV](#).

66 See, for example: Department for International Trade, [UK-Singapore Digital Economy Agreement](#), 14 June 2022; Department for International Trade, [Joint Statement on UK-Thailand Joint Economic and Trade Committee](#), 21 June 2022; Department for International Trade, [UK and Ukraine launch talks on digital trade deal to support Ukrainian businesses](#), 23 August 2022; Department for International Trade, [Memorandum of understanding \(MOU\) on cooperation and trade relations between the US state of North Carolina and the United Kingdom](#), 20 July 2022; Department for International Trade, [UK and Kenya sign trade agreement](#), 8 December 2020

67 Constitutional Reform and Governance Act 2010, [section 25](#)

told that the UK-Singapore Digital Economy Agreement, for example, went further than the UK-New Zealand FTA in its digital provisions,⁶⁸ but we did not have the time and capacity to consider it as we would a full FTA.

46. Given the range of titles used for agreements, and the differing requirements for ratification, the extent to which they will be subject to parliamentary scrutiny processes is not always clear. *The Government must set out how the various types of trade-related agreements fit into its overall trade strategy. It must also set out a strategic approach for their use, clearly defining the broad level and range of commitments appropriate for each. In doing this, the Government must set out whether each type would trigger CRaG and additional scrutiny procedures, and why.*

68 Emily Jones, Rutendo Tavengerwei, Danilo Garrido Alves, and Beatriz Kira ([ANZ0029](#)) para 3a

3 Process of scrutiny

Consideration of negotiations

47. There is a period before negotiations toward FTAs are consulted on and begin when the Government considers with which countries it wishes to open negotiations, and when.

48. While previously some information has been shared with the Committee in private about forthcoming negotiations, this has been relatively limited, which has presented challenges in terms of our longer-term scrutiny planning. The Government has committed to the Secretary of State and senior officials privately discussing prospective negotiations with us before those negotiations are launched, with the expectation that this will happen during the public consultation period.⁶⁹

49. **We welcome the Government’s recent commitment around pre-negotiation information-sharing. However, effective scrutiny requires that Parliament and the wider public can consider how FTAs individually and collectively contribute to achieving the Government’s strategic international trade goals. *The Government must explain the process it uses to take strategic decisions on which FTAs to seek at particular times, before individual FTA public consultations are launched.***

Before negotiations

50. Our predecessor Committee sought a commitment from the Government that Parliament would be given the opportunity to debate the strategic approach document (including negotiating objectives) on an amendable, substantive motion before the mandate was set and negotiations began.⁷⁰ The Government said it did not believe that would be “appropriate”.⁷¹

51. However, the Government agreed “that Parliament must play a meaningful role” and “should have the opportunity to shape and inform our approach to trade policy”. It also said it was “strongly committed to ensuring that trade agreements benefit from wide and comprehensive consultation with Parliament, the devolved administrations, the public and other stakeholders”.⁷²

52. We have received evidence suggesting that Parliament should have a vote on negotiation mandates and objectives,⁷³ with scope to amend them prior to approval.⁷⁴

69 Rt Hon Anne-Marie Trevelyan MP to Angus Brendan MacNeil, [19 July 2022](#)

70 International Trade Committee, Sixth Report of Session 2017–19, [UK trade policy transparency and scrutiny](#), HC 1043, para 54

71 International Trade Committee, Sixth Special Report of Session 2017–19, [UK trade policy transparency and scrutiny: Government Response to the Committee’s Sixth Report](#), HC 2027, p 4

72 International Trade Committee, Sixth Special Report of Session 2017–19, [UK trade policy transparency and scrutiny: Government Response to the Committee’s Sixth Report](#), HC 2027, p 2

73 War on Want ([COP0012](#)); Fairtrade Foundation ([TDC0013](#)); Traidcraft Exchange ([TIN0019](#)); National Farmers’ Union ([GCC0003](#))

74 Traidcraft Exchange ([TDC0004](#))

53. To date, the Government has launched FTA negotiations soon after publishing its public consultation response and strategic case for negotiations (the ‘public bundle’). However, it has also said it will seek to facilitate a debate on FTA negotiation objectives, if requested by us or the IAC, subject to Parliamentary time.⁷⁵

54. **Despite the Government’s prior commitment to do so, Parliament has not been ‘consulted’ before or during FTA negotiations—rather, Parliament has merely been informed of decisions and outcomes after the fact. This needs to change. *While we recognise the prerogative of the Government to conduct trade negotiations, we ask it to consider as part of its review how it can involve Parliament and its committees more closely prior to negotiations.***

55. **We have not taken evidence during Government consultations on its negotiating plans, to avoid duplication or commenting before the Government has finalised its position. However, its approach—launching negotiations soon after publishing negotiation objectives—leaves too little time for us to examine those objectives and seek debate before negotiations have begun, removing any scope to potentially influence them. *The Government must leave more space between its ‘public bundle’ being published and the start of negotiations, allowing time for meaningful consideration and any debate. It must also strengthen its existing commitment to ensure that a debate is granted where one is requested by the relevant committees.***

56. **For parliamentary engagement at this stage to be meaningful, the Government must be open to the possibility of changing its negotiating objectives as a result of such engagement. *The Government should discuss with us options for how Parliament can influence its approach to negotiations, on the basis of the above and our recent experience, as part of its review.***

During negotiations

57. The Government has committed to publishing “regular updates—usually after each substantive negotiating round”.⁷⁶ The updates we have received were not always as detailed as those published by countries with which the Government was negotiating.⁷⁷ We received written evidence stating that “updates provided during negotiations [...] were extremely high level”, that “[t]exts from negotiations rounds should be released for confidential discussion via appropriate forums”,⁷⁸ and that the Government should provide Parliament with “improved access to information during negotiations”.⁷⁹

58. **We must be kept up to date on the detail of negotiations, to inform our scrutiny of the Government’s progress and outcomes, even where some details may not be for public discussion at the time.**

59. ***The Government should evaluate the process by which, for previous negotiation rounds, it decided what information to share with Parliament and others, and should***

75 Exchange of letters between Lord Grimstone and Baroness Hayter, [19 May 2022](#)

76 Exchange of letters between Lord Grimstone and Baroness Hayter, [19 May 2022](#)

77 Compare, for example, the UK and New Zealand negotiation updates: Department for International Trade, ‘[UK-New Zealand Free Trade Agreement](#)’, accessed 29 September 2022; New Zealand Foreign Affairs & Trade, ‘[Timeline and history of the negotiations](#)’, accessed 29 September 2022

78 Friends of the Earth England, Wales and Northern Ireland ([TIN0015](#)) para 21a

79 Traidcraft Exchange ([TIN0019](#)) para 5

consider what more information could have been shared without harming negotiations, to inform its future approach. It should particularly consider how it could share more detailed information with our Committee, for example under embargo until negotiations conclude or on Privy Council terms, to inform future scrutiny of the negotiations process and final FTAs. This work should be undertaken in discussion with us, as part of the review we have recommended.

After negotiations

Advance notification

60. The Government has said it will “endeavour” to share FTA materials after signature in confidence ahead of publication.⁸⁰ It has sought to do similarly for Agreements in Principle (AiPs). We experienced issues with both aspects during scrutiny of the UK-New Zealand FTA, including the media being briefed on the AiP and the FTA being published before we received copies.⁸¹

61. **The Government’s commitment to “endeavour to share” FTA documents with us before publication has proved inadequate. The Government must now commit firmly to sharing FTA documents with us at least 48 hours before publication, and no later than they are shared with others.**

Time to report

62. The Government has previously committed to ensuring we have enough time to produce our report on an FTA before it triggers the CRAg scrutiny period.⁸² However, during our recent FTA scrutiny, it did not meet this commitment—nor a separate commitment made to the Speaker on this point in relation to the Australia agreement.⁸³ When we raised concerns about this and the impact of the resulting uncertainty,⁸⁴ the Government argued after the fact that the final amount of time available had been more than enough.⁸⁵

63. We note that the Government has agreed that the Trade and Agriculture Commission (TAC), which has a statutory role in the FTA scrutiny process,⁸⁶ “will have at least 3 months to prepare its advice” to the Government.⁸⁷ As we have previously stated, our inquiry into an FTA cannot conclude until we have considered and taken oral evidence on this advice.⁸⁸

80 Exchange of letters between Lord Grimstone and Baroness Hayter, [19 May 2022](#)

81 International Trade Committee, Third Report of Session 2022–23, [UK trade negotiations: Agreement with New Zealand](#), HC 78, para 29

82 See, for example: [Q47](#) [Elizabeth Truss] and exchange of letters between Lord Grimstone and Baroness Hayter, [19 May 2022](#)

83 Rt Hon Anne-Marie Trevelyan to Rt Hon Sir Lindsay Hoyle MP, [3 December 2021](#)

84 See, for example: International Trade Committee, First Report of Session 2022–23, [UK trade negotiations: Scrutiny of Agreement with Australia](#), HC 444, paras 7–21

85 International Trade Committee, First Special Report of Session 2022–23, [UK trade negotiations: Scrutiny of Agreement with Australia and Agreement with Australia: Government Response to the Committee’s First and Second Reports](#), HC 704, paras 7–8, 10

86 Trade Act 2021, [section 9](#)

87 Department for International Trade, [‘Terms of reference: Trade and Agriculture Commission \(web version\)’](#), accessed 28 September 2022

88 See, for example: Angus Brendan MacNeil MP to Rt Hon Anne-Marie Trevelyan MP, [31 March 2022](#)

64. Recently, the new Secretary of State has stated that “I envisage there being a period of at least 10 sitting days between the publication of the Government’s Section 42 reports and the commencement of CRaG”,⁸⁹ and that the Government would “not lay an FTA for the purposes of CRaG” before a Minister has given oral evidence.⁹⁰ In respect of our report on the UK-New Zealand FTA,⁹¹ she has also agreed to seek “a mutually agreeable position” on the timing of our report and the triggering of CRaG, “in support of our shared objective of ensuring robust scrutiny of the New Zealand agreement”.⁹²

65. **We welcome as a step in the right direction the Secretary of State’s recent commitments around pre-CRaG scrutiny and report timings following negotiations.**

66. *The Government should consolidate this movement with our previous call for guaranteed time to finalise and publish our report on an FTA, by committing to ensure that we are able to consider its section 42 report for at least 6 sitting days before seeing a Minister.*

67. *The Government must continue to work with us to coordinate when it triggers CRaG for future FTAs, to ensure the House can consider our report before it debates the FTA within the CRaG period.*

Debate request

Timing

68. While the Government has committed to grant a “timely” request from this Committee for a debate on an FTA “subject to Parliamentary time”,⁹³ our request for a debate on the Australia FTA⁹⁴ was not granted.⁹⁵ It is unclear whether this was due to a perceived lack of timeliness or of parliamentary time.⁹⁶

69. To avoid a possible repetition of this outcome for our scrutiny of the FTA with New Zealand, we gave the new Secretary of State and Leader of the House advance notice of our intention to seek a debate,⁹⁷ ahead of publishing our full report.⁹⁸ In her response, the Secretary of State stated that her “officials will be engaging with colleagues to discuss how best to ensure appropriate scrutiny of this agreement”.⁹⁹

70. We note that, during the passage of CRaG, the then Minister for Europe assured the House that:

89 A ‘section 42’ report sets out what an FTA means “means for the maintenance of UK levels of statutory protections in the areas of human health, animal and plant life or health, animal welfare and the environment” (Department for International Trade, [Report pursuant to Section 42 of the Agriculture Act 2020 UK-New Zealand Free Trade Agreement](#), July 2022, p 1). See also: Agriculture Act 2020, [section 42](#)

90 Rt Hon Kemi Badenoch MP to Angus Brendan MacNeil MP, [15 September 2022](#)

91 International Trade Committee, Third Report of Session 2022–23, [UK trade negotiations: Agreement with New Zealand](#), HC 78

92 Rt Hon Kemi Badenoch MP to Angus Brendan MacNeil MP, [14 October 2022](#)

93 Exchange of letters between Lord Grimstone and Baroness Hayter, [19 May 2022](#)

94 International Trade Committee, First Report of Session 2022–23, [UK trade negotiations: Scrutiny of Agreement with Australia](#), HC 444, para 23

95 Rt Hon Mark Spencer MP to Angus Brendan MacNeil MP and Sir Bernard Jenkin MP, [18 July 2022](#)

96 See, for example: HC Deb, 19 July 2022, [col 843](#); [PQ 40807](#), 20 July 2022 (answered 5 September 2022)

97 Angus Brendan MacNeil MP to Rt Hon Kemi Badenoch MP, [20 September 2022](#)

98 International Trade Committee, Third Report of Session 2022–23, [UK trade negotiations: Agreement with New Zealand](#), HC 78

99 Rt Hon Kemi Badenoch MP to Angus Brendan MacNeil MP, [14 October 2022](#)

the Commons would always have the right of veto, should it choose to implement it. The Government would always make sure that where a debate and vote were requested, they would be made available within the allotted time—or if they were not, we would extend the time in order to allow that provision.¹⁰⁰

71. *The Government must clearly state what it considers would be a ‘timely’ request from us for a debate on an FTA, for example specifying a certain number of sitting days before it has indicated CRaG will be triggered. In doing this, it must ensure that this condition fits within the wider timeframe established by its past commitments and those we are seeking, so that any debate is held within the CRaG period.*

72. *We accept the Government’s need for a timely debate request but the commitment to granting such a request must be firmer than ‘subject to parliamentary time’ as it controls parliamentary time. The Government must strengthen its commitment to granting a post-negotiation parliamentary debate, ensuring that one is granted if requested in a timely manner, making parliamentary time available.*

Substantive motion

73. Under CRaG, only the House of Commons has the power to delay ratification of FTAs.¹⁰¹ However, for the Australia FTA, the House was denied the option to exercise this power¹⁰² despite our requests.¹⁰³

74. The Government said that, though a debate on a substantive motion wasn’t granted within the CRaG period for the Australia FTA, Parliament would still be able to debate the enabling legislation during its passage. It also suggested that the Bill provided a suitable alternative opportunity for debate as the FTA “cannot be ratified” until the Bill is “passed by Parliament in the usual way”,¹⁰⁴ and that delaying the legislation would have the same effect as delaying ratification under CRaG.¹⁰⁵

75. However, this misses some key points:

- a) The Trade (Australia and New Zealand) Bill has a very narrow scope,¹⁰⁶ so debate on the bill and on amendments would be limited to a much narrower field than the full breadth of the FTA. Members would be unable to raise or to explore in depth specific aspects of the FTA about which concerns have been raised.

100 HC Deb, 19 January 2010, [col 218](#)

101 Constitutional Reform and Governance Act 2010, [Part 2](#)

102 Rt Hon Mark Spencer MP to Angus Brendan MacNeil MP and Sir Bernard Jenkin MP, [18 July 2022](#); Rt Hon Anne-Marie Trevelyan MP to Angus Brendan MacNeil MP, [19 July 2022](#)

103 International Trade Committee, First Report of Session 2022–23, [UK trade negotiations: Scrutiny of Agreement with Australia](#), HC 444, para 25; International Trade Committee, Second Report of Session 2022–23, [UK trade negotiations: Agreement with Australia](#), HC 117, para 11

104 International Trade Committee, First Special Report of Session 2022–23, [UK trade negotiations: Scrutiny of Agreement with Australia and Agreement with Australia: Government Response to the Committee’s First and Second Reports](#), HC 704, para 10

105 HC Deb, 19 July 2022, [col 843](#)

106 [Explanatory Notes to the Trade \(Australia and New Zealand\) Bill](#) [Bill 9 (2022–23) —EN]. See also: Trade (Australia and New Zealand) Bill Committee, 12 October 2022, [cols 4–5, 12, 16, 20](#)

- b) Debate held outside the CRaG period—for example during bill scrutiny—does not allow the House to exercise its statutory right to delay ratification.¹⁰⁷ Any debate scheduled or enabled by the Government after the CRaG period has ended would not be effective and thus amounts to curtailing Parliament’s already-limited powers in this area.
- c) It is not a legal requirement for the enabling legislation to be in force before a treaty is ratified, rather a matter of custom and practice.¹⁰⁸ Therefore, there is no guarantee that actions of either House in relation to the legislation would impact upon ratification—despite the Government’s assertion to the contrary.¹⁰⁹

76. Alex Horne, a Barrister and Visiting Professor at Durham University, told us that “the experience with the Australia FTA demonstrated that [the delaying] power may well be illusory in some circumstances” and that “[w]ithout the power to force a debate on a relevant motion, the views of Parliament can easily be ignored”.¹¹⁰ In other evidence, War on Want called for “a guaranteed vote in Parliament for all trade deals”,¹¹¹ and the Trade Justice Movement said “full debates and scrutiny” should be guaranteed.¹¹²

77. We have previously stated that we consider that all future post-negotiation debates on FTAs should be on a substantive motion concerning whether the House supports ratification, to allow the House either to endorse an FTA or to delay ratification using its powers under section 20 of CRaG.¹¹³

78. For CRaG to have any meaning, the House of Commons must have the opportunity not only to debate an FTA but also to vote on a substantive motion during the period in which it retains its power to delay ratification if it considers this appropriate. *The Government must commit to accepting a timely request for a debate on a substantive motion for any new FTA, rather than seeking a general debate instead.*

107 For the House to exercise its statutory power to delay ratification, two conditions must be met: the wording of the motion under debate must meet the requirements of the statute and the motion must also be passed within the CRaG period.

108 See, for example: [How Parliament treats treaties](#), Briefing paper [9247](#), June 2021, p 38; HC Deb, 12 October 2022, col [162WH](#)

109 International Trade Committee, First Special Report of Session 2022–23, [UK trade negotiations: Scrutiny of Agreement with Australia and Agreement with Australia: Government Response to the Committee’s First and Second Reports](#), HC 704, para 10

110 Alex Horne ([UKT0046](#))

111 War on Want ([COP0012](#))

112 Trade Justice Movement ([TDC0007](#))

113 International Trade Committee, Third Report of Session 2022–23, [UK trade negotiations: Agreement with New Zealand](#), HC 78

Conclusions and recommendations

Introduction

1. We commend this report to the new Secretary of State and the Government, to support them in developing their approach to free trade agreements (FTAs) in the context of various live and forthcoming negotiations. In particular, we offer some key examples of how the parliamentary scrutiny of FTAs could be improved upon, not as an exhaustive list, but as the start of what we hope will be a constructive conversation with the Government. (Paragraph 7)
2. The Government should undertake a full review of how it informs and engages with others before, during and after FTA negotiations. The review should include consultation with stakeholders and others, with a public report produced before the next parliamentary Session. We specifically ask the Government to consider how it involves Parliament and its committees in the FTA process, working with us—and the House of Lords International Agreements Committee (IAC)—to agree improvements. (Paragraph 8)
3. We appreciate that carrying out this review meaningfully will not be a quick job, but action is required for any FTAs agreed before the review concludes. *We ask the Government to accept our recommendations for immediate improvements to its processes which feed into our scrutiny, and apply these to any FTA negotiations completed before the review concludes, in addition to considering them for the long term in that review.* (Paragraph 9)
4. We have mainly focused in this report on where we can provide insight and support to the Government on specific matters, but we acknowledge that wider parliamentary processes are not for us to resolve or discuss alone. We would expect that the Government will want to engage with other relevant parliamentary bodies, including the Public Administration and Constitutional Affairs, Procedure and Liaison committees, in considering and taking forward our wider-reaching recommendations. (Paragraph 11)

Context of scrutiny

5. The Government cannot make sufficiently clear what it wants to achieve through trade policy by pointing to information scattered through assorted documents. Additionally, individual FTA strategic cases do not provide a clear picture of how the totality of FTAs (negotiated, in negotiation or to be negotiated) contribute to its goals. *We reiterate our call for the Government to produce a single strategy document that sets out in a coherent manner what it wants to achieve with its negotiations and how the FTAs it is negotiating will collectively support this. The strategy document should also set out which other FTAs the Government aims to negotiate beyond the current list and how these will help meet its strategic aims.* (Paragraph 15)

6. We are concerned that, by not pursuing the inclusion of a standard human rights clause in UK FTAs, the Government has relinquished an important lever for promoting ‘British values’—and it is unclear what the benefit is of taking this approach. (Paragraph 20)
7. We note that there are significant ‘non-trade’ issues which are nevertheless trade-related and are sometimes included in FTAs. *The Government should confirm fully which ‘non-trade’ issues it will seek to: (i) address in future FTAs; (ii) reinforce in future FTAs as well as through other means; and (iii) omit from future FTAs to address solely through other means. If the Government will seek to omit from future FTAs ‘non-trade’ issues that were previously included in FTAs, for example on human rights, it should confirm what steps it is taking to ensure they are adequately addressed via other means.* (Paragraph 21)
8. We remain concerned that the Government has underestimated the effect—or perceived effect—of negotiated FTAs on expectations for future FTA negotiations, particularly in terms of fundamental baseline principles. *The Government should publish in one document a clear set of core common negotiating principles. These should be updated and revised as necessary to take account of any shifts in the Government’s baseline negotiating position resulting from FTA negotiations.* (Paragraph 25)
9. *We repeat our recommendation that the Government should produce a document which demonstrates how new FTAs—as a group—are affecting UK trade and the economy, including at the national, regional and sectoral levels, and update this following the ratification of each new FTA.* (Paragraph 27)
10. The provisions for parliamentary scrutiny of treaties set out in the Constitutional Reform and Governance Act 2010 (CRaG) do not reflect the changes made since the UK left the European Union and so are therefore not fit to scrutinise future FTAs. (Paragraph 32)
11. While we welcome the Government’s commitment to support scrutiny, the additional non-statutory undertakings it has given for FTA scrutiny—as set out in the exchange of letters between Lord Grimstone and Baroness Hayter—do not yet go far enough. Further, it has at times shown a reluctance to meet the spirit, if not the letter, of those commitments. The Government’s rejection of our requests to be allowed to publish a report before it triggered CRaG, and for it to provide time for a debate on our report, suggest that these commitments are either not firm enough or not clear enough. (Paragraph 33)
12. *The Government must include Part 2 of CRaG in the review of scrutiny arrangements we have recommended. Following that review, it must bring forward amendments to CRaG which will bring its current non-statutory commitments into law. The amendments must also address the recommendations in this report and arising from its review. These amendments should be brought before Parliament no later than a year from now.* (Paragraph 34)
13. International comparisons show that there is more the Government could do to enable strong parliamentary scrutiny of FTAs, as the statutory processes and structures needed to allow greater oversight and scrutiny of FTA negotiations are lacking. *As part of its review, the Government should undertake and publish a*

systematic comparison of the engagement and scrutiny processes of broadly comparable democracies—not just ‘Westminster-style’ ones. It should then explore with us (and the IAC) how processes can be strengthened in line with equivalent arrangements in other legislatures. (Paragraph 38)

14. Scrutinising several sets of overlapping FTA negotiations in close succession has a significant impact on our capacity to fulfil our important core remit as a departmental select committee. (Paragraph 41)
15. We consider that the work of scrutinising the volume of FTAs would require a greater allocation of resources to our Committee. (Paragraph 42)
16. We also consider that it is possible to consolidate existing commitments and make new ones without locking in the full timeframe for all future FTAs, providing greater certainty ahead of individual FTA indicative timelines. For example, the Government could commit to allowing at least a specific number of sitting days or weeks between different stages. *The Government should consider how further fixed commitments on timings can be brought into effect, discussing options with us.* (Paragraph 43)
17. Given the range of titles used for agreements, and the differing requirements for ratification, the extent to which they will be subject to parliamentary scrutiny processes is not always clear. *The Government must set out how the various types of trade-related agreements fit into its overall trade strategy. It must also set out a strategic approach for their use, clearly defining the broad level and range of commitments appropriate for each. In doing this, the Government must set out whether each type would trigger CRaG and additional scrutiny procedures, and why.* (Paragraph 46)

Process of scrutiny

18. We welcome the Government’s recent commitment around pre-negotiation information-sharing. However, effective scrutiny requires that Parliament and the wider public can consider how FTAs individually and collectively contribute to achieving the Government’s strategic international trade goals. *The Government must explain the process it uses to take strategic decisions on which FTAs to seek at particular times, before individual FTA public consultations are launched.* (Paragraph 49)
19. Despite the Government’s prior commitment to do so, Parliament has not been ‘consulted’ before or during FTA negotiations—rather, Parliament has merely been informed of decisions and outcomes after the fact. This needs to change. *While we recognise the prerogative of the Government to conduct trade negotiations, we ask it to consider as part of its review how it can involve Parliament and its committees more closely prior to negotiations.* (Paragraph 54)
20. We have not taken evidence during Government consultations on its negotiating plans, to avoid duplication or commenting before the Government has finalised its position. However, its approach—launching negotiations soon after publishing negotiation objectives—leaves too little time for us to examine those objectives and seek debate before negotiations have begun, removing any scope to potentially

influence them. *The Government must leave more space between its ‘public bundle’ being published and the start of negotiations, allowing time for meaningful consideration and any debate. It must also strengthen its existing commitment to ensure that a debate is granted where one is requested by the relevant committees.* (Paragraph 55)

21. For parliamentary engagement at this stage to be meaningful, the Government must be open to the possibility of changing its negotiating objectives as a result of such engagement. *The Government should discuss with us options for how Parliament can influence its approach to negotiations, on the basis of the above and our recent experience, as part of its review.* (Paragraph 56)
22. We must be kept up to date on the detail of negotiations, to inform our scrutiny of the Government’s progress and outcomes, even where some details may not be for public discussion at the time. (Paragraph 58)
23. *The Government should evaluate the process by which, for previous negotiation rounds, it decided what information to share with Parliament and others, and should consider what more information could have been shared without harming negotiations, to inform its future approach. It should particularly consider how it could share more detailed information with our Committee, for example under embargo until negotiations conclude or on Privy Council terms, to inform future scrutiny of the negotiations process and final FTAs. This work should be undertaken in discussion with us, as part of the review we have recommended.* (Paragraph 59)
24. The Government’s commitment to “endeavour to share” FTA documents with us before publication has proved inadequate. *The Government must now commit firmly to sharing FTA documents with us at least 48 hours before publication, and no later than they are shared with others.* (Paragraph 61)
25. We welcome as a step in the right direction the Secretary of State’s recent commitments around pre-CRaG scrutiny and report timings following negotiations. (Paragraph 65)
26. *The Government should consolidate this movement with our previous call for guaranteed time to finalise and publish our report on an FTA, by committing to ensure that we are able to consider its section 42 report for at least 6 sitting days before seeing a Minister.* (Paragraph 66)
27. *The Government must continue to work with us to coordinate when it triggers CRaG for future FTAs, to ensure the House can consider our report before it debates the FTA within the CRaG period.* (Paragraph 67)
28. *The Government must clearly state what it considers would be a ‘timely’ request from us for a debate on an FTA, for example specifying a certain number of sitting days before it has indicated CRaG will be triggered. In doing this, it must ensure that this condition fits within the wider timeframe established by its past commitments and those we are seeking, so that any debate is held within the CRaG period.* (Paragraph 71)
29. We accept the Government’s need for a timely debate request but the commitment to granting such a request must be firmer than ‘subject to parliamentary time’ as

it controls parliamentary time. *The Government must strengthen its commitment to granting a post-negotiation parliamentary debate, ensuring that one is granted if requested in a timely manner, making parliamentary time available.* (Paragraph 72)

30. For CRaG to have any meaning, the House of Commons must have the opportunity not only to debate an FTA but also to vote on a substantive motion during the period in which it retains its power to delay ratification if it considers this appropriate. *The Government must commit to accepting a timely request for a debate on a substantive motion for any new FTA, rather than seeking a general debate instead.* (Paragraph 78)

Annex: Sequence of parliamentary arrangements

1) The following table summarises the statutory requirements and non-statutory commitments made by the UK Government for the scrutiny of free trade agreements (FTAs), in the order in which they would generally apply.

Before negotiations
For new FTA negotiations the Government will undertake a public consultation or call for input.
I am happy to commit that I will make senior officials and myself available to privately discuss prospective negotiations with you (and the IAC) prior to negotiations being launched. I expect this to take place during the public consultation period for any new FTA, but I have instructed my officials to work with your clerks, and those of the IAC, on the detail.
This further includes a commitment to publish its response to the consultation/call for input. Similarly, the Government will publish its negotiation objectives as well as a scoping assessment before the start of negotiations.
Should the IAC, or the ITC publish a report on those objectives, the Government will gladly consider that report and, should it be requested, facilitate a debate on the objectives, subject to the parliamentary time available.
During negotiations
During new FTA negotiations the Government will publish regular updates—usually after each substantive negotiating round. Where there are no standard negotiating rounds, it will publish updates at regular intervals.
The Government is committed to undertaking close engagement with the relevant Select Committees, including providing oral and written evidence in public and private. The Chief Negotiator will usually provide private and public evidence, and the Government will make relevant Senior level Civil Service experts available to brief the committees on the technical detail of negotiations, where necessary, in private.
After negotiations
The Government will also endeavour to share the signed FTA, explanatory material and an independently scrutinised Impact Assessment with the IAC and ITC, in confidence, prior to publication, where time allows.
In the case of new FTAs the Government will publish the FTA, alongside explanatory material and an independently scrutinised Impact Assessment which will cover the economic and environmental impacts of the agreement as soon as reasonably practicable following signature.
[M]y office will, within two weeks of signature of a new FTA, offer dates for a DIT Minister to meet [ITC] and we will not lay an FTA for the purposes of CRaG before those dates.
I will [...] set out to [ITC] an indicative timeline for ratification for each new FTA once it is signed and a timeframe has been agreed with FCDO. This will include indicative timeframes for publishing the advice of the Trade and Agriculture Commission and the Section 42 report, and for commencing CRaG. My office will then keep [ITC's] clerks updated as specific dates become clearer.

<p>The Government will ensure that the relevant select committees have a reasonable amount of time to scrutinise new FTAs and produce any reports on them that they may wish to prior to the start of the CRaG period.</p>
<p>Should the IAC or ITC produce a report on a new FTA and as part of this request a debate, the Government will seek to facilitate this subject to available Parliamentary time. The Government does not envisage a new FTA proceeding to ratification without a debate first having taken place on it, should one have been requested in a timely fashion by the ITC or IAC, subject to available Parliamentary time.</p>
<p>In the case of the Australia, New Zealand and CPTPP agreements the Government expects there to be a period of at least 3 months between the publication of the signed FTA and the agreement being laid under Part 2 of the CRaG Act 2010.</p>
<p>In preparing the “section 42 report”, the Secretary of State must request advice from the statutory Trade and Agriculture Commission and publish both the request and the Commission’s advice.</p>
<p>Before the parliamentary scrutiny process for an FTA, under CRaG, can begin, the Secretary of State for International Trade must lay before Parliament a report regarding that agreement’s impact on protections for UK food-production standards.</p>
<p>I envisage there being a period of at least 10 sitting days between publication of the Government’s Section 42 reports and the commencement of CRaG.</p>
<p>The Government cannot ratify a treaty unless it has first laid the signed treaty before Parliament (along with an Explanatory Memorandum) for 21 sitting days.</p>
<p>If, during this statutory pause, the Commons passes a resolution that a treaty should not be ratified, another 21-sitting-day delay to ratification is triggered—and this process may be repeated (potentially an unlimited number of times). (Note that a Lords resolution against ratification does not have this effect.)</p>
<p>I am happy to commit that all significant [FTA] amendments will be notified to your committee and the IAC in writing. I have also instructed my officials to provide quarterly updates to your clerks on decisions made by committees under a new FTA.</p>

	Constitutional Reform and Governance Act 2010, sections 20, 24
	Agriculture Act 2020, section 42
	Trade Act 2021, section 9 [yet to be commenced]
	Existing non-statutory commitment consolidated in Exchange of letters between Lord Grimstone and Baroness Hayter, 19 May 2022
	Subsequent non-statutory commitment from Rt Hon Anne-Marie Trevelyan MP to Angus Brendan MacNeil MP, 19 July 2022
	Subsequent non-statutory commitment from Rt Hon Kemi Badenoch MP to Angus Brendan MacNeil MP, 15 September 2022

Formal minutes

Tuesday 18 October 2022

Members present

Angus MacNeil (Chair)

Mark Garnier

Paul Girvan

Anthony Mangnall

Mick Whitley

Mike Wood

Draft Report (UK trade negotiations: Parliamentary scrutiny of free trade agreements) proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph. Paragraphs 1 to 78 read and agreed to.

Annex agreed to.

Resolved, That the Report be the Fourth Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

Adjournment

Adjourned till Wednesday 19 October 2022 at 9.30 a.m.

Witnesses

The following witnesses gave evidence. Transcripts can be viewed on the [inquiry publications page](#) of the Committee's website. This report forms part of our ongoing work on UK trade negotiations and focuses on only some aspects of it, so not all the following evidence is cited in or directly relevant to this report. The report also draws on evidence from other inquiries, which is identified in footnotes throughout.

Wednesday 10 June 2020

Professor David Collins, Professor of International Economic Law, City University; **Sam Lowe**, Senior Researcher, Centre for European Reform; **Hosuk Lee-Makiyama**, Director, European Centre of International Political Economy (ECIPE) [Q1–24](#)

Dr Brigid Fowler, Senior Researcher, Hansard Society; **James Kane**, Associate, Institute for Government; **Nick Dearden**, Director, Global Justice Now [Q25–48](#)

Wednesday 17 June 2020

Dr Meredith Crowley, Reader in International Economics, University of Cambridge; **Dr Peter Holmes**, Reader in Economics, University of Sussex; **Dr Sheila Lawlor**, Director, Politeia [Q49–79](#)

John Dickerman, Head of US Office, Confederation of British Industry (CBI); **Rosa Crawford**, Policy Officer, Trades Union Congress; **Nick von Westenholz**, Director of EU Exit and International Trade, National Farmers Union (NFU) [Q80–99](#)

Wednesday 08 July 2020

Jappe Eckhardt, Senior Lecturer in International Political Economy, University of York; **Dr Anna Jerzewska**, independent customs and trade consultant, UK Trade Policy Observatory; **Christopher Dent**, Professor in Economics and International Business, Edge Hill University [Q100–132](#)

Ian Howells, Senior Vice President, Honda Motor Europe; **Antony Walker**, Deputy CEO, techUK; **Mike Cherry OBE**, National Chair, Federation of Small Businesses [Q133–158](#)

Wednesday 23 September 2020

Stephen Booth, Head of Britain in the World Project, Policy Exchange; **Maria Garcia**, Senior Lecturer for Politics, Languages and International Studies, Bath University; **Elizabeth Ames**, Board member for the Menzies Australia Institute, King's College London [Q159–195](#)

Phil Stocker, Chief Executive, National Sheep Association; **Miles Beale**, Chief Executive, Wine and Spirit Trade Association; **Adrian Dobson**, Executive Director Professional Services, RIBA; **Richard Rumbelow**, Director of International Affairs and Export Services, Make UK [Q196–227](#)

Wednesday 18 November 2020

Hon Tony Abbott AC, Adviser to the Board of Trade, and Former Prime Minister of Australia [Q228–288](#)

Wednesday 03 February 2021

Professor John Ravenhill, Chair of Political Science, University of Waterloo; **Dr Minako Morita-Jaeger**, Fellow, UK Trade Policy Observatory; **Stephen Booth**, Head of Britain in the World Project, Policy Exchange [Q25–77](#)

Sabina Ciofu, Head of EU and Trade Policy, techUK; **Miles Celic**, Chief Executive Officer, TheCityUK; **Mr Suren Thiru**, Head of Economics and Trade Policy, British Chambers of Commerce [Q78–91](#)

Thursday 25 March 2021

David Bowles, Head of Public Affairs, RSPCA; **Minette Batters**, President, National Farmers Union (NFU); **Dr Iyan Offor**, Researcher, Strathclyde Centre for Environmental Law Governance, University of Strathclyde; **Peter Hardwick**, Trade Policy Advisor, British Meat Processors Association [Q92–129](#)

Rt Hon Greg Hands, Minister of State for Trade Policy, Department for International Trade; **Tim Smith**, former Chair, Trade and Agriculture Commission; **Victoria Prentis**, Parliamentary Under-Secretary, Department for Environment, Food and Rural Affairs [Q130–151](#)

Wednesday 07 July 2021

Rt Hon Elizabeth Truss MP, Secretary of State for International Trade, Department for International Trade; **Vivien Life**, Chief Negotiator, Department for International Trade [Q152–195](#)

Wednesday 22 September 2021

Henry Dumbleby MBE, Chair, National Food Strategy (NFS); **Nick von Westenholz**, former TAC member and Director of Trade and Businesses Strategy, National Farmers' Union [Q196–239](#)

Wednesday 27 October 2021

The Rt Hon Penny Mordaunt MP, Minister for Trade Policy, Department for International Trade; **Victoria Prentis MP**, Minister of State, Department for Environment, Food and Rural Affairs; **Chris Heaton**, Deputy Director in International Trade Policy, Department for Environment, Food and Rural Affairs; **Oliver Phillips**, Senior Civil Service Lead for Agriculture, Department for International Trade [Q240–287](#)

Wednesday 01 December 2021

Michelle Wiese Bockmann, Markets Editor, Lloyd's List; **Andrew Goodacre**, Chief Executive, British Independent Retailers Association; **Tim Morris**, Chief Executive, UK Major Ports Group; **Gavin Simmonds**, Policy Director Commercial, UK Chamber of Shipping [Q288–349](#)

Published written evidence

The following written evidence was received and can be viewed on the [inquiry publications page](#) of the Committee's website. This report forms part of our ongoing work on UK trade negotiations and focuses on only some aspects of it, so not all the following evidence is cited in or directly relevant to this report. The report also draws on evidence from other inquiries, which is identified in footnotes throughout.

UKT numbers are generated by the evidence processing system and so may not be complete.

- 1 Alliance for Intellectual Property ([UKT0024](#))
- 2 Association of British Insurers ([UKT0016](#))
- 3 British Egg Industry Council ([UKT0012](#))
- 4 British Ports Association ([UKT0031](#))
- 5 British Toy and Hobby Association ([UKT0026](#))
- 6 Christian Aid ([UKT0005](#))
- 7 Department for Environment, Food and Rural Affairs ([UKT0036](#))
- 8 Department for International Trade ([UKT0010](#))
- 9 Dobson, Professor Hugo (Professor of Japan's International Relations, University of Sheffield) ([UKT0008](#))
- 10 Horne, Alex (Barrister and Visiting Professor, Durham University) ([UKT0046](#))
- 11 Hughes, Mr Joshua ([UKT0033](#))
- 12 Irish Whiskey Association ([UKT0015](#))
- 13 Jackson, Dr Karen (Reader in Economics , University of Westminster); and Shepotylo, Dr Oleksandr (Senior Lecturer in Economics , Aston University) ([UKT0027](#))
- 14 Keating, Mr Patrick (Department Manager - Government Affairs , Honda Motor Europe) ([UKT0001](#))
- 15 Keep Our NHS Public ([UKT0011](#))
- 16 Lawlor, Dr Sheila (Director, Politeia) ([UKT0007](#))
- 17 Meat & Livestock Australia ([UKT0032](#))
- 18 National Farmers Union ([UKT0013](#))
- 19 National Sheep Association (NSA) ([UKT0017](#))
- 20 PAN UK ([UKT0022](#))
- 21 PETRA: prevention of non-communicable diseases using trade agreements ([UKT0034](#))
- 22 RSPCA ([UKT0045](#))
- 23 Ravenhill, Professor John (Chair of Political Science, University of Waterloo (Canada)) ([UKT0023](#))
- 24 Riddell, Mr George (Co-Chair of the PBSC Trade Technical Group, Professional and Business Services Council) ([UKT0003](#))
- 25 Royal Institute of British Architects ([UKT0021](#))
- 26 Salam for Democracy and Human Rights ([UKT0038](#))
- 27 School of Economics, University of Surrey ([UKT0037](#))

- 28 The Law Society of England and Wales ([UKT0009](#))
- 29 Trade Justice Movement ([UKT0006](#))
- 30 West of England Combined Authority ([UKT0035](#))
- 31 Wildlife and Countryside Link ([UKT0047](#))

List of Reports from the Committee during the current Parliament

All publications from the Committee are available on the publications page of the Committee's website.

Session 2022–23

Number	Title	Reference
1st Report	UK trade negotiations: Scrutiny of Agreement with Australia	HC 444
2nd Report	UK trade negotiations: Agreement with Australia	HC 117
3rd Report	UK trade negotiations: Agreement with New Zealand	HC 78
1st Special Report	UK trade negotiations: Scrutiny of Agreement with Australia and Agreement with Australia: Government Response to the Committee's First and Second Reports	HC 704

Session 2021–22

Number	Title	Reference
1st Report	Digital trade and data	HC 123
2nd Report	UK Export Finance	HC 126
3rd Report	Inward Foreign Direct Investment	HC 124
1st Special Report	UK trade remedies policy: Government Response to the Committee's Third Report of Session 2019–21	HC 269
2nd Special Report	UK Freeports: Government Response to the Committee's Fourth Report of Session 2019–21	HC 453
3rd Special Report	UK trade remedies policy: Trade Remedies Authority's Response to the Committee's Third Report of Session 2019–21	HC 707
4th Special Report	Digital trade and data: Government Response to the Committee's First Report	HC 831
5th Special Report	Inward Foreign Direct Investment: Government Response to the Committee's Third Report	HC 921
6th Special Report	UK Export Finance: Government Response to the Committee's Second Report	HC 965

Session 2019–21

Number	Title	Reference
1st Report	The COVID-19 pandemic and international trade	HC 286
2nd Report	UK-Japan Comprehensive Economic Partnership Agreement	HC 914
3rd Report	UK trade remedies policy	HC 701
4th Report	UK freeports	HC 258
1st Special Report	The COVID-19 pandemic and international trade: Government Response to the Committee's First Report of Session 2019–21	HC 815
2nd Special Report	UK-Japan Comprehensive Economic Partnership Agreement: Government Response to the Committee's Second Report of Session 2019–21	HC 1163