



HOUSE OF LORDS

International Agreements Committee

10th Report of Session 2021–22

**UK accession to the
Comprehensive and Progressive
Agreement for Trans-Pacific
Partnership (CPTPP): Scrutiny
of the Government’s Negotiating
Objectives**

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International Agreements Committee

The International Agreements Committee is appointed by the House of Lords in each session to consider matters relating to the negotiation, conclusion and implementation of international agreements, and to report on treaties laid before Parliament in accordance with Part 2 of the Constitutional Reform and Governance Act 2010.

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See Appendix 1.

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SUMMARY

On 1 February 2021, the UK Government started the application process to accede to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), a trade bloc of 11 countries representing 13% of global GDP. On 22 June 2021 the UK Government published its Negotiating Objectives for the accession negotiations. We find that the Negotiating Objectives provide some information on what the Government is seeking to achieve through the negotiations, but that they lack detail. In some cases, such as on safeguarding the right to regulate to achieve climate aims, no commitments or red lines are put forward.

This report considers the Government's published objectives for negotiations and reviews them in the context of the existing CPTPP agreement and membership, having benefited from the views of a wide range of stakeholders representing businesses, consumers and others. It does not address the fundamental issue of whether we should join CPTPP because much will depend on whether the UK Government has to accept the Agreement 'as is', or is able to negotiate carve-outs from particular obligations. We note that China's (and Taiwan's) recent applications may make existing members more wary of offering carve-outs.

Most witnesses supported the Government's aspiration to join CPTPP. Though not expected to bring us large-scale economic benefits in the short term, membership would enable us to influence its future development. Economic gains of any significance are heavily dependent on whether Malaysia decides to ratify the agreement, and other countries (for example, South Korea or Thailand) join the CPTPP in future. We note that China's accession would carry benefits and risks, as well as raise wider geopolitical issues.

The concerns we heard were largely about the need for particular carve-outs to ensure that the UK's standards are safeguarded in areas such as food and environmental production, climate regulation, intellectual property, and the protection of personal data. We call on the Government to explain how it will avoid conflicts with the current UK regulatory regime through the accession negotiations, including whether it will be seeking carve-outs through side letters and reservations.

As the Government seeks to expand the number of trade deals with countries with divergent regulatory approaches, it needs to give careful consideration, in a more holistic way than it has done to date, to how divergences will be managed.

Two issues relating to intellectual property (IP) are of immediate concern. CPTPP rules directly conflict with the European Patent Convention and accepting them could jeopardise the UK's continued membership of the European Patent Office. CPTPP also introduces a mandatory procedure for notifying the patent holder when seeking authorisation for a generic or biosimilar medicine. This would result in higher medicine prices for the NHS. The published Negotiating Objectives emphasise that UK IP interests will be protected, and NHS prices will not be affected, but the Government have not said how this is to be achieved. We believe they should.

In addition, the CPTPP approach to food standards could be at odds with the UK's. Food imports produced to lower standards could risk undercutting UK farmers and undermining the UK's food standards regime. We heard that, for

consumers, upholding food (and other) standards remains an overwhelming priority. The Government should therefore require food imports to meet minimum standards, or consider making tariff liberalisation conditional on meeting them.

Witnesses were concerned about incentivising greenhouse gas intensive agricultural practices in CPTPP member countries with lower environmental production standards. The Government should set out its plans for ensuring that CPTPP membership does not serve to incentivise such practices.

We urge the Government to ensure that consultation with the devolved administrations is detailed and timely, and to make available a comprehensive impact assessment for each of the devolved nations prior to CPTPP accession.

In line with Government commitments in respect of the Australia and the New Zealand trade agreements, we call on the Government to publish the text of the signed CPTPP agreement and market access schedules at least three months before the agreement is formally laid for parliamentary scrutiny under the Constitutional Reform and Governance Act 2010.

Finally, we would like to thank all our witnesses, but also the Department for International Trade for its constructive engagement throughout our inquiry, including by submitting written evidence and providing private and public briefings.

This is the first time a parliamentary committee has reported on the Negotiating Objectives for a post-Brexit trade agreement and reflects our strong commitment to ensuring Parliament is given an opportunity to discuss and inform the progress of trade negotiations. We publish this report for debate, further to a Government commitment to facilitate parliamentary debates on the Negotiating Objectives of new trade agreements.

UK accession to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP): Scrutiny of the Government's Negotiating Objectives

CHAPTER 1: INTRODUCTION

This report and inquiry

1. This is the first report published by the Committee on the Negotiating Objectives of a free trade agreement. It has been produced in response to the Government's commitment made on the floor of House (and confirmed in subsequent correspondence) to facilitate a parliamentary debate on the Negotiating Objectives should the Committee request a debate.¹
2. We opened our inquiry into the Comprehensive and Progressive Trans-Pacific Partnership (CPTPP) negotiations in January 2021 and have held five oral evidence sessions with 16 witnesses. We have also received 43 pieces of written evidence from a variety of organisations and individuals, including trade experts, trade and consumer bodies, professional membership organisations, the devolved administrations, and the UK Government. We are grateful to all those who contributed and provided evidence to our inquiry (see Appendix 2).
3. Our report covers the salient points raised with the Committee in written and oral evidence to date, and relates these to the Government's Negotiating Objectives to identify significant risks to the delivery of the Government's stated aims in the negotiations. Occasionally, we may refer to other parts of the Government's Strategic Approach to the negotiations, such as the preliminary economic assessment. Where we do so, we make this clear.
4. **We make this report to the House for debate.**

Membership of the CPTPP agreement

5. The Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) is a trade agreement between 11 countries: Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, and Vietnam. It is a successor to the former Trans-Pacific Partnership (TPP), which had also been signed by the Obama Administration, but from

1 Lord Grimstone committed to the following: "If the International Agreements Committee should publish a report on those objectives, I can confirm that the Government will gladly consider that report with interest and, should it be requested, facilitate a debate on the objectives, subject to the parliamentary time available". See: HL Deb, 23 February 2021, [col 724](#). While this commitment has not been tested yet, the Government has previously been very helpful in facilitating debates at the conclusion of negotiations.

which the US withdrew in 2017 under Donald Trump's presidency. The TPP was then relaunched as the CPTPP, incorporating most of the text of TPP, but with some notable exceptions, including on intellectual property and investment protection.²

6. The Agreement is in force for most signatories, but is awaiting ratification in Brunei, Chile and Malaysia.
7. The economies of the Agreement's 11 signatories represent 13% of global GDP, which would increase to 16% on the UK's accession.³ The UK Government expressed interest in joining the CPTPP in 2018, with a public consultation held from 20 July to 26 October 2018.⁴ The Department for International Trade (DIT) has stated that accession would help the Government realise its ambition to have 80% of UK trade covered by free trade agreements (FTAs) in the next two years. It has also highlighted the strategic importance of working more closely with allies in the Asia-Pacific, Latin America and Canada. Since July 2018, the Government has been engaging with all 11 member countries to explore UK accession.
8. The agreement is designed to accommodate growth of the free trade area and is open to accession by other countries, without any regional membership or geographic restrictions. Thailand, Indonesia, Colombia and South Korea, among others, have expressed an interest in joining. In September 2021, China and then Taiwan gave formal notice of intent to accede to the Agreement—the first step in a multi-stage accession process.

The UK Government's Negotiating Objectives for CPTPP

9. On 22 June 2021 the UK Government published its Negotiating Objectives for acceding to the CPTPP. The Negotiating Objectives are included in a larger document entitled *UK Accession to CPTPP: the UK's Strategic Approach*.⁵ This document has four chapters:
 - Chapter 1: Strategic Case
 - Chapter 2: Outline Approach
 - Chapter 3: Public consultation on potential UK accession to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership: Government Response
 - Chapter 4: CPTPP Scoping Assessment

2 White & Case, 'The CPTPP Enters into Force: What Does it Mean for Global Trade?' (21 January 2019): <https://www.whitecase.com/publications/alert/cptpp-enters-force-what-does-it-mean-global-trade>

3 DIT, *UK Accession to CPTPP: the UK's Strategic Approach* (22 June 2021) Chapter 4: CPTPP Scoping Assessment, p 40: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1027860/dit-cptpp-uk-accession-strategic-approach.pdf [accessed 15 November 2021]. Subsequently: *Strategic Approach*.

4 DIT, *Public consultation on the UK potentially seeking accession to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) (July 2018)*: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/817865/Public_consultation_on_the_UK_potentially_seeking_accession_to_CPTPP.pdf [accessed 15 November 2021]

5 DIT, *Strategic Approach*: <https://www.gov.uk/government/publications/uk-approach-to-joining-the-comprehensive-and-progressive-agreement-for-trans-pacific-partnership-cptpp> [accessed 15 November 2021]

10. Chapter 2: Outline Approach contains the Negotiating Objectives. The box below provides an extract of that chapter, showing where the UK Government has articulated specific commitments or red lines, and not just commented on the Agreement's existing provisions. We note that the objectives are general and provide no detail on likely obstacles.

Box 1: Commitments and red lines included in the Negotiating Objectives

Below are the red lines and specific commitments the Government has made regarding the accession negotiations:

Overall objectives

“Secure an agreement which works for the whole of the UK and takes appropriate consideration of the UK's constitutional arrangements and obligations.”

“Throughout the agreement, ensure high standards and protections for UK consumers and workers and build on our existing international obligations. This will include not compromising on our high environmental protection and net zero commitment, labour protections, animal welfare and food safety standards.”

“Protecting the National Health Service (NHS) is a fundamental principle of our trade policy, and our commitment to this will not change during our negotiations to accede to CPTPP. The UK will ensure that the terms we sign up to uphold the government's manifesto commitment that the NHS, its services, and cost of medicines are not on the table.”

Trade in goods

“We will ensure that accession negotiations with CPTPP members support UK objectives on upholding high levels of public, animal, and plant health, including food safety. We will not sign trade deals that compromise our high environmental protections, animal welfare and food standards. We are a world leader in these areas and that will not change.” (1.4.2)

Trade in services

“We will ensure accession negotiations support UK objectives on the NHS and protect the right to regulate public services, including public service broadcasters.” (2.2.1)

“We will ensure decisions on how to run public services are made by UK Governments, including the devolved administrations (DAs), and not our trade partners.” (2.2.2)

“Protecting the NHS is a fundamental principle of our trade policy. The NHS, its services and the cost of medicine are not on the table. Our commitment to this will not change during our negotiations to accede to CPTPP.” (2.2.3)

Digital trade

“We will ensure that through accession negotiations with CPTPP that justified scrutiny of software is possible where necessary, including to ensure that the government maintains its ability to protect users from emerging online harms.” (2.5.7)

Investment

“We will protect the UK’s right to regulate in the national interest, to achieve public policy objectives and, as stated above, to continue to protect the NHS.” (2.7.3)

Intellectual property

“We will ensure that the terms of UK accession to CPTPP are consistent with the UK’s IP interests. This includes not doing anything which increases medicine costs for the NHS or is inconsistent with the UK’s obligations under the European Patent Convention (EPC).” (2.8.2)

State owned enterprises (SOEs)

“We will ensure that the small number of UK SOEs, particularly those providing public services, can continue to operate as they do now.” (4.2)

Government procurement

“We will ensure appropriate protections remain in place for key public services such as NHS health and care services and broadcasting.” (5.3)

Territorial application

“We will seek appropriate coverage of the agreement to the Crown Dependencies and Overseas Territories.” (15.2)

Source: DIT, *UK Accession to CPTPP: the UK’s Strategic Approach, Chapter 2 (June 2021)*

Scope for making changes to the CPTPP agreement

11. As this report will show, the benefits of accession will be dependent on the extent to which the UK Government may be able to secure amendments to the agreement or exemptions as part of the accession process.
12. The Government has not articulated whether it will be seeking carve-outs from certain CPTPP rules. The key question of whether the UK may be able to make changes or seek exemptions from specific obligations through the accession negotiations remains unanswered.
13. On the one hand, we have been advised that it is unlikely that the UK will be able to negotiate changes to the CPTPP text.⁶ We note that, on inviting the UK to commence the accession process, the CPTPP Commission said that it was important that those wishing to join the bloc showed their “full acceptance and commitment to complying with all the existing rules of the Agreement and to delivering the highest standard of market access commitments, consistent with the benchmarks set out in the CPTPP Accession Process”.⁷ On the other hand, carve-outs from specific obligations have been used by the founding members—although it is unclear whether they will be on offer to the UK, particularly as it may set a precedent for future accession candidates. Carve-outs may, therefore, be difficult to

6 Minako Morita-Jaeger, UKTPO, ‘Accessing CPTPP without a national digital regulatory strategy?’ (July 2021): <https://blogs.sussex.ac.uk/uktpo/publications/accessing-cptpp-without-a-national-digital-regulatory-strategy-hard-policy-challenges-for-the-uk/> [accessed 15 November 2021]

7 Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), ‘Joint Ministerial Statement on the occasion of the Fourth Commission Meeting’ (2 June 2021): <https://www.dfat.gov.au/trade/agreements/in-force/cptpp/commission-meetings/comprehensive-and-progressive-agreement-trans-pacific-partnership-cptpp-joint-ministerial-statement-occasion-fourth-commission-meeting> [accessed 15 November 2021]

achieve. However, we note that there is a clear wish by existing members for the UK to join the agreement, so these difficulties would not be impossible to overcome.

Box 2: Mechanisms for seeking carve-outs from treaty obligations

Short of securing amendments to the text of the CPTPP agreement, the UK Government has, in principle, at its disposal two options for securing carve-outs from specific obligations.

Side letters

States can express their consent to be bound by an exchange of letter or notes, and several CPTPP members have exchanged side letters with other members to seek carve-outs from specific commitments included in the Agreement. For example, New Zealand has signed side letters with five CPTPP members to fully or partially exclude the Investor State Dispute Settlement (ISDS) provisions.⁸

The effect of side letters is straightforward in bilateral agreements—since it is clear that both Parties have expressed their consent to be bound. However, the effect in multilateral agreements is less clear-cut and may raise legal questions where a side letter goes beyond a mere political commitment.⁹ For example, if the side letter amounts to a modification of a multilateral agreement, the other Parties may consider that the side letters affect the enjoyment of their own rights under the treaty or the performance of their obligations, and challenge the validity of any side agreements.

Reservations

Reservations have been used frequently by states seeking a carve-out from specific obligations in a treaty. Reservations are “a unilateral statement, however phrased or named, made by a State, when signing, ratifying, accepting, approving or acceding to a treaty, whereby it purports to exclude or to modify the legal effect of certain provisions of the treaty in their application to that State”.¹⁰ Reservations are explicitly allowed for under the Vienna Convention on the Law of Treaties, subject to certain conditions. These include that the treaty to which the reservation relates does not contain a general or specific prohibition on reservations, or that the reservation is incompatible with the object and purpose of the treaty.¹¹

14. **We welcome the prompt publication of the Negotiating Objectives at the outset of the negotiations to accede to the CPTPP. We note, however, that these are very high-level objectives, with the Government mostly commenting on existing CPTPP provisions. Where the Negotiating Objectives set out specific commitments or red lines, no further indication is given of likely obstacles.**
15. **Importantly, the Government is applying to accede to an existing agreement and the extent to which it needs to be accepted ‘as is’ or**

8 New Zealand Ministry of Foreign Affairs & Trade, ‘Comprehensive and Progressive Agreement for Trans-Pacific Partnership text and resources’: <https://www.mfat.govt.nz/vn/trade/free-trade-agreements/free-trade-agreements-in-force/comprehensive-and-progressive-agreement-for-trans-pacific-partnership-cptpp/comprehensive-and-progressive-agreement-for-trans-pacific-partnership-text-and-resources/> [accessed 15 November 2021]

9 Vienna Convention on the Law of Treaties 1969, [Article 41](#)

10 Vienna Convention on the Law of Treaties 1969, [Article 2\(1\)\(d\)](#)

11 Vienna Convention on the Law of Treaties 1969, [Article 19](#)

can be changed is uncertain. We call on the Government to set out its assessment of the extent to which the CPTPP agreement may be amended through the accession negotiations, including through the use of side letters and reservations; and to articulate whether it will be seeking any carve-outs.

16. **If the Government decides to enter into side letters, it should set out how the process of agreeing side letters will operate in practice, including whether agreement will be sought from all CPTPP members (even where not directly affected), or just on a bilateral basis.**

The process of accession

17. The CPTPP Commission, the decision-making body of the Agreement, outlined the accession process in early 2019.¹² Applicant countries are encouraged to engage informally with each CPTPP member before formally applying. As a first step of the formal process, the applicant must submit a notice of intent of accession to the Agreement's depository country—New Zealand. The CPTPP Commission then decides by consensus whether accession negotiations can begin. If the Commission agrees that negotiations can begin, an Accession Working Group is formed that will report to the Commission on whether the applicant complies with CPTPP rules and will cover the terms of accession. The UK was given the go-ahead to commence the accession process in June 2021,¹³ and on 28 September 2021 it attended the first meeting of the Accession Working Group. DIT officials have confirmed that discussions on the UK's compliance with the CPTPP agreement have begun.
18. The next stage starts with the applicant submitting their initial market access offers (including on tariffs, services and government procurement) within 30 days of the first meeting of the Working Group. Once compliance with the agreement has been demonstrated, a period of bilateral and Working Group negotiations will follow. On conclusion, the Commission will determine by consensus whether to approve the terms and conditions of the UK's accession to the CPTPP, as set out in the Accession Working Group's report.
19. All CPTPP members for which the Agreement is in force will make this decision through their seat on the Commission and, if the application is approved, the Commission will formally invite the UK to become a member and deposit an instrument of accession.

CPTPP agreement structure

20. The CPTPP is a comprehensive agreement with 30 chapters. It provides commitments for member countries that fall under two categories: rules and market access. Rules impose obligations on all member states, for example, on food safety or data transfer. Market access varies between members and each party has its own schedules of commitments for tariff reduction on goods and liberalisation of services markets. Like other members, the UK would have to negotiate market access separately with each member state.

12 CPTPP Commission, *Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) Accession Process* (19 January 2019): <https://www.mfat.govt.nz/assets/Trade-agreements/CPTPP/Accession-Process.pdf> [accessed 15 November 2021]

13 CPTPP Commission, *Decision by the Commission of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership regarding the United Kingdom's Formal Request to Commence the Accession Process* (2 June 2021): <https://www.mfat.govt.nz/assets/Trade-agreements/CPTPP/cptpp-decision-uk-accession-request-2-june-2021.pdf> [accessed 15 November 2021]

CHAPTER 2: ANALYSING THE ECONOMIC CASE FOR ACCESSION

Immediate economic benefits are limited, but the Agreement may open opportunities for collaboration

21. In its written submission, the Department for International Trade told us:

“Joining the CPTPP now opens the way to further increase trade with these economies, enabling the UK to build back better by bringing more opportunities for our businesses and supporting jobs for our people. CPTPP membership will complement and reinforce new and enhanced bilateral trade agreements we have already signed (Japan, Canada, Singapore, Vietnam, Chile, Peru, and Mexico) or are negotiating now (Australia and New Zealand).”¹⁴

22. DIT's Scoping Assessment included in the Strategic Approach makes the economic case for accession. Yet the Government's own modelling shows that joining CPTPP is expected to boost UK trade, GDP and wages for UK workers by only a modest amount in the long run (after c. 15 years), with the estimated percentage increase in GDP being 0.08%¹⁵. This low figure factors in existing or planned bilateral free trade agreements with the majority of the members. Larger gains would, however, be realised from the potential expansion of the membership to include Thailand and South Korea. The table below compares the long-term economic impacts of accession with and without such expansion.

Table 1: Summary of long-term economic impacts of accession

Results from CGE model	Scenario 1: current CPTPP membership £ Change (CGE modelling)	Scenario 2: current CPTPP membership + Thailand + South Korea £ Change (CGE modelling)
Change in GDP	£1.8 billion	£5.5 billion
Change in UK exports to CPTPP	£1.7 billion	£2.5 billion
Change in UK imports from CPTPP	£1.6 billion	£3.8 billion
Change in total UK exports	£2.0 billion	£4.0 billion
Change in total UK imports	£1.7 billion	£3.1 billion
Change in welfare	£1.2 billion	£4.1 billion
Change in wages	£0.8 billion	£1.9 billion

Source: DIT, *Strategic Approach, Chapter 4: CPTPP Scoping Assessment*: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1027860/dit-cptpp-uk-accession-strategic-approach.pdf [accessed 15 November 2021]. DIT modelling, central estimates and ranges for consumer welfare and GDP impacts, values in 2019 terms.

14 Written evidence from Department for International Trade (CPT0007)

15 Unusually for trade deals the percentage increase in GDP is not highlighted, only appearing in the section on environmental impacts. We further note that the figures quoted include trade with all 11 CPTPP members, even though over half of the increase comes from countries still to ratify the agreement, namely Malaysia, Chile and Brunei. See: DIT, *Strategic Approach*, p 52: <https://www.gov.uk/government/publications/uk-approach-to-joining-the-comprehensive-and-progressive-agreement-for-trans-pacific-partnership-cptpp> [accessed 15 November 2021]

23. Few of our witnesses were able to provide concrete examples of projected increases in exports or other direct economic benefit. Some commented that they would expect greater benefits to derive from bilateral deals,¹⁶ while others cited specific issues which would prevent their sectors benefitting such as Rules of Origin for both automotive and agri-food.¹⁷ There were also blunter assessments such as that of the Law Society saying that the aims of UK legal professionals “are unlikely to be realised via CPTPP”, or the London Markets Group stating “there is nothing specific that we will get from this agreement”¹⁸. Geography is an obvious obstacle. Sally Jones of Ernst and Young said, “Geography matters enormously. Everybody knows about the gravity model for goods, which says that you trade more with countries that are closer to you. The same is true for services, partly because business visits are just more expensive.”¹⁹
24. Rather than the direct economic benefits, the ability to work with members in the future, either to influence the agreement to meet UK interests or use it as a discussion platform for separate initiatives with members, were cited by many witnesses as the main advantages of CPTPP accession. For example, the City of London Corporation suggested that “UK accession would offer a means for the UK to participate directly in the shaping of the CPTPP’s future rules”,²⁰ and the CBI said that “by joining the bloc, the UK could look to use its existing influence to align CPTPP members on future economic issues, such as scoping out new standards at plurilateral level”.²¹
25. The extent to which a newcomer like the UK would be able to change the rules in the existing agreement remains, however, untested. It is not clear that there will be future updates to the CPTPP. There should nonetheless be opportunities simply from working with some of the most innovative trade policy players. As techUK said, “that is the value of joining CPTPP: we are joining all these countries that are at the forefront of innovation when it comes to digital trade provisions in trade agreements”.²²
26. DIT mentions future economic growth of existing CPTPP members as a key reason for accession. It quotes PwC who have predicted that four CPTPP members—Vietnam, Malaysia, Mexico, and Australia—will be in the list of top-20 countries for economic growth.²³ However, it is important to note that this is just that—future potential, and the UK may still benefit from the region’s growth, including through bilateral agreements, without joining CPTPP.
27. DIT states that the prospect of other countries joining the CPTPP provides the potential of future economic benefit. The CityUK share this view, commenting that “with the CPTPP designed to be easy for more countries

16 See, for example, [Q3](#) (Sean McGovern and Sally Jones), [QQ14-15](#) (Konrad Shek), and written evidence from Universities UK ([CPT0039](#))

17 See, for example, [Q31](#) (Nick von Westenholz), [Q44](#) (Alessandro Marongiu), [Q45](#) (Paul Alger), and written evidence from the Society of Motor Manufacturers and Traders (SMMT) ([CPT0015](#)) and the National Farmers’ Union (NFU) ([CPT0033](#))

18 Written evidence from the Law Society ([CPT0013](#)) and the London Market Group ([CPT0035](#))

19 [Q 5](#) (Sally Jones)

20 Written evidence from City of London Corporation ([CPT0019](#))

21 Written evidence from the CBI (Hemita Bhatti) ([CPT0026](#))

22 Written evidence from techUK ([CPT0028](#))

23 DIT, *Strategic Approach*, Chapter 4: CPTPP Scoping Assessment, p 37: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1027860/dit-cptpp-uk-accession-strategic-approach.pdf [accessed 15 November 2021]

to join, further economic gains are likely”.²⁴ The Government has modelled the impact of South Korea and Thailand joining, but it is unclear whether these countries will submit an accession application in the near future. China and Taiwan have, however, now formally applied.

28. **We have not taken evidence on the significance of China’s and Taiwan’s applications, on which the Government have yet to comment. It is not clear how China could accept all CPTPP’s economic provisions, particularly on state-owned enterprises, or to what extent it might alter the cost-benefit analysis of UK accession. Plainly, there would also be geopolitical implications, with Taiwanese accession opposed by China.**
29. Stakeholders stressed that more emphasis needed to be put on export promotion to enable the agreement’s benefits for UK exporters to be fully realised. The UK fashion and textile association noted that “there does not seem to be a huge amount of export development going on in a proactive way”,²⁵ while the NFU suggested “the government should put more energy and resource into export promotion and marketing”.²⁶

Overlap with bilateral FTAs

30. We received evidence from the CBI and SMMT that liberalisation achieved through bilateral FTAs, particularly in the context of the negotiations with Australia, New Zealand, Canada and Mexico, should be maintained.
31. The National Farmers’ Union (NFU) worried about the cumulative impacts of future FTAs, including accession to CPTPP, on the UK agricultural and food sectors.²⁷ It is unclear whether and to what extent the UK may come under pressure to grant further market access to agricultural and food products, over and above what has been agreed bilaterally. The extent to which UK farmers will experience added competition as a result of CPTPP accession will be heavily dependent on this. We note that, in the case of Australia and New Zealand, both Agreements in Principle (AIP) state that “neither side will seek additional access or faster tariff reduction through the UK’s accession to CPTPP”.²⁸

Table 2: Bilateral free trade agreements with CPTPP member states

CPTPP member	Free trade agreement in place with UK	Type of agreement and comments
Australia	(No)	Negotiations ongoing (agreement in principle reached)
Brunei	No	No immediate plans for an FTA

24 Written evidence from TheCityUK ([CPT0018](#))

25 [Q 41](#) (Paul Alger)

26 Written evidence from NFU ([CPT0033](#))

27 Written evidence from NFU ([CPT0033](#)); Welsh Government ([CPT0046](#)); Northern Ireland Executive ([CPT0047](#))

28 DIT, *UK-Australia FTA negotiations: agreement in principle* (17 June 2021) <https://www.gov.uk/government/publications/uk-australia-free-trade-agreement-negotiations-agreement-in-principle/uk-australia-fta-negotiations-agreement-in-principle>; [accessed 15 November 2021]; DIT, *Agreement in Principle with New Zealand* (20 October 2021) <https://www.gov.uk/government/publications/uk-new-zealand-free-trade-agreement-negotiations-agreement-in-principle/uk-new-zealand-fta-negotiations-agreement-in-principle#investment> [accessed 15 November 2021]

CPTPP member	Free trade agreement in place with UK	Type of agreement and comments
Canada	Yes	EU roll-over agreement, with negotiations on an enhanced agreement to commence in 2022
Chile	Yes	EU roll-over agreement
Japan	Yes	Largely EU roll-over agreement, with some changes
Malaysia	No	No immediate plans for an FTA
Mexico	Yes	EU roll-over agreement, with negotiations on an enhanced agreement to commence in 2022
New Zealand	(No)	Negotiations ongoing (agreement in principle reached)
Peru	Yes	EU roll-over agreement
Singapore	Yes	EU roll-over agreement, with a digital economy agreement under negotiation
Vietnam	Yes	EU roll-over agreement

Source: DIT, UK trade agreements with non-EU countries: <https://www.gov.uk/guidance/uk-trade-agreements-with-non-eu-countries> [accessed 15 November 2021]

32. **There are potential economic benefits to the UK joining the CPTPP, though much depends on the future expansion of the CPTPP, and how successfully the Agreement can serve as a platform for cooperation and UK influence. We have heard much about speculative future benefits, but less about DIT's assessment of specific opportunities.**
33. **It is unclear the extent to which the UK, as a member, would be able to promote meaningful new cooperation initiatives or press for changes to the CPTPP text. We also do not know which other countries may realistically join the CPTPP in the future, and note in this context China's and Taiwan's recent applications for accession. The Government should start planning for post-accession work as soon as possible, and in particular share its assessments of these applications, given their importance to the economic and strategic case, and their geopolitical implications.**
34. **We call on the Government to explain the likely sequencing of China's and Taiwan's accession negotiations, and whether their Negotiating Objectives will be reviewed in the light of the applications by China and Taiwan.**
35. **The CPTPP negotiations are not without risks. They could give bilateral trade partners a second opportunity to seek greater market access which, in turn, could have an adverse economic impact. We welcome the approach adopted by the Government so far of including commitments in its agreements in principle with Australia and New Zealand that neither side will be seeking additional access or preferences through the CPTPP accession negotiations. The**

Government should ensure that it has concluded all new and enhanced bilateral trade negotiations with individual CPTPP members before it engages in substantial market access negotiations for CPTPP accession.

CHAPTER 3: IMPACTS ON SPECIFIC SECTORS, SMES AND CONSUMERS

36. Business organisations as diverse as the Alliance for Intellectual property, TheCity UK, the Advertising Association, the Fashion and Textile Association, and techUK all welcomed our proposed accession. Typical of the supportive comments were those from TheCityUK, who said “Joining the CPTPP would allow the UK to strengthen its economic partnership with the fastest growing region in the world and improve access to key growth markets for many of TheCityUK’s member businesses”.²⁹ Paul Alger, Director of International Business at UK Fashion and Textile Association, said “we do see CPTPP, as distinct from our bilateral trade agreements, as being very much an important stepping stone towards creating global Britain and refocusing exporters’ minds on the fact that the European Union is not the only place they can export to”.³⁰
37. Not all witnesses were as positive, however. Global Justice Now, which campaigns on global justice and development in the Global South, described CPTPP as “a high risk deal”.³¹ Others, including those representing the interests of consumers, suggested that accession must not come at the expense of existing UK standards, law or practice.

The agricultural sector

38. The Negotiating Objectives state that the UK Government is “clear that the UK’s potential accession must be right for UK companies, consumers, and farmers as well as ensuring food safety, environmental protection, and animal welfare standards”.³²
39. Some witnesses expressed concerns that the UK agricultural sector may be undermined by cheap imports produced to lower animal welfare standards, standards of production, and less strict environmental, climate and labour regulations. The National Farmers Union (NFU), in particular, pointed out that the costs of doing business for farmers in the UK are higher than in many CPTPP member countries and recommended that the Government should strike side agreements with certain CPTPP members to ensure that UK standards are upheld.³³ We discuss the potential impact of CPTPP accession on UK food standards in Chapter 4 of our report.
40. To maintain a level playing field for UK farmers, the Welsh Government recommended retaining tariff rate quotas and agricultural safeguards for sensitive agricultural produce, seeking an approach similar to the one that Japan took in its market access offers.³⁴ The RSPCA suggested that the UK

29 Written evidence from TheCityUK (CPT0018)

30 Q 42 (Paul Alger)

31 Written evidence from Global Justice Now (CPT0017)

32 DIT, *Strategic Approach*, p 20, para 8.2.3: <https://www.gov.uk/government/publications/uk-approach-to-joining-the-comprehensive-and-progressive-agreement-for-trans-pacific-partnership-cptpp> [accessed 15 November 2021]

33 Written evidence from NFU (CPT0033)

34 Written evidence from the Welsh Government (CPT0046). Canada, Japan, Malaysia, Mexico and Vietnam currently provide agricultural tariff rate quotas (TRQs) under CPTPP, which are either agreement-wide or country-specific via side letters. The TRQs are listed in each country’s tariff liberalisation schedule in Annex 2D of the CPTPP agreement.

should set conditions relating to the standards of production that need to be met to qualify for tariff liberalisation.³⁵

41. The fixed-term Trade and Agriculture Commission's final report published in March 2021 also recommended conditional tariff liberalisation for agricultural goods.³⁶ The Government, in responding to the report, noted that the UK's trade deals will "ensure fair and reciprocal access, taking into account sectoral sensitivities and the degree of equivalence demonstrated with our food production standards", but did not make clear whether tariff liberalisation would be made conditional on meeting UK standards.³⁷
42. As we noted at paragraph 31, it remains to be seen whether the CPTPP agreement will actually provide additional market access for agricultural and food products, over and above that provided for by (existing and new) bilateral agreements with CPTPP member states.
43. The NFU did highlight potential opportunities for the UK agriculture and food sectors. The agreement would provide new export opportunities for certain UK agricultural goods and processed food products in Asia, although the UK would be competing with Australia and New Zealand, which already have a dominant presence in those markets.³⁸ The NFU noted specific concessions that the Government should pursue in CPTPP market access negotiations, including for UK pig meat and poultry, which Vietnam has blocked citing food safety concerns; beef, sugar and malt in Japan; and horticulture across CPTPP markets.
44. In the case of Japan, the Comprehensive Economic Partnership Agreement (CEPA) signed in 2020 did not retain a number of tariff rate quotas (TRQs) from the EU-Japan Economic Partnership Agreement, and so CPTPP presents an opportunity to improve the UK's access to the Japanese market. TRQs that were not rolled over included those for butter, skimmed milk powder, butter milk powder, whey and condensed milk.³⁹ The National Farmers Union (NFU) argued that CPTPP should be used to gain preferential access to the Japanese market for these goods.⁴⁰
45. **We note that UK farmers could potentially experience negative cumulative impacts if accession to CPTPP requires the UK to provide additional market access for CPTPP countries, beyond what has been agreed through existing or future bilateral trade deals.**
46. **To maintain a level playing field for UK farmers (and safeguard UK production standards), the Government should require agriculture and food imports either to meet minimum standards, including on environmental and climate protections, animal welfare, and the use of antibiotics and pesticides; or, as suggested by the fixed-term Trade and Agriculture Commission, make tariff liberalisation conditional**

35 Written evidence from the RSPCA (CPT0037)

36 Trade and Agriculture Commission, *Final Report* (March 2021): https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/969045/Trade-and-Agriculture-Commission-final-report.pdf [accessed 15 November 2021]

37 DIT, *Government response to the Trade and Agricultural Commission report* (October 2021), p 21: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1027282/government-response-to-trade-and-agriculture-commission-report.pdf [accessed 15 November 2021]

38 Written evidence from the NFU (CPT0033)

39 Written evidence from the NFU to the Committee's inquiry on the UK-Japan Trade Negotiations (JTN0048)

40 Written evidence from the NFU (CPT0033)

on meeting those standards. We call on the Government to clarify its approach urgently. However, we note that seven CPTPP members already enjoy preferential access to the UK market through separate bilateral agreements or, in the case of Australia and New Zealand, are expected to gain this access soon.

47. **The Government should pursue opportunities to increase access to CPTPP markets and to expand exports of high-quality UK agricultural goods. In particular, it should use the CPTPP negotiations to improve the UK's access to the Japanese market in areas where tariff rate quotas were not rolled over from the EU-Japan Economic Partnership Agreement.**
48. **We heard from a number of witnesses that tariff liberalisations are helpful only if accompanied by Government export support. We therefore welcome the Government's announcement that it will seek to establish a Food and Drinks Export Council to support farmers, food and drinks businesses to maximise export opportunities from new and existing FTAs. We call on the Government to ensure that the Council is operational as soon as possible.**

Manufactured goods

Rules of Origin

49. The Negotiating Objectives present the CPTPP Rules of Origin as a source of potential economic benefit to UK businesses, stating that they “could help UK exporters access the preferential tariffs provided by CPTPP” and “help diversify our supply chain and increase our economic resilience”,⁴¹ highlighting the opportunity for the automotive sector to potentially increase exports.⁴²

Box 3: Rules of Origin

Rules of Origin provide criteria for determining the economic nationality of a good. To qualify for preferential tariff rates, a good must usually ‘originate’ in a country Party to the trade agreement. Due to global value chains, many final products, like foodstuffs or automotive vehicles, are made up of a variety of inputs, which may not always be sourced or processed in the countries Party to the agreement. Rules of Origin also govern how materials or processing not carried out domestically can be used while still benefiting from preferential tariffs. This is usually achieved by means of thresholds for how much of a product’s inputs must qualify as domestic, by reference either to a certain share of the total value or weight of the product. The more non-originating materials allowed in a product, the less restrictive the Rules of Origin are.

41 DIT, *Strategic Approach*, p 10, para 1.1.3: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1027860/dit-cptpp-uk-accession-strategic-approach.pdf [accessed 15 November 2021]

42 DIT, *Strategic Approach*, p 7, para 2.7.6: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1027860/dit-cptpp-uk-accession-strategic-approach.pdf [accessed 15 November 2021]

50. However, we have heard from witnesses that while some manufacturing businesses may benefit, others may be unable to make use of CPTPP's Rules of Origin to obtain preferential tariff treatment through the CPTPP.⁴³
51. The NFU noted that the geographical distance from other CPTPP members, coupled with the perishability of agri-food goods, means that the financial and environmental costs are too high for some food manufacturers to utilise the Rules of Origin effectively.⁴⁴
52. The Society of Motor Manufacturers and Traders (SMMT) noted that "three CPTPP parties have consistently ranked among the top 10 export destinations for UK car exports, namely Japan, Australia and Canada" and that there was a "clear appetite for UK-made vehicles in these markets".⁴⁵ Even though the UK already has bilateral agreements with Japan and Canada, the SMMT commented that origin requirements for parts and components (though not finished cars) were generally "more relaxed under CPTPP than under current existing UK FTAs", and that additional benefits could be accrued through "some facilitations for remanufacturers and the possibility for them to use faulty, defective products imported from CPTPP members as raw materials and then export finished remanufactured products tariff free, with clear benefits for the circular economy".⁴⁶
53. Despite this, SMMT also warned that for finished vehicles "standard CPTPP origin requirements ... in many instances could be difficult to achieve if cumulation of EU content is not allowed".⁴⁷ UK vehicle manufacturers have highly integrated supply chains across the EU, from which they source a large percentage of components. As the CPTPP Rules of Origin do not allow for the cumulation⁴⁸ of EU originating inputs, EU derived inputs used in UK-manufactured goods would not usually count as originating in the UK in trade with CPTPP members.⁴⁹ SMMT did not provide precise figures on how many UK finished vehicles would meet the CPTPP thresholds, but estimated that "the majority of UK assembled cars would be at risk of not meeting CPTPP origin criteria, with all EU-centric manufacturers and some major global manufacturers potentially struggling to qualify."⁵⁰
54. **The Negotiating Objectives highlight the opportunities that the CPTPP's Rules of Origin may provide to UK manufacturers, and the automotive sector in particular. While UK-based producers supplying parts to assembly plants located in CPPTPP member states will benefit, manufacturers and exporters of UK-assembled vehicles in**

43 SMMT (CPT0015), NFU (CPT0033). Dr Maria Garcia, Senior Lecturer at the University of Bath also told the International Trade Committee in the Commons (Q 256), "To some extent the immediate benefit would be lost because, depending on what percentage of a UK product's components come from the EU or the US—we trade a lot with the US as well—it might not be eligible for the CPTPP Rules of Origin. It is not as simple as our joining CPTPP and suddenly seeing these great opportunities open up."

44 Written evidence from the NFU (CPT0033)

45 Q 40 (Alessandro Marongiu)

46 Q 42 (Alessandro Marongiu)

47 Q 44 (Alessandro Marongiu)

48 Cumulation—specifically, diagonal cumulation—is a mechanism through which trade agreements may allow inputs sourced or processed in a country outside the relevant agreement to count towards meeting the origin requirements for preferential treatment.

49 Unless they meet strict value thresholds or are subject to complex processing. The mere assembly of components does not confer origin. See also: Annex 3–D (including Appendix 1) of the CPTPP agreement.

50 Written evidence from SMMT (CPT0015)

the UK are unlikely to do so. In fact, the Rules of Origin may confer a competitive advantage onto vehicle manufacturers in other CPTPP countries which are linked by established regional supply chains.

55. **We call on the Government to seek carve-outs or side letters with strategic CPTPP trading partners, such as Japan, to allow for more generous local content thresholds to apply to UK-assembled vehicles.**

Customs facilitations

56. The Negotiating Objectives explain that “CPTPP provisions support UK objectives in facilitating efficient and transparent customs procedures that minimise costs and administrative burdens for businesses as well as keeping processes predictable at the border”.⁵¹
57. Several witnesses representing UK manufacturers were positive about the facilitations contained in the customs administration and trade facilitation chapter for both UK exports and imports. SMMT told the Committee that the existing customs procedures and border enforcement rules often lead to high additional costs and indicated that UK manufacturers could benefit particularly from the commitment to release normal shipments in 48 hours and ensure clearance of express shipments in 6 hours.
58. TechUK also stated that provisions in the customs chapter could help ensure an easier import process for UK-bound technology goods from Asia, particularly from Vietnam—and from Malaysia once it ratifies the Agreement.⁵²

Services sectors

59. CPTPP provides rules and obligations to ensure non-discrimination and fair competition for services providers from member countries. Many of the general rules covering services trade are set out in Chapter 10 and include the principles of national treatment, most favoured nation treatment, market access, local presence, non-conforming measures, domestic regulation, recognition, denial of benefits, and transparency.⁵³ Other rules include those covering digital trade and data transfers, set out in the electronic commerce chapter.⁵⁴
60. Each individual CPTPP member has negotiated and set out their own market access and non-discriminatory treatment commitments. Experts have commented that the UK would probably have to accept the market access conditions that the CPTPP members are currently offering.⁵⁵
61. The CPTPP uses a ‘negative list’ approach, which assumes that members allow market access for all services, and that only the services specifically

51 DIT, *Strategic Approach*, p 10, para 1.2.1: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1027860/dit-cptpp-uk-accession-strategic-approach.pdf [accessed 15 November 2021]

52 Written evidence from City of London Corporation ([CPT0019](#))

53 [Chapter 10](#), CPTPP agreement

54 [Chapter 14](#), CPTPP agreement

55 Michael Gasiorek, Guillermo Larbalestier, Nicolo Tamberi, UKTPO, ‘How significant is the CPTPP as a potential market? The value of the CPTPP for the UK’ (3 February 2021): <https://blogs.sussex.ac.uk/uktpo/2021/02/03/the-value-of-the-cptpp-for-the-uk/> [accessed 15 November 2021]; Sam Lowe, ‘CPTPP—as easy as one, two, three?’, *Prospect* (4 August 2020): <https://www.prospectmagazine.co.uk/economics-and-finance/cptpp-as-easy-as-one-two-three-trans-pacific-partnership-brexit> [accessed 15 November 2021]

listed are subject to exceptions or restrictions. Each country's 'negative list', or list of exceptions, are set out in Annexes I and II to the agreement (Cross-Border Trade in Services and Investment Non-Conforming Measures).⁵⁶

62. The Government states in its scoping assessment, "the services chapters of the agreement are one of its major accomplishments. The evidence suggests that CPTPP offers better market access than the UK's existing arrangements with CPTPP members on services".⁵⁷ At the same time, the scoping assessment also notes that "most of the increase in commitments comes from increased certainty, although there are a few examples of increased market access, such as sound recording in Vietnam and broadcasting in Peru".⁵⁸
63. Witnesses generally agreed that the services provisions were useful. We received positive responses from services companies and their trade organisations, including the legal, financial, professional business services and technology sectors, although with some caveats for audio-visual services. Most of the opportunities highlighted were in the long term and in relation to establishing regulatory dialogue or shaping future rules in the Asia-Pacific region.
64. We note that witnesses told the Committee in its inquiry on trade negotiations with Japan that many of the key barriers in services are regulatory barriers which are not directly dealt with through FTAs, but that these can serve as platforms for regulatory dialogue around the edges of negotiations or after entry into force.⁵⁹ The Law Society of England and Wales said that the Professional Services Working Group of CPTPP could give the UK a seat at the table in driving improvements in the liberalisation of trade in legal services. They also noted that CPTPP provides mechanisms to address behind-the-border barriers in the professional services Annex 10A.⁶⁰

Financial services

65. DIT figures show that financial services were the largest exports from the UK to CPTPP members—primarily to Japan—accounting for 28% of service exports to CPTPP countries from 2014 to 2016.⁶¹
66. The financial services chapter establishes non-discrimination obligations, which means that a CPTPP member country must not treat investors, financial institutions or investments from another member country less favourably than similar domestic investors. It also imposes bars CPTPP members from imposing restrictions or conditions on suppliers from another member, such as limits on the number of subsidiaries or branches, and bans nationality requirements for senior management of an organisation. Each

56 [Annexes I and II](#), CPTPP agreement

57 DIT, *Strategic Approach*, p 30: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1027860/dit-cptpp-uk-accession-strategic-approach.pdf [accessed 15 November 2021]

58 DIT, *Strategic Approach*, p 35: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1027860/dit-cptpp-uk-accession-strategic-approach.pdf [accessed 15 November 2021]

59 Written evidence submitted by TheCityUK and the City of London Corporation to the Committee's inquiry on Trade Negotiations with Japan ([JTN0045](#))

60 [Q 5](#) (Catherine Brims)

61 DIT, *An information pack for the Consultation relating to the UK potentially seeking accession to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP)* (August 2018) p 17: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/745951/FTA_brochure_CPTPP_FINAL.pdf [accessed 15 November 2021]

member country has specified in Annex III the scope of the financial services that must comply with these obligations.⁶²

67. The Government does not provide a specific negotiating objective for the UK financial services but summarises the potential benefits by commenting, “CPTPP’s high standard chapter on financial services could expand opportunities for UK financial services and ease frictions to cross-border trade and investment.” The evidence we received suggests that the economic benefits would not be immediate, but CPTPP membership would provide opportunities by establishing and formalising dialogue and cooperation.
68. TheCityUK noted, “Most barriers to trade in the financial and related professional services (FRPS) are regulatory and require regulatory cooperation to resolve them.” According to TheCityUK, CPTPP provisions calling for greater coherence of regulatory regimes of the signatories would help overcome regulatory barriers and “joining the CPTPP benefits UK-based FRPS as it allows the UK to work with other members on priority areas for services industries”.⁶³
69. Similarly, the London Market Group suggested that “there is an opportunity for the UK over time ... to make common cause with like-minded countries to help ... to export some of that philosophy, regulatory practice and approach into countries that are not quite where we are”.⁶⁴

Intellectual property and audio-visual services

70. Witnesses from the intellectual property and audio-visual services sectors were more circumspect regarding the potential impact of CPTPP accession. We heard how the patent industry might be adversely affected by specific provisions in the Agreement. These are covered in detail in Chapter 4 of our report, as they have significant implications for the UK’s regulatory environment.
71. The Alliance for Intellectual Property (AIP) highlighted provisions in CPTPP which fail to strengthen intellectual property (IP) rights and protection. These include technical protection, terms of copyright, rights of creators, safe harbour limitations, public performance and broadcast rights, as well as artist resale and design rights.
72. AIP recommended that the Government negotiate for improvements in IP provisions in CPTPP⁶⁵ and argued:

“The opportunity to swap comprehensive market access for IP improvements will only come once in a generation. Once we have granted broad market access for tangible goods exports from high-growth markets such as Malaysia and Vietnam through CPTPP, our leverage to obtain IP improvements will have largely vanished.”⁶⁶
73. It remains to be seen, as we have noted previously, what, if any, changes the UK will be able to negotiate as part of the accession process.

62 [Annex III](#), CPTPP agreement

63 Written evidence from TheCityUK ([CPT0018](#))

64 [Q 10](#) (Sean McGovern)

65 Written evidence from Alliance for Intellectual Property ([CPT0001](#)) and [Q 15](#) (Dan Guthrie)

66 Written evidence from Alliance for Intellectual Property ([CPT0001](#))

74. **We generally received positive responses from services companies and their trade organisations about joining the CPTPP, with benefits to be realised from formalised dialogue and cooperation.**
75. **The Government should pursue the opportunities for the UK financial, legal, and related professional services by using the mechanisms available through CPTPP to establish regulatory dialogue and to shape future rules in the region.**
76. **We heard that the intellectual property and audio-visual services sectors are unlikely to benefit from CPTPP accession due to IP provisions falling short in ambition.**

Recognition of professional qualifications

77. The Government states in its Negotiating Objectives that accession “could also facilitate further liberalisation through the recognition of qualifications”, and that the professional services annex “encourages recognition of professional qualifications, which could allow UK businesses to expand into the Asia-Pacific region”.⁶⁷ The agreement does not provide for the mutual recognition of professional qualifications, but provides that each CPTPP Party “shall encourage its relevant bodies to establish dialogues with the relevant bodies of other Parties, with a view to recognising professional qualifications, and facilitating licensing or registration procedures”.⁶⁸ We mostly received evidence in favour of a liberalised regime for the mutual recognition of professional qualifications, but witnesses recognised that this would need to be achieved via side letters or separate bilateral agreements.⁶⁹

Digital and data provisions

78. The electronic commerce chapter contains provisions on digital trade, data flows, and personal data protection. The Committee heard that several of the digital trade provisions in CPTPP could be useful for small and medium sized enterprises (SMEs), the UK technology sector, insurance, financial services and other professional business services sectors.⁷⁰ The Government notes in its Negotiating Objectives that CPTPP contains cutting-edge provisions which maximise opportunities for digital trade across all sectors of the economy, though it does not explicitly provide specific Objectives.⁷¹
79. James Sibley of the Federation of Small Businesses (FSB) indicated that the bans on data localisation⁷² requirements, on forced transfer of code, and the prohibition of levying tariffs on electronic transmissions would be

67 DIT, *Strategic Approach*, pp 11 and 18, paras 2.1.3 and 5.2.1: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1027860/dit-cptpp-uk-accession-strategic-approach.pdf [accessed 15 November 2021]

68 *Annex 10-A*, CPTPP agreement

69 See, for example, written evidence from the CBI (*CPT0026*) and *Q21* (Lucy Monks)

70 See, for example, *Q 1* (James Sibley), TheCityUK (*CPT0018*), and written evidence from The London Market Group (*CPT0035*) and techUK (*CPT0028*)

71 DIT, *Strategic Approach*, p 12 para 2.5: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1027860/dit-cptpp-uk-accession-strategic-approach.pdf [accessed 15 November 2021]

72 Data localisation refers to a “mandatory legal or administrative requirement directly or indirectly stipulating that data be stored or processed, exclusively or non-exclusively, within a specified jurisdiction”. See: OECD, ‘Data localisation trends and challenges: Considerations for the review of the privacy guidelines’ (December 2020) p 8: https://www.oecd-ilibrary.org/science-and-technology/data-localisation-trends-and-challenges_7fbaed62-en;jsessionid=cnAtVFcWXpehN3X4IVexK3Uub.ip-10-240-5-53 [accessed 15 November 2021]

particularly beneficial to SMEs, and that the data localisation ban would help smaller firms save on costs. He stated, “It can significantly increase a small firm’s costs if it has to rent servers in different jurisdictions or if it precludes them from using certain cloud-based computing.”⁷³

80. TechUK praised the electronic commerce provisions of CPTPP, stating, “Acceding to CPTPP would bring major advantages to the UK tech sector and continue to demonstrate UK’s level of commitments on digital issues.” It noted that Article 14.15 encourages the cooperation of parties in regional and multilateral fora to promote the development of e-commerce and recommended that “the UK should ensure that it plays a leading voice in these discussions”.⁷⁴
81. The City of London Corporation welcomed the provision on cross-border data flows, as well as the bans on data localisation and forced disclosure of source code,⁷⁵ noting that the first two provisions in particular allow businesses to deliver services more efficiently, as well as “provide firms with a degree of certainty ... when conducting businesses in certain jurisdictions.”⁷⁶
82. The London Market Group told the Committee that the provision on cross-border data flows “is extremely valuable for the (re)insurance sector as firms need to move data across borders in order to price risk”. It noted that barriers to cross-border data flows create many challenges, including difficulties in obtaining information needed to check international sanction lists, difficulties in checking aggregations of cover, and limitations on the ability to access intra-group services based outside of the particular jurisdiction.⁷⁷
83. We also, however, heard concerns expressed regarding the protection of personal data and the disclosure of source code of software, which are covered in more detail in Chapter 4 of our report.

Small and medium-sized businesses (SMEs)

84. The Government notes in its Negotiating Objectives that the agreement “supports UK objectives by helping UK SMEs to seize the opportunities of trade through its dedicated SME chapter”.⁷⁸
85. Although the CPTPP agreement does not provide significant gains over what has already been agreed bilaterally (or is likely to be agreed bilaterally) with most CPTPP members,⁷⁹ the Federation of Small Businesses nonetheless welcomed the inclusion of a comprehensive SME chapter in CPTPP. The

73 Q 4 (James Sibley)

74 Written evidence from techUK (CPT0028)

75 Source code is the source of a computer programme and contains instructions for how the programme is to function. All software products are based on source codes. A ban on the forced disclosure of source code in a trade agreement can reassure foreign software developers that they will not have to disclose the commercially sensitive source code underlying their software products and services. Article 14.17 of CPTPP states, “No party shall require the transfer of, or access to, source code of software owned by a person of another Party, as a condition for the import, distribution, sale or use of such software, or of products containing such software, in its territory.”

76 Written evidence from the City of London Corporation (CPT0019)

77 Written evidence from the London Market Group (CPT0035)

78 DIT, *Strategic Approach*, p 14, para 8.1: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1027860/dit-cptpp-uk-accession-strategic-approach.pdf [accessed 15 November 2021]

79 DIT, *Strategic Approach*, p 6 (table): https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1027860/dit-cptpp-uk-accession-strategic-approach.pdf [accessed 15 November 2021]

FSB stated that around half of its small business members who export viewed the CPTPP region as a priority market to access over the next three years. FSB indicated that the chapter provided useful provisions on information sharing and transparency and welcomed the SME committee charged with representing the interests of SMEs in the implementation of the agreement.⁸⁰

86. TechUK indicated that SMEs, in particular, could benefit from Article 15.21, which includes a commitment to providing, to the extent possible, comprehensive information on procurement in a single electronic portal, and to conduct procurement by electronic means.⁸¹

Consumers

87. The Government suggests in its Negotiating Objectives that CPTPP accession would provide consumers with increased choice, better product quality and lower prices for imported goods:

“In the absence of UK accession, an estimated £683 million worth of UK imports of final goods from CPTPP could continue to face tariffs each year. Tariffs apply on a range of products from vacuum cleaners from Malaysia to grapes from Chile.”⁸²

88. However, we note that neither Malaysia nor Chile have yet ratified the agreement, meaning that they do not currently provide preferential tariffs to CPTPP Parties. The Government has also not explained how the Agreement would promote better product quality.

89. Consumer rights organisation Which? criticised the CPTPP agreement for containing few references to consumer protection, stating, “there is very little in the CPTPP that proactively promotes consumer rights and interests as part of trade. We think that this needs to be an essential part of the UK’s objectives for trade negotiations”. It acknowledged, however, that the UK is acceding to an existing agreement, with limited options for seeking changes.

⁸³

90. It also told the Committee:

“While opening up markets to ensure more choice for consumers is seen as an opportunity, people’s overwhelming priorities for trade negotiations include upholding food and consumer product safety standards, data protection and digital rights, and environmental protection, as well as ensuring regional equity, so that all parts of the country can benefit”.⁸⁴

91. Concerns relating to standards, protections and rights are covered in more detail in the next chapter.

80 [QQ1](#) (James Sibley)

81 Written evidence from techUK ([CPT0028](#))

82 DIT, *Strategic Approach*, p 30: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1027860/dit-cptpp-uk-accession-strategic-approach.pdf [accessed 15 November 2021]

83 Written evidence from Which? ([CPT0049](#))

84 Written evidence from Which? ([CPT0049](#))

CHAPTER 4: IMPACT ON THE UK'S REGULATORY ENVIRONMENT

92. The CPTPP is partly built on a US approach to regulation in trade agreements, including on intellectual property, food and other standards. Joining CPTPP may result in conflicts with the UK's current regulatory regime, which will need to be addressed as part of the accession negotiations. The UK Government should be more forthcoming to the Committee on what would constitute an acceptable outcome.

Immediate risks

93. The Negotiating Objectives on intellectual property commit the Government to ensuring that “the terms of UK accession to CPTPP are consistent with the UK's IP interests.”⁸⁵ We have, however, found that two CPTPP provisions on intellectual property—on patents and generic medicines—are inconsistent with the UK's IP interests.

CPTPP Article 18.38 and the European Patent Convention

94. The Committee received a high volume of evidence on patent rights. The evidence argued that the requirements in relation to patent law in Article 18.38 conflict with the UK's participation in the European Patent Office (EPO) and European Patent Convention (EPC).⁸⁶

95. The incompatibility arises because Article 54 of the EPC holds that an invention cannot be new if it has been made available to the public:

“(1) An invention shall be considered to be new if it does not form part of the state of the art.

(2) The state of the art shall be held to comprise everything made available to the public by means of a written or oral description, by use, or in any other way, before the date of filing of the European patent application.

(3) Additionally, the content of European patent applications as filed, the dates of filing of which are prior to the date referred to in paragraph 2 and which were published on or after that date, shall be considered as comprised in the state of the art.”⁸⁷

96. This is in direct conflict with Article 18.38 of the CPTPP Intellectual Property Chapter, which provides for a 12-month grace period in certain circumstances:

85 DIT, *Strategic Approach*, p 13, para 2.8.2: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1027860/dit-cptpp-uk-accession-strategic-approach.pdf [accessed 15 November 2021]

86 Written evidence from the Chartered Institute of Patent Attorneys (CPT0021), IP Federation (CPT0023), Chartered Institute of Arbitrators (CPT0029), J A Kemp LLP (CPT0016), Dehns Patent and Trade Mark Attorneys (CPT0032), Cleveland Scott York (CPT0022), Boulton Wade Tennant LLP (CPT0024), D Young & Co LLP (CPT0030 and CPT0043), Abel + Imray (CPT0031), Carpmaels & Ransford (CPT0034), The Law Society of England and Wales (CPT0013), CBI (CPT0026), SMMT (CPT0015), and techUK (CPT0028)

87 The European Patent Convention, [Article 54](#)

“Each Party shall disregard at least information contained in public disclosures used to determine if an invention is novel or has an inventive step, if the public disclosure:

(a) was made by the patent applicant or by a person that obtained the information directly or indirectly from the patent applicant; and

(b) occurred within 12 months prior to the date of the filing of the application in the territory of the Party.”⁸⁸

97. Witnesses have warned of direct economic damage if the UK were to lose EPC membership, and UK-based companies lost the ability to provide European patent services as a consequence. They have estimated that leaving the EPC would result in a loss of £837 million per annum to UK GDP, with further direct costs to business and Government.⁸⁹ These costs reflect the likelihood that the UK patent profession would shrink dramatically, as international work would move to other EPC member countries. This could also have the knock-on effect of making it more difficult for innovative UK companies to seek patent advice and to protect their inventions.
98. DIT's response to its public consultation indicates that it received similar feedback. The Negotiating Objectives provide assurances that the UK Government has “no intention of leaving the EPC ... In CPTPP accession negotiations, we will ensure that the UK upholds its existing international obligations, including those of the EPC to which the UK is already party”.⁹⁰
99. The Committee raised this issue with the Government prior to the publication of this report.⁹¹ While the Government reiterated that it does not intend to leave the EPC, it remains unclear how the UK's membership would be maintained if the UK acceded to CPTPP.⁹²

CPTPP Article 18.53 and the cost of generic medicines to the NHS

100. Throughout the Negotiating Objectives, DIT makes clear that “the NHS, its services and the cost of medicine are not on the table”.⁹³ Yet we received evidence of a potential conflict between Article 18.53 and the UK's current system of market authorisation of generic and biosimilar drugs.

88 [Article 18.38](#), CPTPP agreement

89 Tony Clayton, *Report for the Chartered Institute of Patent Attorneys (CIPA) and the IP Federation: The European Patent Convention and its Economic Impact on UK Innovation* (24 June 2020) p 23: <https://www.ipfederation.com/download/epc-impact-assessment-cipa-and-ip-federation-24-june-2020/> [accessed 15 November 2021]

90 DIT, *Strategic Approach*, p 22, para 11.2.4: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1027860/dit-cptpp-uk-accession-strategic-approach.pdf [accessed 15 November 2021]

91 Letter from Lord Goldsmith to Lord Grimstone of Boscobel, ‘Agreement in Principle with Australia and CPTPP accession negotiations’, 17 September 2021: <https://committees.parliament.uk/publications/7372/documents/77162/default/> and letter from Lord Goldsmith to Lord Grimstone of Boscobel, ‘CPTPP negotiations on patents’, 16 June 2021: <https://committees.parliament.uk/publications/6320/documents/69485/default/> [both accessed 15 November 2021]

92 Letter from Lord Grimstone of Boscobel to the Committee, ‘CPTPP Negotiations on Patents’, 14 July 2021: <https://committees.parliament.uk/publications/6813/documents/72266/default/> and letter from Lord Grimstone of Boscobel to the Committee, ‘Australia and CPTPP’: 6 October 2021, <https://committees.parliament.uk/publications/7617/documents/79740/default/> [both accessed 15 November 2021]; as well as [Q63](#) (Lord Grimstone of Boscobel)

93 DIT, *Strategic Approach*, Chapter 2, paras 2.2.3, 2.7.3, 2.8.2 and 10.3: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1027860/dit-cptpp-uk-accession-strategic-approach.pdf [accessed 15 November 2021]

101. According to the British Generic Manufacturers Association (BGMA), a trade association for the generic drugs industry, Article 18.53 would introduce a mandatory notification procedure, requiring a generic or biosimilar medicines company to notify the patent holder when it submits a marketing authorisation application. This could give patent holders more time to take legal action to prevent or delay competition, leading to a significant delay in generic and biosimilar medicines coming to market, and resulting in increased medicines prices for the NHS. The Scottish Government expressed similar concerns regarding this provision:

“Any changes to patent protection, which may delay the introduction of generic medicines for a branded product, could likely lead to a rise in the NHS medicines expenditure and have knock-on financial implications for NHS budgets.”⁹⁴

102. **We find that two CPTPP provisions on intellectual property are particularly problematic, raising the possibility of significant economic damage to the UK’s patent industry, and higher prices paid by the NHS for generic medicines and biosimilars.**
103. **While the Negotiating Objectives make clear that the Government will ensure that the terms of UK accession are consistent with the UK’s IP interests, and the price the NHS pays for medicines are not on the table, we have not yet been given an indication of how this could be achieved. The Government should make clear what carve-outs it will be seeking as part of the negotiations.**
104. **In particular, we call on the Government to explain how it will seek to address the conflict between the UK’s obligations under the European Patent Convention and Article 18.38, or what steps it plans to take to mitigate any adverse impacts.**
105. **Similarly, we call on the Government to explain how it will avoid or mitigate the risk of additional costs to the NHS resulting from the pre-notification requirement contained in Article 18.53.**

Potential constraints on the future regulatory environment

106. In its Negotiating Objectives, the Government states that CPTPP provisions do not “reduce the ability for the UK to set its own regulations”.⁹⁵ Yet there are a range of areas in which the UK’s laws, regulations and standards may change or could be constrained as a result of membership of CPTPP. These include agriculture and food standards, the regulation of services sectors, digital and data, intellectual property, the environment and climate regulation, as well as workers’ rights.

The precautionary principle and food standards

107. The Government has been clear that it will not sign up to trade agreements that could undermine UK agriculture and food standards, stating in its Negotiating Objectives that “maintaining safety and public confidence in the food we eat is of the highest priority and the government remains firmly

94 Written evidence from the Scottish Government (CPT0045)

95 DIT, *Strategic Approach*, p 11, para 1.3.2: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1027860/dit-cptpp-uk-accession-strategic-approach.pdf [accessed 15 November 2021]

committed to upholding our high food safety and animal welfare standards". However, we heard from witnesses that CPTPP rules may make it difficult for the UK to justify bans of certain products and measures based on the precautionary principle for agriculture and food standards.⁹⁶

108. The UK currently follows the 'precautionary approach', under which restrictions can be established where safety is uncertain, even if the need for restrictions has not yet been proven to the satisfaction of the whole scientific community.⁹⁷ By contrast, CPTPP takes a 'science-based approach', which requires the importing party to ensure its sanitary and phytosanitary (SPS) measures, and risk assessments are based on "documented and objective evidence".⁹⁸ This means that there may be higher thresholds to justify any bans on imports, including those with higher levels of antibiotics or pesticides.⁹⁹ Which? was concerned that CPTPP "fails to recognise the importance of introducing precautionary measures where there is scientific uncertainty but potentially a significant enough risk for public health".¹⁰⁰
109. **We welcome the commitment by the Government to uphold the UK's food standards but note that the Government has not provided further detail as to how it would avoid compromising those standards in the future, and how it would address the contradictions between the UK's precautionary approach and CPTPP's science-based approach. We call on the Government to articulate how it will seek to manage these divergent regulatory approaches.**
110. **The Government should also set out the implications for existing agri-food supply chains that are integrated with EU member states and could, over time, experience disruption through diverging standards.**
111. **In this context, we welcome the establishment of a Trade and Agriculture Commission to scrutinise the UK's new free trade agreements, including the CPTPP, and assess whether they are consistent with the maintenance of UK levels of statutory protection in relation to animal and plant health, animal welfare, and the environment. We call on the Government to ensure the relevant provisions in the Trade Act 2021 are commenced as soon as possible so that the Trade and Agriculture Commission can be placed on a statutory footing.**
112. **As many food safety and animal health issues fall within devolved competence, we also urge the Government to ensure that the devolved administrations and legislatures are adequately consulted and their various views represented throughout the accession negotiations. It would not be acceptable for the UK Government to reach an**

96 Written evidence from RSPCA ([CPT0014](#)), Greener UK ([CPT0027](#)), Trade Justice Movement ([CPT0008](#)); Trade & Animal Welfare Coalition (TAWC) ([CPT0020](#)), and the Scottish Government ([CPT0045](#))

97 The precautionary principle was established during the 1992 UN Conference on Environment and Development in Rio de Janeiro. See: [Principle 15](#), Rio Declaration: "Where are threats of serious or irreversible environmental damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation." This has since been incorporated into [Article 191\(2\)](#) of the Treaty on the Functioning of the European Union.

98 [Article 7.9](#), CPTPP agreement: "The Parties recognise the importance of ensuring that their respective sanitary and phytosanitary measures are based on scientific principles."

99 Written evidence from Greener UK ([CPT0027](#))

100 Written evidence from Which? ([CPT0049](#))

international agreement which could not be implemented in all parts of the UK.

Data protection

113. While witnesses have highlighted the potential opportunities of the digital trade provisions in CPTPP, some argued that the UK's ability to regulate cross-border data flows could be substantially affected.¹⁰¹ The Government's Negotiating Objectives explain that the CPTPP's provisions will allow "the UK to maintain its high standards of data protection".¹⁰² However, the objectives do not mention how the Government would reconcile the potential clashes between the UK's existing digital and data regime and CPTPP requirements.
114. Witnesses pointed to a potential conflict between the UK's existing data protection regulations (enacted under the UK Data Protection Act 2018 and modelled on the EU's General Data Protection Regulation) and Article 14.11 of CPTPP, which commits members to allow the cross-border transfer of information by electronic means, including personal information.¹⁰³ Article 14.11 does provide an exception, stating that Parties shall not be prevented from adopting or maintaining measures inconsistent with the rule "to achieve a legitimate public policy objective".¹⁰⁴ The extent to which the UK's data protection regime could rely on this exception is, however, open to different legal interpretations among experts, and there is a need for greater assessment and analysis.¹⁰⁵
115. Consumer rights group Which? told us that data protection was an important issue for consumers, noting that, in a recent survey, 88% of consumers responded that "it was important that future trade deals do not reduce the level of data and digital protection".¹⁰⁶ Which? questioned whether CPTPP Parties' varying legal frameworks for personal data protection would be enough to protect UK consumers' data once transferred, arguing, "unrestricted data flows to countries that have weaker provisions on data protection would expose UK consumers to a market on personal data that gives businesses disproportionate powers over consumers through information asymmetries and lack of accountability."¹⁰⁷
116. Specifically, regarding Article 14.8 Personal Information Protection of CPTPP, Which? warned:
- "The provisions regarding each partner country's legal framework for the protection of personal information only recommends taking into account 'principles and guidelines of relevant international bodies',

101 Written evidence from Dr Emily Jones, Beatriz Kira, Danilo B. Garrido Alves (CPT0036), the CBI (CPT0026), and the Scottish Government (CPT0045)

102 DIT, *Strategic Approach*, p 12, para 2.5.3: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1027860/dit-cptpp-uk-accession-strategic-approach.pdf [accessed 15 November 2021]

103 Q19 (Konrad Shek), written evidence from Dr Emily Jones, Beatriz Kira, Danilo B. Garrido Alves (CPT0036)

104 Article 14.11, CPTPP agreement

105 Written evidence from Dr Emily Jones, Beatriz Kira, Danilo B. Garrido Alves (CPT0036). Oral evidence taken before the Commons' International Trade Committee on 27 January 2021 (Session 2019–21), Q18 (Hosuk Lee-Makiyama).

106 Written evidence from Which? (CPT0049)

107 *Ibid.*

‘recognising that the Parties may take different legal approaches to protecting personal information’.”¹⁰⁸

117. Notably, neither Vietnam nor Brunei are required to apply Article 14.8 on personal information protection until they have implemented legal frameworks for the protection of personal data.¹⁰⁹ TechUK raised concerns about this exception, stating “the UK Government should seek clarification on the progress of these laws and whether they are compatible with other provisions with the ecommerce chapter”.¹¹⁰
118. In addition, Article 14.11 may conflict with the EU’s data adequacy decision granted to the UK, given the EU’s more cautious approach to cross-border data flows. Adequacy means that the EU considers the UK as having “an essentially equivalent level of protection to that guaranteed under EU law”.¹¹¹ Acceding to the CPTPP could present complex challenges to UK firms when transferring EU data to CPTPP member countries that do not have their own adequacy agreement with the EU, as the UK is obliged to safeguard EU data transfers.
119. Through the review clause in the adequacy decision, the EU reserves the right to revoke the adequacy decision if the UK diverged too far from the EU’s digital and data framework and GDPR.¹¹² The CBI warned that this would result in British businesses being required to set up more costly and bureaucratic systems to share data.¹¹³ The Scottish and Welsh Governments shared these concerns, indicating that a loss of data adequacy with the EU and the resulting restrictions of handling EU citizens’ data “would create a significant barrier to trade for businesses”¹¹⁴ in Scotland and “substantially damage Welsh businesses”.¹¹⁵
120. Although there is a risk, we note that the EU has adequacy decisions in place with Japan, New Zealand and Canada, whose membership of CPTPP has not had a negative impact to date. One of our witnesses, TechUK, did not foresee significant risks to the adequacy decision with the EU precisely because other CPTPP Parties have mutual adequacy with the EU.¹¹⁶
121. **We welcome the Government’s commitment to high standards of data protection in the Negotiating Objectives, but call on the Government to provide its assessment and analysis of the implications of Articles**

108 *Ibid.*

109 [Article 14.8](#), CPTPP agreement

110 techUK ([CPT0028](#))

111 European Commission, ‘Data protection: Commission adopts adequacy decisions for the UK’ (28 June 2021): https://ec.europa.eu/commission/presscorner/detail/en/ip_21_3183 [accessed 15 November 2021]. The UK received a data adequacy decision from the EU on 28 June, which allows personal data to flow freely from the EU to the UK for four years. Without the adequacy decision, British businesses would have been required to set up more costly and bureaucratic systems to share data.

112 When announcing the adequacy decision the European Commission warned that the EU could revoke the decision at any time, stating “we have listened very carefully to the concerns expressed by the Parliament, the Member States and the European Data Protection Board, in particular on the possibility of future divergence from our standards in the UK’s privacy framework ... if anything changes on the UK side, we will intervene”. European Commission, ‘Data protection: Commission adopts adequacy decisions for the UK’ (28 June 2021): https://ec.europa.eu/commission/presscorner/detail/en/ip_21_3183 [accessed 15 November 2021].

113 Written evidence from the CBI ([CPT0026](#))

114 Written evidence from the Scottish Government ([CPT0045](#))

115 Written evidence from the Welsh Government ([CPT0046](#))

116 Written evidence from techUK ([CPT0028](#)) and [Q4](#) (Sally Jones)

14.8 and 14.11 of the CPTPP agreement for the UK's personal data protection regime and the EU's data adequacy decision.

Disclosure of source code of software

122. The Negotiating Objectives state the Government “will ensure that through accession negotiations with CPTPP that justified scrutiny of software is possible where necessary”.¹¹⁷
123. Witnesses have raised concerns regarding Article 14.17 of CPTPP, which bans the forced disclosure of source code of software. Source code provides instructions for the functioning of a computer programme. Some software codes are ‘open source’ or open to the public, such as Linux, while many others such as Microsoft are not. Emily Jones et al of the Oxford Blavatnik School of Government argued that the ban on forced disclosure of source code provides little flexibility for policy-making, and fewer exceptions for public policy objectives than in previous treaties agreed by the UK. In particular, the exceptions are limited to commercially negotiated contracts, law enforcement and judicial authorities. The Agreement does not allow regulatory bodies to access source codes on the grounds of national security protection, integrity of the financial system, and other public policy objectives.¹¹⁸
124. Which? explained:
- “Access to source code only under narrow public policy exceptions may not be enough to protect consumers in commercial settings. The UK government should negotiate for exceptions that allow for necessary oversight and accountability of automated decision making processes, and future domestic regulatory measures in this area are not impeded.”¹¹⁹
125. **Article 14.11, which bans the forced disclosure of source code of software, only has narrow public policy exceptions. This means that regulatory bodies may not be able to access source code for legitimate public interest reasons, such as fraud and security, and accountability of automated decision-making may be limited. We call on the Government to set out its assessment of Article 14.11 and state whether it will be seeking to negotiate an exception.**

Suspended intellectual property provisions

126. After the US withdrew from TPP, a number of intellectual property provisions were suspended. Witnesses were concerned about their potential reinstatement should the US re-join in future. These include provisions on internet service providers (ISP) and safe harbour (Articles 18.81-18.82), which limit ISP's liability for copyright infringement. The Alliance for Intellectual Property noted that these provisions could affect the ability of the Government to regulate on the liabilities of ISPs and their responsibilities for reducing online harms on digital platforms.¹²⁰ Witnesses pointed out that Article 18.46 on patent term adjustment has been suspended, and its

117 DIT, *Strategic Approach*, p 12, para 2.5.7: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1027860/dit-cptpp-uk-accession-strategic-approach.pdf [accessed 15 November 2021]

118 Written evidence from Dr Emily Jones, Beatriz Kira and Danilo B. Garrido Alves (CPT0036)

119 Written evidence from Which? (CPT0049)

120 Written evidence from Alliance for Intellectual Property (CPT0001)

reinstatement could conflict with the UK's membership of the European Patent Convention.¹²¹

127. **We call on the Government to provide its assessment of the suspended intellectual property provisions of CPTPP limiting the liability of internet service providers for copyright infringement, and the likelihood of their re-introduction.**

Regulation of professional qualifications

128. While the recognition of professional qualifications was generally welcomed, the Nursing and Midwifery Council told us of their concerns that the relevant provisions could prevent them from continuing to use their current assessment model for evaluating applicants from CPTPP countries, and that “any partnership reached between two regulators might have to be extended to other regulatory bodies within the CPTPP should they request the opportunity” which “could undermine regulatory autonomy”.¹²²
129. However, since then, the Professional Qualifications Bill was amended in its passage through the Lords at the request of the Nursing and Midwifery Council and other regulators. These amendments both ensure that all such regulators retain their ability to decide who could be recognised as being able to practice in the UK on the basis of their overseas qualifications and experience, and also preserve the autonomy of professional regulators in making fitness-to-practice decisions.

Investor State Dispute Settlement (ISDS)

130. The Government's Strategic Approach includes a summary of consultation responses, including the views for and against the ISDS provision in CPTPP, but the Negotiating Objectives do not set out the Government's own position on this. The objectives provide a positive assessment of the investment chapter in general, stating that it provides “investors with guarantees on the treatment they will receive when accessing and operating in CPTPP member markets”.¹²³ Without referencing ISDS explicitly, the Government states that the Agreement contains “a modern, transparent mechanism to seek independent legal redress should they not receive this treatment”.¹²⁴
131. However, several witnesses raised concerns that ISDS could interfere with the Government's ability to introduce public interest regulatory measures.
132. The investment chapter of CPTPP contains detailed ISDS provisions.¹²⁵ ISDS provides that if the host state violates the rights granted to the investor under public international law (such as the right not to have property expropriated without prompt, adequate and effective compensation), then that investor may sue the host state in neutral arbitration rather than in the host's domestic courts. Under the agreement, claims can be submitted either under the International Centre for Settlement of Investment Disputes Convention and Rules or the United Nations Commission on International Trade Law Rules—or under another arbitral institution, by mutual

121 Written evidence from D Young & Co LLP (CPT0043)

122 Written evidence from the Nursing and Midwifery Council (CPT0041)

123 DIT, *Strategic Approach*, p 12, para 2.7.2: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1027860/dit-cptpp-uk-accession-strategic-approach.pdf [accessed 15 November 2021]

124 *Ibid.*

125 [Articles 9.18-9.30](#), CPTPP agreement

agreement.¹²⁶ Claims must be limited to breaches of the investment chapter (and some limited parts of the financial services chapter) and cannot be brought for breaches of investment agreements, investment authorisations, and most provisions in the financial services chapter.

133. The investment chapter emphasises CPTPP members' right to regulate, effectively acknowledging that members will need to meet environmental health or regulatory objectives, and that measures can be taken, provided they are otherwise consistent with the investment chapter.¹²⁷
134. The Negotiating Objectives state that "CPTPP provisions support UK objectives by prohibiting Parties from waiving, derogating from, and failing to enforce, environment and labour laws to encourage trade or investment."¹²⁸ However, despite the references in the investment chapter to the Parties' right to regulate, several witnesses were concerned that the ISDS provisions in CPTPP could allow foreign investors to challenge UK policies in areas such as environmental, climate, energy, tax, workers' rights and health regulation. This could result in a 'chilling' effect on future UK policy, or interfere with the Government's ability to introduce public interest regulation.¹²⁹
135. They raised examples of cases where ISDS had been used to challenge government policies. Even where governments were successful, they were discouraged from introducing new regulations to avoid further challenges. Dr Jonathan Bonnitcha recommended that the UK Government should seek to negotiate side letters on ISDS with some of the CPTPP members, although he indicated that the side letters should be aligned with any existing investment treaties in force.¹³⁰
136. New Zealand has signed side letters to fully or partially exclude ISDS with Australia, Brunei Darussalam, Malaysia, Peru and Vietnam.¹³¹ The side letters with Peru and Australia appear to have fully excluded an investor's right to ISDS. The side letters with the three other states do not fully exclude ISDS, but provide for dispute resolution on a staged basis to avoid having to initiate ISDS proceedings in the first place.
137. Other witnesses highlighted advantages of signing up to the ISDS mechanism in CPTPP.¹³² TheCityUK indicated that its members broadly welcome the CPTPP investment protection provisions, including ISDS. However, it noted that its "members are more focused on ensuring the outcome of this system—protecting investments, and if necessary, providing compensation

126 [Article 9.19.4](#), CPTPP agreement

127 [Article 9.16](#), CPTPP agreement

128 DIT, *Strategic Approach*, p 14, para 9.2: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1027860/dit-cptpp-uk-accession-strategic-approach.pdf [accessed 15 November 2021]

129 Oral evidence taken on 19 May 2021 on Investment Protection and ISDS, [Q5](#) (Dr Jonathan Bonnitcha and Lise Johnson); [Q9](#) (Kate Young) and written evidence from the CBI ([CPT0026](#)), Welsh Government ([CPT0046](#)), Trade Justice Movement ([CPT0008](#)), Global Justice Now ([CPT0017](#))

130 Oral evidence taken on 19 May 2021 on Investment Protection and ISDS, [Q9](#) (Dr Jonathan Bonnitcha)

131 CPTPP text and resources, 'Side instruments signed by New Zealand and other Parties': <https://www.mfat.govt.nz/es/trade/free-trade-agreements/free-trade-agreements-in-force/comprehensive-and-progressive-agreement-for-trans-pacific-partnership-cptpp/comprehensive-and-progressive-agreement-for-trans-pacific-partnership-text-and-resources/#bookmark1> [accessed 15 November 2021]

132 Oral evidence taken on 19 May 2021 on Investment Protection and ISDS, [Q4](#) (Toby Landau), written evidence from Professor David Collins ([CPT0012](#))

that is adequate, effective and prompt—than the precise mechanism for achieving the outcome”.¹³³

138. The Chartered Institute of Arbitrators argued that the UK should not seek a derogation from ISDS, stating that ISDS does not favour the claimant private investor over the defendant state, developed nations fare better than developing states under ISDS, and costs are lower under ISDS compared to domestic court procedures.¹³⁴ Professor David Collins noted that conventional ISDS could be useful in countries with unfamiliar legal systems, such as Vietnam or Mexico.¹³⁵
139. **We call on the Government to set out its negotiating position and clarify its intention regarding investor-state dispute settlement (ISDS), including its position on other mechanisms for investment protection.**

Climate commitments and environmental standards

140. The Government's scoping assessment states that “UK accession to CPTPP is not expected to have significant impacts on greenhouse gas emissions (CO₂ and non-CO₂) and energy usage”¹³⁶ and that “the UK will advocate for clean growth and cooperation in the global fight against climate change”.¹³⁷ The Negotiating Objectives, however, do not include any commitments or red lines to ensure that the UK's right to regulate is maintained in support of climate commitments and environmental standards.
141. Witnesses were concerned about incentivising greenhouse gas intensive agricultural practices in CPTPP member countries with lower environmental production standards.¹³⁸ The agricultural sector in the UK has signed up to reach net zero greenhouse gas emissions by 2040,¹³⁹ which will help the UK get closer to achieving its overall goal of net zero by 2050¹⁴⁰ and meeting its Paris Agreement commitments.¹⁴¹ The NFU called on the Government to

133 Written evidence from TheCityUK (CPT0018)

134 Written evidence from the Chartered Institute of Arbitrators (CPT0029)

135 Written evidence from Professor David Collins (CPT0012)

136 DIT, *Strategic Approach*, p 31, para 10: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1027860/dit-cptpp-uk-accession-strategic-approach.pdf [accessed 15 November 2021]

137 DIT, *Strategic Approach*, p 24, para 13.2.5: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1027860/dit-cptpp-uk-accession-strategic-approach.pdf [accessed 15 November 2021]

138 Q38 (Nick von Westenholz) and written evidence from the NFU (CPT0033)

139 NFU, ‘Achieving net zero: Farming’s 2040 goal’ (September 2019): <https://www.nfuonline.com/nfu-online/business/regulation/achieving-net-zero-farmings-2040-goal/> [accessed 15 November 2021]

140 In 2019, the UK Parliament passed legislation requiring the Government to reduce the UK's net emissions of greenhouse gases (GHG) by 100% relative to 1990 levels by 2050, or to reach ‘net-zero’ emissions. See also: House of Commons Library, *Net zero in the UK*, Research Briefing, CBP8590, 16 December 2019.

141 The Paris Agreement is an international agreement on climate change, which aims to hold the increase in the global temperature to well below 2 degrees Celsius above pre-industrial levels and pursue efforts to limit the temperature increase to 1.5 degrees Celsius. The UK has made specific commitments under the Paris Agreement to reduce its greenhouse gas emissions by at least 68% by 2030 (compared to 1990 levels), which are set out in its Nationally Determined Contribution, published on 12 December 2020. See: Department for Business, Energy & Industrial Strategy, ‘The UK's Nationally Determined Contribution under the Paris Agreement’ (12 December 2020): <https://www.gov.uk/government/publications/the-uks-nationally-determined-contribution-communication-to-the-unfccc> [accessed 15 November 2021]

use trade policy to incentivise higher standards of production and climate-friendly farming models.¹⁴²

142. Greener UK were concerned that CPTPP rules on government procurement could constrain support for domestic renewable technology. It warned that the Government “could face challenges on policies to support the development of local industries or mandate ‘green purchasing’ in government contracts which is often used to build local capacity to generate renewable energy”.¹⁴³
143. **We regret that the Government has not provided detailed objectives on climate and the environment. We call on the Government to strengthen its objectives, specifically in the light of any agreements resulting from COP26.**
144. **The Government should also explain how it plans to ensure that the UK’s right to regulate in support of domestic green industries is maintained.**
145. **We call on the Government to set out its plans for ensuring that CPTPP membership does not incentivise greenhouse gas-intensive agricultural practices in other CPTPP countries, which could, in turn, undermine the UK’s environmental production standards.**
146. **We reiterate our recommendation that the Government should ensure that agriculture and food imports meet minimum environmental standards; or, as set out by the Trade and Agriculture Commission, make tariff liberalisation conditional on meeting those standards.**

142 Written evidence from the NFU ([CPT0033](#))

143 Written evidence from Greener UK ([CPT0027](#))

CHAPTER 5: GOVERNMENT ENGAGEMENT AND CONSULTATION

Consultation and engagement with the devolved administrations

147. We heard concerns from the devolved administrations regarding consultation and the timing of their involvement.
148. The Scottish Government noted that while the CPTPP agreement and other modern FTAs directly affect many devolved policy areas, the devolved administrations do not see UK negotiating mandates early enough. Furthermore, the UK Government declined to consult the Scottish Government in detail regarding the agricultural market access offers to CPTPP countries and the associated environmental, labour and animal welfare standards for imports.¹⁴⁴
149. The Welsh Government emphasised the importance of the UK Government taking into account sensitivities of the devolved nations, calling on the UK Government to provide it with an understanding of the red lines before negotiations begin. It added:
- “For example, one of our key defensive interests relates to tariff liberalisation for sensitive agricultural goods and meaningful discussions are required in this area to ensure that our interests are protected, particularly given the number of CPTPP members.”¹⁴⁵

Information in the Strategic Approach on devolved impacts

150. The Welsh and Scottish Governments agreed that a more comprehensive and detailed impact assessment of prospective FTAs should be conducted and published at an earlier stage. The Welsh Government stated that “the scoping assessment presents only the high-level impacts for Wales, and fails to provide sector specific estimates at the Wales level”.¹⁴⁶ The Scottish Government also requested detailed disaggregated data on the impacts on different groups in Scotland, including exporters, producers, workers, consumers and public service users.
151. The Northern Ireland Government raised concerns regarding the cumulative impacts of future FTAs (including with Australia and New Zealand) on the UK agriculture and food sectors, and recommended that an impact assessment of the cumulative effects should be prepared, to act as the baseline for assessing the impact of CPTPP accession.
152. The submission from Northern Ireland also made the point that all future FTAs create uncertainty about the extent to which benefits can be realised for Northern Ireland in the context of the Protocol on Ireland/Northern Ireland. In particular, it remains unclear whether importers and consumers will be able to access the full range of goods covered by the FTAs.

144 Written evidence from the Scottish Government (CPT0045)

145 Written evidence from the Welsh Government (CPT0046). Defensive interests are sensitive areas where a negotiating team does not want to make concessions to the other side. Sensitive goods are those for which liberalisation is politically difficult to achieve and are particularly prevalent in the agricultural sector.

146 Written evidence from the Welsh Government (CPT0046)

153. **While we accept that the negotiation of trade agreements is a reserved competence, they will have a significant impact not just on devolved policy areas, but also on devolved economies more generally (even in reserved areas) and interests. We call on the Government to ensure that consultation with the devolved administrations and legislatures is transparent, detailed and timely, and that their views are represented throughout the negotiations.**
154. **We call on the Government to publish a comprehensive impact assessment for each of the devolved nations prior to CPTPP accession covering all areas of devolved interest, irrespective of whether they relate to a devolved competence or not.**
155. **For future FTA negotiations, the Government should ensure that scoping assessments provide a detailed picture of the potential impact of an agreement on the devolved nations.**
156. **While the Negotiating Objectives state that the CPTPP agreement “will apply to all four constituent nations of the UK, taking into account the effects of the Protocol on Ireland/Northern Ireland” it remains unclear how the agreement will be impacted by the Protocol, and how this may affect trade between Northern Ireland and CPTPP members. It is essential that the Government provides this information. We also urge the Government routinely to include in any future FTA Negotiating Objectives their assessment of the interaction between the Protocol and prospective agreements.**

Government engagement with Parliament and the Committee

157. We welcome the Government submitting a response to our call for evidence and for engaging with us throughout our inquiry.¹⁴⁷ In particular, we are grateful to Lord Grimstone of Boscobel, Minister for Investment, and his officials for appearing before the Committee to discuss the UK's negotiations for accession to CPTPP and for his written updates. These updates and briefings provide useful context about the issues under discussion with proposed trade partners and enabled us to secure evidence from relevant stakeholders.
158. The updates have, however, at times lacked the level of granularity required for scrutiny. This was true, in particular, of the written updates—which covered what had been discussed, but rarely gave a flavour of the obstacles encountered during the discussions. The latest written update on the CPTPP negotiations, for example, only included the following information on the discussions themselves:

“At the meeting of the UK Accession Working Group, over 20 negotiators from the Department for International Trade worked through the night, setting out the UK's high standards and explaining their consistency with CPTPP obligations.

We made significant progress towards acceding to CPTPP as part of our ambitious timeframe, with discussions on key areas such as e-commerce and procurement.”¹⁴⁸

147 Written evidence from the Department for International Trade (DIT) (CPT0007)

148 Letter from Lord Grimstone of Boscobel to the Committee, 4 October: <https://committees.parliament.uk/publications/7767/documents/80896/default/> [accessed 15 November 2021]

159. **During the CPTPP negotiations, the Government should provide regular updates to Parliament and the Committee (and the Commons' International Trade Committee). In bilateral trade negotiations, these updates would normally be provided at the conclusion of each negotiating round. We understand that there will not be clear negotiating rounds in CPTPP negotiations, but updates should nevertheless be provided at regular intervals. We welcome the commitment by DIT that Accession Working Group 'read-outs' will be provided every three months.**
160. **We call on the Government to provide more information in its updates to the Committee on the detail of the negotiations, and any obstacles encountered. We acknowledge there will be areas of negotiations that are sensitive and confidential, but the principle of scrutiny by Parliament is important and should be fully recognised, and we are open to discussing arrangements that may help facilitate the sharing of confidential information.**
161. **In line with commitments made in respect of the Australia and the New Zealand FTAs, at the conclusion of negotiations, the International Agreements Committee (and the Commons' International Trade Committee) should be given access to the text of the signed agreement, including all market access schedules agreed with each CPTPP member, at least three months before the agreement is formally laid under CRAG.**

SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

Introduction

1. We welcome the prompt publication of the Negotiating Objectives at the outset of the negotiations to accede to the CPTPP. We note, however, that these are very high-level objectives, with the Government mostly commenting on existing CPTPP provisions. Where the Negotiating Objectives set out specific commitments or red lines, no further indication is given of likely obstacles. (Paragraph 14)
2. Importantly, the Government is applying to accede to an existing agreement and the extent to which it needs to be accepted 'as is' or can be changed is uncertain. We call on the Government to set out its assessment of the extent to which the CPTPP agreement may be amended through the accession negotiations, including through the use of side letters and reservations; and to articulate whether it will be seeking any carve-outs. (Paragraph 15)
3. If the Government decides to enter into side letters, it should set out how the process of agreeing side letters will operate in practice, including whether agreement will be sought from all CPTPP members (even where not directly affected), or just on a bilateral basis. (Paragraph 16)
4. We have not taken evidence on the significance of China's and Taiwan's applications, on which the Government have yet to comment. It is not clear how China could accept all CPTPP's economic provisions, particularly on state-owned enterprises, or to what extent it might alter the cost-benefit analysis of UK accession. Plainly, there would also be geopolitical implications, with Taiwanese accession opposed by China. (Paragraph 28)

Analysing the economic case for accession

5. There are potential economic benefits to the UK joining the CPTPP, though much depends on the future expansion of the CPTPP, and how successfully the Agreement can serve as a platform for cooperation and UK influence. We have heard much about speculative future benefits, but less about DIT's assessment of specific opportunities. (Paragraph 32)
6. It is unclear the extent to which the UK, as a member, would be able to promote meaningful new cooperation initiatives or press for changes to the CPTPP text. We also do not know which other countries may realistically join the CPTPP in the future, and note in this context China's and Taiwan's recent applications for accession. The Government should start planning for post-accession work as soon as possible, and in particular share its assessments of these applications, given their importance to the economic and strategic case, and their geopolitical implications. (Paragraph 33)
7. We call on the Government to explain the likely sequencing of China's and Taiwan's accession negotiations, and whether their Negotiating Objectives will be reviewed in the light of the applications by China and Taiwan. (Paragraph 34)
8. The CPTPP negotiations are not without risks. They could give bilateral trade partners a second opportunity to seek greater market access which, in turn, could have an adverse economic impact. We welcome the approach adopted by the Government so far of including commitments in its agreements in principle with Australia and New Zealand that neither side will be seeking

additional access or preferences through the CPTPP accession negotiations. The Government should ensure that it has concluded all new and enhanced bilateral trade negotiations with individual CPTPP members before it engages in substantial market access negotiations for CPTPP accession. (Paragraph 35)

Impacts on specific sectors, SMEs and consumers

9. We note that UK farmers could potentially experience negative cumulative impacts if accession to CPTPP requires the UK to provide additional market access for CPTPP countries, beyond what has been agreed through existing or future bilateral trade deals. (Paragraph 45)
10. To maintain a level playing field for UK farmers (and safeguard UK production standards), the Government should require agriculture and food imports either to meet minimum standards, including on environmental and climate protections, animal welfare, and the use of antibiotics and pesticides; or, as suggested by the fixed-term Trade and Agriculture Commission, make tariff liberalisation conditional on meeting those standards. We call on the Government to clarify its approach urgently. However, we note that seven CPTPP members already enjoy preferential access to the UK market through separate bilateral agreements or, in the case of Australia and New Zealand, are expected to gain this access soon. (Paragraph 46)
11. The Government should pursue opportunities to increase access to CPTPP markets and to expand exports of high-quality UK agricultural goods. In particular, it should use the CPTPP negotiations to improve the UK's access to the Japanese market in areas where tariff rate quotas were not rolled over from the EU-Japan Economic Partnership Agreement. (Paragraph 47)
12. We heard from a number of witnesses that tariff liberalisations are helpful only if accompanied by Government export support. We therefore welcome the Government's announcement that it will seek to establish a Food and Drinks Export Council to support farmers, food and drinks businesses to maximise export opportunities from new and existing FTAs. We call on the Government to ensure that the Council is operational as soon as possible. (Paragraph 48)
13. The Negotiating Objectives highlight the opportunities that the CPTPP's Rules of Origin may provide to UK manufacturers, and the automotive sector in particular. While UK-based producers supplying parts to assembly plants located in CPTPP member states will benefit, manufacturers and exporters of UK-assembled vehicles in the UK are unlikely to do so. In fact, the Rules of Origin may confer a competitive advantage onto vehicle manufacturers in other CPTPP countries which are linked by established regional supply chains. (Paragraph 54)
14. We call on the Government to seek carve-outs or side letters with strategic CPTPP trading partners, such as Japan, to allow for more generous local content thresholds to apply to UK-assembled vehicles. (Paragraph 55)
15. We generally received positive responses from services companies and their trade organisations about joining the CPTPP, with benefits to be realised from formalised dialogue and cooperation. (Paragraph 74)
16. The Government should pursue the opportunities for the UK financial, legal, and related professional services by using the mechanisms available

through CPTPP to establish regulatory dialogue and to shape future rules in the region. (Paragraph 75)

17. We heard that the intellectual property and audio-visual services sectors are unlikely to benefit from CPTPP accession due to IP provisions falling short in ambition. (Paragraph 76)

Impact on the UK's regulatory environment

18. We find that two CPTPP provisions on intellectual property are particularly problematic, raising the possibility of significant economic damage to the UK's patent industry, and higher prices paid by the NHS for generic medicines and biosimilars. (Paragraph 102)
19. While the Negotiating Objectives make clear that the Government will ensure that the terms of UK accession are consistent with the UK's IP interests, and the price the NHS pays for medicines are not on the table, we have not yet been given an indication of how this could be achieved. The Government should make clear what carve-outs it will be seeking as part of the negotiations. (Paragraph 103)
20. In particular, we call on the Government to explain how it will seek to address the conflict between the UK's obligations under the European Patent Convention and Article 18.38, or what steps it plans to take to mitigate any adverse impacts. (Paragraph 104)
21. Similarly, we call on the Government to explain how it will avoid or mitigate the risk of additional costs to the NHS resulting from the pre-notification requirement contained in Article 18.53. (Paragraph 105)
22. We welcome the commitment by the Government to uphold the UK's food standards but note that the Government has not provided further detail as to how it would avoid compromising those standards in the future, and how it would address the contradictions between the UK's precautionary approach and CPTPP's science-based approach. We call on the Government to articulate how it will seek to manage these divergent regulatory approaches. (Paragraph 109)
23. The Government should also set out the implications for existing agri-food supply chains that are integrated with EU member states and could, over time, experience disruption through diverging standards. (Paragraph 110)
24. In this context, we welcome the establishment of a Trade and Agriculture Commission to scrutinise the UK's new free trade agreements, including the CPTPP, and assess whether they are consistent with the maintenance of UK levels of statutory protection in relation to animal and plant health, animal welfare, and the environment. We call on the Government to ensure the relevant provisions in the Trade Act 2021 are commenced as soon as possible so that the Trade and Agriculture Commission can be placed on a statutory footing. (Paragraph 111)
25. As many food safety and animal health issues fall within devolved competence, we also urge the Government to ensure that the devolved administrations and legislatures are adequately consulted and their various views represented throughout the accession negotiations. It would not be acceptable for the UK Government to reach an international agreement which could not be implemented in all parts of the UK. (Paragraph 112)

26. We welcome the Government's commitment to high standards of data protection in the Negotiating Objectives, but call on the Government to provide its assessment and analysis of the implications of Articles 14.8 and 14.11 of the CPTPP agreement for the UK's personal data protection regime and the EU's data adequacy decision. (Paragraph 121)
27. Article 14.11, which bans the forced disclosure of source code of software, only has narrow public policy exceptions. This means that regulatory bodies may not be able to access source code for legitimate public interest reasons, such as fraud and security, and accountability of automated decision-making may be limited. We call on the Government to set out its assessment of Article 14.11 and state whether it will be seeking to negotiate an exception. (Paragraph 125)
28. We call on the Government to provide its assessment of the suspended intellectual property provisions of CPTPP limiting the liability of internet service providers for copyright infringement, and the likelihood of their re-introduction. (Paragraph 127)
29. We call on the Government to set out its negotiating position and clarify its intention regarding investor-state dispute settlement (ISDS), including its position on other mechanisms for investment protection. (Paragraph 139)
30. We regret that the Government has not provided detailed objectives on climate and the environment. We call on the Government to strengthen its objectives, specifically in the light of any agreements resulting from COP26. (Paragraph 143)
31. The Government should also explain how it plans to ensure that the UK's right to regulate in support of domestic green industries is maintained. (Paragraph 144)
32. We call on the Government to set out its plans for ensuring that CPTPP membership does not incentivise greenhouse gas-intensive agricultural practices in other CPTPP countries, which could, in turn, undermine the UK's environmental production standards. (Paragraph 145)
33. We reiterate our recommendation that the Government should ensure that agriculture and food imports meet minimum environmental standards; or, as set out by the Trade and Agriculture Commission, make tariff liberalisation conditional on meeting those standards. (Paragraph 146)

Government engagement and consultation

34. While we accept that the negotiation of trade agreements is a reserved competence, they will have a significant impact not just on devolved policy areas, but also on devolved economies more generally (even in reserved areas) and interests. We call on the Government to ensure that consultation with the devolved administrations and legislatures is transparent, detailed and timely, and that their views are represented throughout the negotiations. (Paragraph 153)
35. We call on the Government to publish a comprehensive impact assessment for each of the devolved nations prior to CPTPP accession covering all areas of devolved interest, irrespective of whether they relate to a devolved competence or not. (Paragraph 154)

36. For future FTA negotiations, the Government should ensure that scoping assessments provide a detailed picture of the potential impact of an agreement on the devolved nations. (Paragraph 155)
37. While the Negotiating Objectives state that the CPTPP agreement “will apply to all four constituent nations of the UK, taking into account the effects of the Protocol on Ireland/Northern Ireland” it remains unclear how the agreement will be impacted by the Protocol, and how this may affect trade between Northern Ireland and CPTPP members. It is essential that the Government provides this information. We also urge the Government routinely to include in any future FTA Negotiating Objectives their assessment of the interaction between the Protocol and prospective agreements. (Paragraph 156)
38. During the CPTPP negotiations, the Government should provide regular updates to Parliament and the Committee (and the Commons' International Trade Committee). In bilateral trade negotiations, these updates would normally be provided at the conclusion of each negotiating round. We understand that there will not be clear negotiating rounds in CPTPP negotiations, but updates should nevertheless be provided at regular intervals. We welcome the commitment by DIT that Accession Working Group ‘read-outs’ will be provided every three months. (Paragraph 159)
39. We call on the Government to provide more information in its updates to the Committee on the detail of the negotiations, and any obstacles encountered. We acknowledge there will be areas of negotiations that are sensitive and confidential, but the principle of scrutiny by Parliament is important and should be fully recognised, and we are open to discussing arrangements that may help facilitate the sharing of confidential information. (Paragraph 160)
40. In line with commitments made in respect of the Australia and the New Zealand FTAs, at the conclusion of negotiations, the International Agreements Committee (and the Commons' International Trade Committee) should be given access to the text of the signed agreement, including all market access schedules agreed with each CPTPP member, at least three months before the agreement is formally laid under CRAG. (Paragraph 161)

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

International Agreements Committee Members and staff

- Lord Astor of Hever
Chairman, New Waves Solutions Ltd
- Lord Foster of Bath (until 3 November 2021)
No relevant interests
- Lord Gold
Principal, David Gold & Associates LLP
Balance Legal Capital
- Lord Goldsmith (member and Chair until 18 October 2021)
Partner, Debevoise & Plimpton
- Baroness Hayter of Kentish Town (member and Chair from 18 October 2021)
Senior Non-Executive Director, Association of British Insurers
- Lord Kerr of Kinlochard
Chairman, Centre for European Reform
Deputy Chairman, Scottish Power plc
Trustee, Refugee Council
- Lord Lansley
No relevant interests
- Baroness Liddell of Coatdyke
No relevant interests
- Lord Morris of Aberavon
No relevant interests
- Lord Oates
Chair, Advisory Committee, Weber Shandwick UK
Director, H&O Communications Ltd
- Lord Razzall (from 3 November 2021)
Director, North Atlantic Mining Associates Limited
Director, ZeU Crypto Networks Inc
Shareholdings, ZeU Technologies Inc
Shareholdings, St-Georges Eco-Mining Corporation
- Lord Robathan
Farm in Leicestershire
- Earl of Sandwich
Adviser, Christian Aid
Agriculture and tourism interests in West Dorset
- Lord Watts
No relevant interests

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

Specialist Adviser

- David Henig
Advisor to the UK Trade and Business Commission
Part-time Advisor to Cavendish Advocacy on trade matters

*UK Director of the European Centre for International Political Economy
(ECIPE) Self-employed consultant on general trade policy matters*

A full list of Members' interests can be found in the Register of Lords' Interests:
<https://members.parliament.uk/members/lords/interests/register-of-lords-interests>

APPENDIX 2: LIST OF WITNESSES

Evidence is published online at <https://committees.parliament.uk/work/975/comprehensive-and-progressive-agreement-for-transpacific-partnership-cptpp/publications/> and available for inspection at the Parliamentary Archives (020 7219 3074).

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

Oral evidence in chronological order

**	Catherine Brims, International Policy Advisor, Law Society of England and Wales	QQ 1–12
*	Sean McGovern, Board Member at London Market Group, and CEO, UK and Lloyd's Market at AXA XL	QQ 1–12
*	James Sibley, Head of International Affairs at Federation of Small Businesses	QQ 1–12
*	Sally Jones, Partner, Trade Strategy, Ernst & Young (EY)	QQ 1–12
*	Lucy Monks, Public Affairs Manager, Royal Institute of British Architects	QQ 13–23
*	Konrad Shek, Director of Policy Research, Advertising Association	QQ 13–23
**	Sabina Ciofu, Head of EU and Trade Policy, techUK	QQ 13–23
**	Nick von Westenholz, Director of Trade and Business Strategy, National Farmers' Union (NFU)	QQ 24–39
**	David Bowles, Head of Public Affairs, RSPCA	QQ 24–39
*	Mary Johnson, Market Access Manager, Meat & Livestock Australia (MLA)	QQ 24–39
**	Alessandro Marongiu, International Trade Policy Manager, Society of Motor Manufacturers and Traders (SMMT)	QQ 40–51
*	Ian Cranshaw, Head of International Trade at Chemical Industries Association	QQ 40–51
*	Paul Alger MBE, Director of International Business, UK Fashion and Textile Association	QQ 40–51
**	Lord Grimstone of Boscobel Kt, Minister for Investment, Department for International Trade	QQ 52–68
*	James Clarke, Deputy Chief Negotiator on Australia, Department for International Trade	QQ 52–68
*	Graham Zebedee, Director for Indo-Pacific Negotiations and Development, Department for International Trade	QQ 52–68

Alphabetical list of all witnesses

	Abel + Imray	<u>CPT0031</u>
*	Paul Alger MBE, Director of International Business, UK Fashion and Textile Association (QQ 40–51)	
	Alliance for Intellectual Property	<u>CPT0001</u>
	Boult Wade Tennant LLP	<u>CPT0024</u>
**	David Bowles, Head of Public Affairs, RSPCA	<u>CPT0014</u>
		<u>CPT0037</u>
**	Catherine Brims, International Policy Advisor, Law Society of England and Wales (QQ 1–12)	<u>CPT0013</u>
	British Equity Collecting Society (BECS)	<u>CPT0044</u>
	British Generic Manufacturers Association (BGMA)	<u>CPT0038</u>
	Carpmaels & Ransford	<u>CPT0034</u>
	CBI (Hermita Bhatti)	<u>CPT0026</u>
**	Sabina Ciofu, Head of EU and Trade Policy, techUK (QQ 13–23)	<u>CPT0028</u>
	City of London Corporation, Office of the City Remembrancer	<u>CPT0019</u>
	TheCity UK	<u>CPT0018</u>
	Chartered Institute of Arbitrators	<u>CPT0029</u>
	Chartered Institute of Patent Attorneys (CIPA)	<u>CPT0021</u>
	Chinese International Economic Cooperation Association (CIECA), Taiwan	<u>CPT0009</u>
*	James Clarke, Deputy Chief Negotiator on Australia, Department for International Trade (QQ52-68)	
	Cleveland Scott York	<u>CPT0022</u>
	Prof David Collins	<u>CPT0012</u>
*	Ian Cranshaw, Head of International Trade at Chemical Industries Association (QQ 40–51)	
	D Young & Co LLP	<u>CPT0030</u>
		<u>CPT0043</u>
	Dehns Patent and Trade Mark Attorneys	<u>CPT0032</u>
	Global Justice Now	<u>CPT0017</u>
	Greener UK	<u>CPT0027</u>
**	Lord Grimstone of Boscobel Kt, Minister for Investment, Department for International Trade (QQ52-68)	<u>CPT0007</u>
	IP Federation	<u>CPT0023</u>
	J A Kemp LLP	<u>CPT0016</u>

- * Mary Johnson, Market Access Manager, Meat & Livestock Australia (MLA) (QQ 24–39)

Dr Emily Jones, Beatriz Kira and Danilo B. Garrido Alves, Blavatnik School of Government, University of Oxford [CPT0036](#)
- * Sally Jones, Partner, Trade Strategy, Ernst & Young (EY) (QQ 1–12)

London Market Group [CPT0035](#)

Marks & Clerk LLP [CPT0042](#)
- ** Alessandro Marongiu, International Trade Policy Manager, Society of Motor Manufacturers and Traders (SMMT) [CPT0015](#)
[CPT0048](#)
- * Sean McGovern, Board Member at London Market Group, and CEO, UK and Lloyd's Market at AXA XL (QQ 1–12)
- * Lucy Monks, Public Affairs Manager, Royal Institute of British Architects (QQ 13–23)

National Audit Office Animal Health (NOAH) [CPT0040](#)

Northern Ireland Executive (joint submission from Department for Agriculture, Environment and Rural Affairs and Department for the Economy) [CPT0047](#)

Nursing and Midwifery Council [CPT0041](#)

Scottish Government [CPT0045](#)
- * Konrad Shek, Director of Policy Research, Advertising Association (QQ 13–23)
- * James Sibley, Head of International Affairs at Federation of Small Businesses (QQ 1–12)

Taiwan WTO & RTA Center, Chung-Hua Institution for Economic Research [CPT0011](#)

Trade & Animal Welfare Coalition [CPT0020](#)

Trade Justice Movement [CPT0008](#)

Universities UK [CPT0039](#)

Welsh Government [CPT0046](#)
- ** Nick von Westenholz, Director of Trade and Business Strategy, National Farmers' Union (NFU) [CPT0033](#)

Which? [CPT0049](#)

Yang Ming Marine Transport Corporation [CPT0010](#)
- * Graham Zebedee, Director for Indo-Pacific Negotiations and Development, Department for International Trade (QQ 52–68)