



House of Commons
International Trade Committee

**UK trade negotiations:
Parliamentary
scrutiny of free
trade agreements:
Government Response
to the Committee's
Fourth Report**

**Third Special Report of Session
2022–23**

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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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Third Special Report

The International Trade Committee published its Fourth Report of Session 2022–23, [UK trade negotiations: Parliamentary scrutiny of free trade agreements](#) (HC 815), on 27 October 2022. The response from the Government, and an accompanying letter from Rt Hon Kemi Badenoch MP, were received on 5 January 2023 and are appended below.

Appendix 1: Letter from the Rt Hon Kemi Badenoch MP, Secretary of State for International Trade

Thank you for your Committee's report entitled 'UK trade negotiations: Parliamentary scrutiny of free trade agreements'.

I read your report with interest and am pleased to enclose the Government's response in the annex to this letter.

I look forward to continuing to work with you and your Committee on the Department for International Trade's trade agenda.

Appendix 2: Government Response

Introduction

The International Trade Select Committee (“the Committee”) published its report on “UK trade negotiations: parliamentary scrutiny of trade agreements” on 27 October. The Government thanks the Committee for its report, and for allowing advance sight of the Report.

The UK-Australia and UK-New Zealand Free Trade Agreements (FTAs) are the first full, from-scratch trade agreements to be signed by the UK and subsequently scrutinised by Parliament since the UK left the European Union.

The Government supports robust scrutiny of its new trade agreements and has made a number of commitments to further that aim. These were set out in an exchange of letters between the Department and the International Agreements Committee on 19 May 2022¹.

Since the exchange of letters, the Secretary of State for International Trade has made further commitments with respect to FTA scrutiny², directly responding to issues raised by the Committee and by the Lord’s International Agreements Committee (IAC).

Response to recommendations

The Committee’s text is in bold, and the Government response is set out below each recommendation.

Paragraph 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 Lord’s International Agreements Committee (IAC)—to agree improvements.**

Paragraph 9: *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 34: *The Government must include Part 2 [Ratification of Treaties] 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 38: *As part of its review, the Government should undertake and publish a comparison of the engagement and scrutiny processes of broadly comparable*

1 <https://committees.parliament.uk/committee/448/international-agreements-committee/publications/3/correspondence/?page=3>

2 Letter of 15 September 2022 at <https://committees.parliament.uk/committee/367/international-trade-committee/publications/3/correspondence/?page=2>

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.

The Government maintains that the Constitutional Reform and Governance Act 2010 provides a flexible and appropriate framework for scrutiny of international treaties that are subject to ratification. It ensures that Parliament will always have the opportunity and information to consider relevant new treaties before they are ratified.

We disagree with the Committee's view that the additional commitments the UK Government has made are evidence that CRaG does not go far enough. On the contrary, the Government's ability to adopt, adjust and develop further scrutiny arrangements for free trade agreements that go beyond the statutory obligations of CRaG without the need for new legislation demonstrates the strength of the UK constitution.

The ITSC's attentiveness to the Government's treaty-making powers, combined with the Government's ability to adapt and enhance the statutory framework, provides a basis for a constructive partnership between Government, Parliament and civil society.

We are continuously reflecting on our experiences of taking new FTAs through pre-ratification scrutiny to ensure the process remains robust and flexible. This can be demonstrated by the fact that the Secretary of State for International Trade has made further commitments to support scrutiny.

Regarding international comparisons, the scrutiny framework for the UK must reflect our specific democratic and constitutional arrangements, which is why comparisons to dualist Westminster-style democracies are most relevant. The UK's constitutional arrangements enable the Government to negotiate and conclude treaties on behalf of the nation, whilst respecting the legislative supremacy of Parliament by ensuring that Parliament must pass any implementing legislation before the treaty can enter into force. We will continue to review international best practice on an ongoing basis to inform thinking on FTA scrutiny.

Our priority is to have a close and collaborative dialogue with the Committee, allowing the Government to understand to specific issues and respond in a tailored way. We will also carefully consider the views of other select committees, notably the Lord's International Agreements Committee and the Public Administration and Constitutional Affairs Committee, both of whom have an ongoing interest in treaty scrutiny. We do not believe that a formal review, which would be a snapshot in time, is the best way of delivering our shared objective of a robust and adaptable scrutiny framework.

Having flexible arrangements with the capability to evolve and meet the changing needs of the UK as a modern trading nation remains vital.

Paragraph 43: ***The Government should consider how further fixed commitments on [FTA] timings can be brought into effect, discussing options with us.***

Paragraph 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.***

Paragraph 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.***

The Government has demonstrated its willingness to reach mutually agreeable positions with the ITSC on FTA scrutiny timeframes.

In a letter to the Committee on 15 September, the Secretary of State for International Trade set out that:

- We envisage a period of at least 10 sitting days between laying the S42 report in Parliament and triggering CRaG;
- DIT would write to the Committee with an indicative timeline for ratifying each new FTA once it had been signed; and
- Within two weeks of signing a new FTA DIT would offer dates for a Minister to give evidence to the Committee, and that CRaG would not be triggered before those dates.

The Government is happy to reiterate that it will work with the Committee to coordinate timelines wherever possible and provide further certainty. DIT will discuss with the Committee timelines for specific FTAs once they are signed and endeavour to meet the specific request for six days between the S42 report and Ministerial evidence wherever feasible.

Paragraph 15: ***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.***

The Government has set out in publicly available documents its approach and direction for trade policy, including in the Integrated Review and the Department's Outcome Delivery Plan (ODP).

The Department for International Trade's objectives are set out publicly in the ODP:

1. Secure world-class free trade agreements and reduce market access barriers, ensuring that consumers and businesses can benefit from both.
2. Deliver economic growth to all nations and regions of the UK through attracting and retaining inward investment.
3. Support UK business to take full advantage of trade opportunities, including those arising from delivering FTAs, facilitating UK exports.
4. Champion the rules-based international trading system and operate the UK's new trading system, including protecting UK businesses from unfair trade practices.

As outlined in the ODP, our ambitious programme of FTAs aims to bring greater opportunities and support economic growth across all the communities, regions, and nations of the UK.

In addition, the Integrated Review provides the strategic context for our trade policy and makes clear that our future prosperity and security will be enhanced by deepening our economic connections with dynamic parts of the world such as the Indo-Pacific.

It also underlines the need to shape an open future international order, sustain our strategic advantage through science and technology, strengthen our security and defence, and build resilience. Trade has a role to play in achieving all of these as part of a broader Government effort.

As expanded below, when identifying future trade partners, multiple factors are considered, including economic value, negotiability, readiness of counterparts to engage, and the wider state of the bilateral relationship. DIT publishes strategic cases for each FTA setting out how the trade agreement fits within our wider strategic approach.

In addition to these published documents the Government has set out its trade policy approach in keynote speeches, most recently by the Secretary of State for International Trade at the CATO institute on 15 November. That speech outlined how, alongside helping us achieve prosperity, trade can help address some of our most important foreign policy and security challenges.

We operate in a dynamic and complex international environment, that requires pragmatism, flexibility, and work across departments to deliver the Government's prosperity goals.

Publishing a trade strategy or detailed common negotiating principles may risk revealing our negotiating positions to current and future trade partners, undermine our ability to negotiate effectively and place UK businesses in an uncompetitive position. We believe no single trade agreement sets a blueprint for future deals. All trade agreements represent negotiated outcomes, meaning they are bespoke and are tailored to the relationships and markets of the countries involved.

Accordingly, we do not plan to publish further material setting out our trade strategy. However, we are clear that our vision is to achieve a UK that trades its way to prosperity: building a fair and open global trading environment that supports jobs and higher wages, raises living standards and lifts people out of poverty.

Paragraph 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.

Paragraph 21: *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 'nontrade' 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.*

As set out in DIT's response to the Committee's inquiry on Trade and Foreign Policy, trade activities undertaken by DIT primarily seek to increase prosperity and drive economic benefit for the UK. We also seek to strengthen cooperation on topics such as

labour rights, environmental standards, advancing gender equality in trade and civil society engagement through our bilateral engagement. With regard to future negotiations, each FTA is unique, and what is negotiated in individual agreements and with different countries will vary. The UK's objectives for each FTA negotiation reflect a range of factors, again as set out in our response to the Trade and Foreign Policy Inquiry. There is no one-size-fits-all approach to either negotiating trade deals or supporting UK values, including human rights.

We use trade policy to promote and protect human rights by, amongst other things, ensuring that discussions relating to trade are consistent with the UK's international human rights obligations and do not undermine efforts to improve human rights elsewhere. The means by which we can most effectively further international cooperation and support for human rights may vary according to the context.

Specifically on human rights, the UK Government is a leading advocate for human rights around the world. It is our experience that having secure and growing trading relationships can increase UK influence and help us to have open conversations with partners on a range of issues, including human rights. The UK will continue to show global leadership in encouraging all states to uphold international human rights obligations and hold those who violate or abuse human rights to account. Closer engagement can increase our ability to influence human rights practices.

Paragraph 25: *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.*

All deals represent negotiated outcomes, meaning they are bespoke and are tailored to the relationships and markets of the countries involved. We have already published DIT's Outcome Delivery Plan and publish individual strategic approaches for individual negotiations. It is our view that publishing detailed core common negotiating principles would risk revealing our negotiating positions to current and future trade partners and undermine our ability to negotiate effectively on behalf of the UK.

Paragraph 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.*

The analysis presented in an impact assessment sets out the marginal impact on the UK of concluding a free trade agreement with a country or bloc concerned – the Government views this as the most effective way to estimate the future impact of FTAs. As part of this, DIT carefully considers and presents the individual effects of the agreement that we have negotiated to help inform Parliament and the public of its effects. This approach is in line with international best practice – in fact, it is not common for other countries that produce comparable FTA impact assessments to include the estimation of the ex-ante cumulative impacts of FTAs.

As set out above, DIT continually considers how to improve analysis. This continuous improvement means that the estimated impacts from more recent analysis will not be directly comparable with previous published analyses.

Paragraph 46: ***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.***

The UK has prioritised negotiating trade deals since Brexit as it seeks to secure trade deals with countries covering the vast majority of UK trade.

Our approach reflects the Government's foreign policy objectives as set out in the Integrated Review, where it recognises that the centre of economic gravity is moving eastwards and that is why we have signed agreements of varying types with Japan, Singapore, are working hard to join the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) and are launching a call for input for an enhanced deal with South Korea. These treaties include free trade agreements, economic partnership agreements (EPAs), digital economy agreements (DEA) and our accession to the multilateral agreements like the CPTPP.

In addition to the programme of trade negotiations outlined above, we also seek cooperation and enhancement of our trade and economic goals by establishing quick, flexible or confidential arrangements through Memoranda of Understanding (MoU). These MoUs whilst not legally binding are used to set out administrative arrangements or political commitments with other states such the recent MoUs with individual Federal States of the USA. On 12 December 2022, the UK and State of Indiana held the first government to government working group under the UK-Indiana MoU on economic cooperation and trade relations. It enabled further discussions focused on specific areas such energy transition, sustainability and government procurement, and highlighted opportunities to deepen co-operation in these areas.

The Government is committed to trade liberalisation because it drives growth and productivity, playing a central role in the Government's growth agenda whilst in addition, they help build relationships and open dialogue on wider issues such as security, climate change and biodiversity. The clear rationale for pursuing each bespoke and tailored trade agreement, balancing economic interest and strategic importance is individually laid out in the scoping assessments for each agreement completed prior to negotiations.

The 21 sitting day scrutiny period provided for by the CRAg Act applies to all treaties requiring ratification except to certain descriptions of treaties or in exceptional circumstances. Any domestic legislation required to bring an agreement into force will need to be passed by Parliament in the usual way.

Paragraph 49: ***The Government must explain the process it uses to takes strategic decisions on which FTAs to seek at particular times, before individual FTA public consultations are launched.***

As outlined in the DIT's Outcome Delivery Plan (ODP), our ambitious programme of FTAs aims to bring greater opportunities and support economic growth across all the communities, regions and nations of the UK.

The decision on which FTA negotiations to pursue is ultimately taken by the Government. In identifying prospective partners, multiple factors are considered when weighing

whether a trade agreement will benefit UK businesses, consumers, and the economy. This includes economic value, negotiability, readiness of counterparts to engage, and the wider state of the bilateral relationship.

FTAs are launched when the timing is right to do so – we operate in a dynamic and complex international environment that requires pragmatism and cooperation with our negotiating partners to best support delivery of the Government's prosperity goals.

Paragraph 54: *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 55: *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 56: *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.*

The Government publishes its strategic approach to negotiations, containing negotiating objectives, as a response to the consultation and initial assessment of the potential long- term benefits of each agreement known as a 'scoping assessment' before initiating negotiations.

The timeline for negotiations is a matter for discussion between the Government and negotiating partners and flexibility must be maintained to ensure the best outcomes for the UK from negotiations.

DIT has previously committed to privately discuss prospective negotiations with the ITSC and Lord's International Agreements Committee before negotiations are launched. We expect this to take place during the public consultation period for a new free trade agreement but will work further with the relevant committee clerks on this.

Paragraph 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.*

Paragraph 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 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.*

The Government is committed to ensuring that Parliament and the public have access to information on our negotiations. That is why we publish update reports at the end of negotiating rounds. Recognising that some information is too sensitive to put into the

public domain, we have also offered the Committee and Lord's IAC private briefings with negotiating teams, an offer that was most recently taken up in October with the India FTA negotiations team.

The Government will continue to evaluate the quantity and quality of information shared with Parliament – and the select committees in particular – to ensure it supports robust scrutiny.

Paragraph 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.*

Negotiations are dynamic processes with timelines that are agreed with our international partners; therefore, it may not always be possible to provide a fixed period of time before publication. However, we will always strive to share key FTA documents with the select committees at least 48 hours before publication, and certainly as early as possible.

Paragraph 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.*

Paragraph 72: *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.*

The Government will seek to ensure debates can take place if one is requested. However, we recognise the Committee's recommendation on this point and will seek to ensure that a debate on an FTA is held during the CRaG period where possible. Where a debate has been requested but cannot be accommodated during the CRaG scrutiny period, we will consider extending the CRaG period.

Paragraph 78: *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.*

The Government is clear that a general debate is the appropriate mechanism for Parliament to debate new trade agreements. It is important that Members of Parliament are able to fully consider new trade agreements and that the Government is able to hear their views.

CRaG provides a robust and flexible framework for scrutiny of treaties. It does not include an automatic substantive debate but does ensure Parliament has time to scrutinise an agreement and provides the ultimate power to resolve against ratification where it is the will of the House.

A Government commitment to guaranteed substantive debates under CRaG would fundamentally alter the nature of the scrutiny framework, undermine the Royal Prerogative, and remove flexibility.