

International Trade Committee Inquiry for the CPTPP

Written evidence from the UK Trade Policy Observatory (UKTPO)

by Dr. Minako Morita-Jaeger and Guillermo Larbalestier¹

About UKTPO

- The UK Trade Policy Observatory (UKTPO), a partnership between the University of Sussex and Chatham House, is an independent expert group that initiates, comments on and analyses trade policy proposals for the UK; and trains British policymakers, negotiators and other interested parties through tailored training packages.
- The UKTPO is committed to engaging with a wide variety of stakeholders to ensure that the UK's international trading environment is constructed in a manner that benefits all in Britain and is fair to Britain, the EU and the world. The University of Sussex has the largest collection of academic expertise on the world trading system in the UK, with specialists on trade policy, trade law and trade politics and European law and economy. The team includes experts in economics, international relations and law.

Summary

1. The value of the CPTPP should be seen in its wider foreign policy context beyond trade rather than its economic benefits. The CPTPP looks to create new economic opportunities to the UK given the size of market and its presence in international trade. However, the long-term economic gains from the CPTPP, as currently constituted, are likely to be limited in comparison to economic losses from leaving the EU.
2. However, the CPTPP is likely to provide more legal certainty for UK firms doing business in the emerging markets (Chile, Mexico, Peru and Vietnam). Nevertheless, potential impacts look modest given that UK's principal trade partners among the CPTPP members are Japan, Canada, Singapore and Australia. If the CPTPP expands in the future, especially China, this would increase economic opportunities.
3. Looking at potential opportunities by sector, these will depend on the added value of the CPTPP in terms of market access in comparison with the existing bilateral FTAs. Although tariff reductions will not provide substantive opportunities to the UK, the unified CPTPP rules of origin may help to reduce business costs and encourage more participation in CPTPP value-chains.
4. Opportunities in services trade would be different sector by sector and country by country in relation to the existing bilateral FTAs. The CPTPP digital provisions are expected to facilitate trade with emerging markets, yet create some concerns relating to regulatory standards in these countries.

¹ Dr. Minako Morita-Jaeger is Policy Research Fellow at the UK Trade Policy Observatory and Senior Research Fellow in International Trade in the Department of Economics, University of Sussex. Guillermo Larbalestier is Research Assistant in International Trade at the University of Sussex and Fellow of the UKTPO.

5. There are two major challenges for the UK regarding China's possible accession to the CPTPP. First, the possibility of China's accession may create a higher threshold for the UK to join the CPTPP. Second, once it is a member of the CPTPP, the UK will need to make a strategic decision on the desirability of China's membership, not only for its own sake but for the regional political and economic long-term stability in the Indo-Pacific region.
6. Joining the CPTPP symbolises the UK's desire to harness regulatory and trade policy independence from the EU. But joining the CPTPP does not allow the UK to rewrite the existing CPTPP rules. Potential challenges for the UK will be how to safeguard the UK's high standards, such as data governance and animal welfare and environmental standards.

Recommendations

7. The UK Government should provide comparative analysis of the CPTPP and the UK's bilateral FTAs with CPTPP members including on market access commitments and rules to improve public understanding of the benefits of CPTPP membership for the UK.
8. The UK Government should publish its positions on how it proposes to manage the potential challenges raised by joining the CPTPP. This includes impacts on the UK's agriculture; and the relation between the UK's desire to harness regulatory independence from the EU and its relation with CPTPP rules in the areas where potential conflicts are found (e.g. digital trade, animal welfare and environment standards).

Question: What opportunities are open to the UK as a result of membership of the CPTPP, and how can the UK best take advantage of them, including, but not limited to;

- *Those presented in new or emerging markets;*
- *Opportunities for leadership, collaboration, or innovation; and*
- *The furthering of the UK's strategic regional objectives.*

Economic opportunities

General understanding

9. On the face of it, the CPTPP seems to provide a substantial market opportunity. In 2021, the CPTPP countries' GDP amounted to US\$ 11.7 trillion, which was equivalent to just over 12% of world GDP that year. Moreover, the CPTPP countries' population amounted to 514 million, which is equivalent to 6.6% of the world's population in 2021.² With regards to international trade, the CPTPP countries accounted for 14.7% of the world's exports of goods and services, and 14.2% of the world's imports of goods and services in 2020 (the latest year with data available for all CPTPP countries).³
10. Indeed, the size, economic and strategic importance of the CPTPP market has often been cited by government ministers, such as Liz Truss, as a key motive for joining.⁴ Leaving to one side for the moment the strategic aspect, it is important to contextualise the potential economic gains. Perhaps the most obvious points of comparison are the gains from the CPTPP compared to the losses from leaving the EU. According to Department for International Trade estimates, the potential economic gains from the CPTPP could increase UK GDP by £1.8 billion and trade creation by £3.3 billion, giving an increase of 0.08% GDP, in the long-term.⁵ In contrast, according to the Office for Budget Responsibility, trade diversion created by leaving the EU will reduce UK imports and exports by 15% and GDP by 4% than if the UK had stayed in the EU.⁶

There are two major reasons why this is the case.

11. First, in comparison to the CPTPP, the EU is the UK's most important trade partner and is expected to remain so because of its economic size, and because geographic proximity matters for trade in both goods and services.⁷ As Table 1 shows, the EU currently accounts for 47.8% of UK's total exports and 46.7% of total imports in goods whereas the CPTPP accounts for 8.7% in goods exports and 7.6% in goods imports. In services, the EU accounts

² For comparison, the EU27 countries' GDP was US\$ 17.1 trillion (18% of world GDP) in 2021. And the EU population in 2021 amounted to 446 million people (5.7% of world).

³ Data: World Bank. GDP is in current US\$, Exports and Imports of Goods and Services (BoP, current US\$), Population (total).

⁴ See for example, [Global Britain and the CPTPP - GOV.UK \(www.gov.uk\)](https://www.gov.uk/global-britain-and-the-cptpp)

⁵ DIT (2021). UK Accession to CPTPP: The UK's Strategic Approach. [UK Accession to CPTPP: The UK's Strategic Approach \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/uk-accession-to-cptpp-the-uk-s-strategic-approach)

⁶ Office for Budget Responsibility, Economic and Fiscal Outlook, October 2021

⁷ For example, Borchert, I. and Yotov, Y. (2017). Distance, Globalization, and International Trade, *Econ. Letters* 153(C), 32–38; and Chaney, T, C. (2018). The Gravity Equation in International Trade: An Explanation, *The Journal of political economy*, 2018-02, Vol.126 (1), 150-177.

for 35.5% of UK's total services exports and 39.9% of total imports whereas the CPTPP accounts for 8.7% (exports) and 7.6% (imports). Business opportunities with the CPTPP are likely to increase to a certain extent but this comparison reveals that this is likely to be limited.

Table 1: UK Trade with CPTPP and EU (2021), % of World Total

	CPTPP	EU	ROW
Goods Exports	8.2%	47.8%	43.9%
Goods Imports	6.1%	46.7%	47.1%
Services Exports	8.7%	35.5%	55.8%
Services Imports	7.6%	39.9%	52.5%

Source: ONS, UK Total Trade by All Countries, Non-Seasonally Adjusted

Note: ROW means the rest of the world.

12. Second, the UK already has bilateral FTAs with nine CPTPP members (including UK-Australia and UK-New Zealand). The two countries, Malaysia and Brunei, with which the UK does not have bilateral FTAs, have not yet ratified the CPTPP. The UK's bilateral FTAs with the nine countries cover most of UK's trade with the CPTPP, accounting for 94.5 % of UK exports and 94.4% of UK total imports with the CPTPP. Another way of putting this is that the share of the UK's world trade in exports with the CPTPP countries with which it does *not* have an FTA is 0.5%; and the corresponding share with regard to imports is 0.3%. From current trade patterns, what the CPTPP can offer to business therefore seems somewhat limited. Note that in its 2021 Trade and Brexit Survey, the British Chambers of Commerce found that only 3% of the respondents said they knew a lot about the CPTPP while 20% stated they knew some detail. This compares to 8% and 40% for their knowledge of the TCA. This suggests that the CPTPP did not figure very high in firms' priorities.

13. In terms of the context of the existing bilateral FTAs with CPTPP countries, in many regards these could be seen as CPTPP+. For example, the UK negotiated FTAs with Australia and New Zealand using the CPTPP as a template and further improved rules in some areas, such as financial services, digital trade and mobility. With Japan, the UK concluded the UK-Japan CEPA, which has a more advanced digital trade chapter in comparison with the CPTPP. Furthermore, the UK has started to negotiate renegotiation of the existing bilateral FTAs with Canada and Mexico, through which the UK could directly reflect its specific economic interests, such as trade in services and digital trade.

Opportunities in emerging markets

14. The UK's principal trade partners among CPTPP members are Japan, Canada, Australia and Singapore (Table 2). These countries account for most of the UK's trade with the bloc (about 85% of UK's services exports, 90% of UK's services imports, 80% of UK's goods exports, and 66% of UK's goods imports). The opportunities from the emerging markets, including Chile, Mexico, Peru, and Vietnam, look more limited.

Table 2: Shares of UK's total trade with CPTPP countries, 2021

	Goods Exports	Goods Imports	Services Exports	Services Imports
Japan	22.5%	25.5%	21.1%	31.1%
Canada	23.1%	23.3%	23.1%	17.6%

Singapore	18.9%	8.7%	21.5%	25.9%
Australia	16.8%	8.8%	20.2%	15.1%
Total Top 4	81.3%	66.3%	85.9%	89.6%
Other	18.7%	33.7%	14.1%	10.4%
	(NZ: 3.3%)	(NZ: 2.6%)	(NZ: 2.8%)	(NZ: 1.2%)

Source: ONS. UK Total Trade by All Countries. Non-Seasonally Adjusted.

Note 1: Shares calculated as the value of UK trade with a CPTPP country (or countries) divided by the total value of UK trade with the CPTPP.

Note 2: NZ: New Zealand

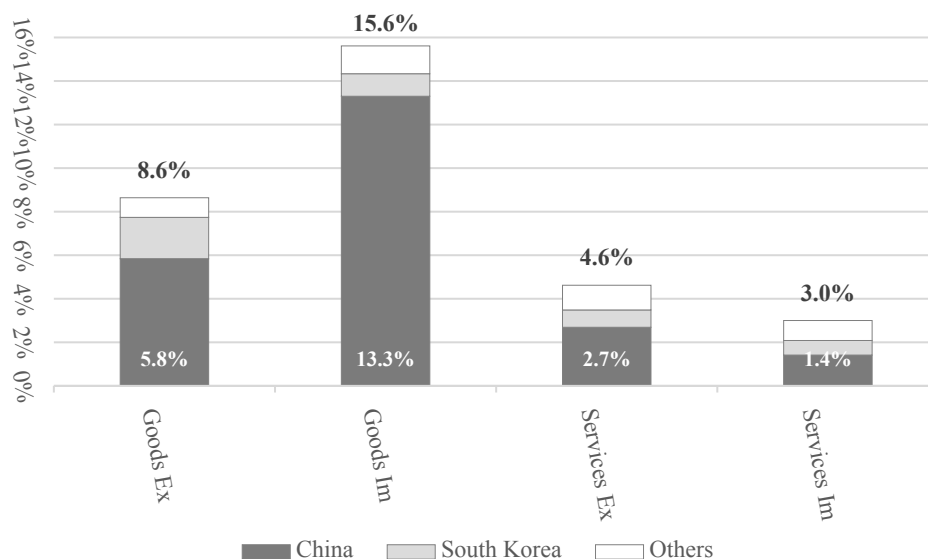
15. In general, the CPTPP does provide a legal certainty. The CPTPP binds the emerging markets (Chile, Mexico, Peru, and Vietnam) with high-standard unified rules and helps improve legal standards and transparency for doing business in these countries. For example, the legal environment of doing business in Vietnam has been improving over several years, such as protection of intellectual property.⁸ If policy and regulatory reforms are legally bound and subject to the CPTPP dispute settlement, UK business could benefit from that legal certainty.
16. At the same time, it should be noted that the UK is already enjoying policy and regulatory reforms in the emerging markets triggered by the CPTPP and other FTAs. This is because developing countries generally use FTAs as a political leverage for economic policy reforms while they try to maximise benefits of preferential market access to developed countries. These include the EU's FTAs (to which the UK used to be a member) and current UK bilateral FTAs with these countries. This means that the added value of the CPTPP in this regard probably be minor.
17. In terms of market access, more detailed products and sector analysis is required in relation with the UK's existing bilateral agreements with these countries to see the specific added value of the CPTPP (see the section of "Sectoral opportunities in comparison to the UK's existing bilateral FTAs").

Future opportunities

18. If the CPTPP expands in the future, further economic opportunities would be expected, and in principle these 'could' be substantial. China, Costa Rica, Ecuador, Taiwan, (and the UK), have all formally applied to join the bloc and South Korea is proceeding its application (though again it is worth noting that the UK already has FTAs with Costa Rica, Ecuador and South Korea). Furthermore, some countries, such as Thailand, the Philippines, Indonesia and Colombia have reportedly expressed interest in joining the bloc. China alone accounts for 5.8% and 13.3% of the UK's goods exports and imports in 2021 respectively(see Figure 1 below).

⁸ Linh Duy, M. (2019). Vietnam: CPTPP brings significant and effective change to Vietnam's IP landscape, 2019, *Managing Intellectual Property*.

Figure 1: UK’s trade with potential future CPTPP members



Source: ONS UK Total Trade by All Countries, Non-Seasonally Adjusted.

Note: “Others” include Costa Rica, Ecuador, Taiwan and Thailand.

Sectoral opportunities in comparison to the UK’s existing bilateral FTAs

19. To assess sectoral opportunities, the extent to which the CPTPP can provide added value to the UK in comparison with the current trade regime under the existing bilateral FTAs, market access and rules (legal provisions) become the key.⁹ We analyse the level of liberalisation and rules (legal provisions) in comparison with the UK’s existing bilateral FTAs with CPTPP members in trade in goods and in services by giving some examples.

A. Trade in goods

- a) Tariff elimination for goods under the CPTPP do not seem to provide new opportunities to the UK. On the national treatment and market access for goods under CPTPP, each member has its own tariff elimination schedule. For all countries, most tariff lines became duty-free when the CPTPP entered into force. For other goods, tariffs are expected to be eliminated gradually over a “phase-out” period, which vary across countries and are specified in the forementioned schedules. Nevertheless, once fully implemented, 99% of tariff lines among CPPTP parties are expected to be duty-free.
- b) However, there are numerous country-specific tariff-rate quotas (TRQs) that are mostly applicable to agri-food products. For example, Canada has TRQs in place for many dairy products such as milk, yogurt, butter and cheese; Malaysia on live poultry, meat of swine and fowls, and eggs; Japan on wheat products, barley, and chocolate.

⁹ The Table, “Areas where CPTPP goes further than existing bilateral FTAs” in DIT (2021) UK Accession to CPTPP: The UK’s Strategic Approach, shows that the CPTPP goes further than UK’s existing bilateral FTAs with CPTPP members in most of the chapters. The table requires methodology in detail. A careful examination is necessary as the EU-type FTA’s approach and the CPTPP’s approach are very different. Also, to what extent soft-touch endeavour clauses, instead of mandatory clauses, which are commonly used in the CPTPP text, have meaningful effects in practice even new provisions are included.

- c) More detailed analysis is needed to determine whether the “phase-out” periods and TRQs under CPTPP are more generous than those contained in the UK’s bilateral FTAs with CPTPP countries. Taking a bigger picture, however, this would only concern a handful of products, which do not amount to very significant values of trade. All in all, the tariff elimination commitments in the UK’s bilateral FTAs with the CPTPP countries are not dissimilar to those currently in place for the contracting parties to the CPTPP.
- d) That being said, in order for UK exporters to claim preferential access, goods must comply with the product-specific rules of origin (ROOs) defined in the Agreement. The CPTPP ROOs are not identical to those specified in the UK’s bilateral FTAs with CPTPP countries and it is difficult to assert a priori whether the product specific rules contained in the UK’s bilateral FTAs are easier to comply with than those specified in the CPTPP Agreement.
- e) Again, more detailed analysis is required in this area. To portray this, consider some of the UK’s most important exports to Australia in 2021 according to data from UN Comtrade.
- Medicaments (...) for retail sale (product code: HS 300490). For this product to be considered ‘originating’ under the UK-Australia FTA there must be a “regional value content” of 40% or a “change in tariff sub-heading” (i.e., at the 6-digit level). For the same product to be considered originating under CPTPP, requires a “change in tariff heading” (i.e., 4-digit) from any other heading or a “regional value content” of not less than 40 per cent.
- This would suggest that the bilateral FTA offers a less restrictive ROO for these products because it is considered easier for a producer to change the tariff sub-heading than tariff heading of a non-originating input.
- Whiskies (product code: HS 220830). The UK-Australia FTA requires a change in tariff-heading (i.e., the 4-digit level), whereas under CPTPP “no change in tariff classification is required (...) provided that the total alcoholic volume of the non-originating materials does not exceed 10 percent of the volume of the total alcoholic strength of the good.”
- In this case, the restrictiveness of the ROO for this product under CPTPP is somewhat ambiguous.
- Large motor cars (product code: HS 870324). The UK-Australia FTA requires a regional value content of 25%; whereas the CPTPP specifies a “regional value content of not less than: (a) 45 per cent under the net cost method; or (b) 55 per cent under the build-down method.”
- In this case, this would imply that the ROOs under the bilateral FTA is less restrictive than the one in CPTPP.
- f) There are however two potential ROOs-related benefits for the UK from joining the CPTPP. First, the fact that the same rules apply across the CPTPP countries could make it easier for firms, both from a cost and bureaucratic perspective. Second the “cumulation rules” under CPTPP allow inputs from any CPTPP country to count as ‘originating’. For example, a producer in the UK could use inputs originating in Canada together with non-originating inputs from a non-CPTPP country. For practical purposes, the Canadian inputs would count as originating in the UK when exporting to a CPTPP country, thus providing producers with a wider range of input sources. Note that the exported product still needs to satisfy the product-specific ROOs to be granted the preferential access.
- g) This also has implications for producers engaged in global supply chains. There is a study that suggests that there is a stronger global value chain connection among CPTPP members than

with non-members.¹⁰ This could have positive implications for the UK. The extent to which CPTPP countries are involved in UK production can be partially captured by the Trade in Value Added (TiVA) database. CPTPP countries account for 8% of all foreign value added in the UK's gross exports, and 7.4% of the value added in the UK's gross imports.

- h) To conclude this section, we consider the UK's main exports (Table 3) and imports (Table 4) to and from CPTPP countries (combined). The tables show the broad product categories (according to HS Chapters), the value of exports (imports) in USD million, the share of those products in total exports (imports) to (from) the CPTPP countries, and the share of exports (imports) to (from) the CPTPP countries relative to the UK's total exports (imports) of those products. The aim of these tables is to portray the sectors where gains from even small benefits from the CPTPP (e.g. from the rules of origin) may have large impacts.
- i) Table 3 suggests that the UK's most important exports to the CPTPP countries are in machinery and mechanical appliances, precious metals (such as gold, silver, rhodium, and palladium), beverages and spirits (predominantly whiskies), pharmaceutical products and vehicles.

Table 3: UK Top Exports to CPTPP Countries, 2021 (USD million)

HS Code	Product Category	Exports Value	Exports Share with CPTPP	Exports Share of Product vis-à-vis ROW
84	Machinery and mechanical appliances - parts thereof	5,999	19.2%	9.3%
71	Precious metals	5,723	18.3%	8.7%
87	Vehicles, and parts and accessories thereof	2,309	7.4%	7.6%
30	Pharmaceutical products	2,230	7.1%	8.6%
85	Electrical machinery and equipment and parts thereof	1,864	6.0%	7.6%
90	Optical instruments and apparatus - parts and accessories	1,705	5.5%	8.7%
22	Beverages, spirits and vinegar	1,496	4.8%	15.2%
27	Mineral fuels	706	2.3%	2.0%
88	Aircraft, spacecraft and parts thereof	692	2.2%	6.2%
39	Plastics and articles thereof	683	2.2%	5.6%

¹⁰ Chang, P-L, & Nguyen, P. T. B. (2022). Global value chains and the CPTPP. *The World Economy*, 00, 1–53. <https://doi.org/10.1111/twec.13300>

- j) On the other hand, the UK's most important imports from the CPTPP countries include electrical machinery and equipment (such as cellular telephones), beverages and spirits (predominantly wine), vehicles, and machinery equipment (Table 4).

Table 4: UK Top Imports from CPTPP Countries, 2021 (USD million)

HS Code	Product Category	Imports Value	Imports Share with CPTPP	Imports Share of Products vis-à-vis ROW
71	Precious metals	13,785	30.5%	16.8%
85	Electrical machinery and equipment and parts thereof	5,378	11.9%	8.8%
84	Machinery and mechanical appliances - parts thereof	4,561	10.1%	5.9%
87	Vehicles, and parts and accessories thereof	2,409	5.3%	3.9%
90	Optical instruments and apparatus - parts and accessories	1,937	4.3%	10.8%
27	Mineral fuels and oils	1,220	2.7%	1.7%
22	Beverages and spirits	1,055	2.3%	11.5%
40	Rubber and articles thereof	952	2.1%	14.8%
99	Commodities not specified according to kind	935	2.1%	7.7%
08	Fruit and nuts, edible - peel of citrus fruit or melons	805	1.8%	12.6%

B. Trade in services

- k) The UK's major services exports to the CPTPP are Other Business Services (27.8%), Financial Services (21.7%), Insurance Services (16.7%) and Telecommunication Services (10.2%) according to the ONS data. UK services exports mostly goes to the UK's four major CPTPP trade partners (Japan, Canada, Singapore, and Australia) and exports to emerging markets are very limited. For example, 91 % of UK Other Business Services exports to the whole CPTPP, 96% of UK Financial Services exports, 86% of UK Insurance Services exports, and 75% of UK Telecommunication Services exports go to these four countries.
- l) There are two major differences between the CPTPP and the UK's continuity agreements (FTAs). First, the approach taken for the services chapter under the CPTPP and under the EU's FTAs is different. The CPTPP takes a market-driven approach reflecting the US's interest during the TPP negotiations. This approach focuses on business opportunities and innovation with narrowly defined flexibilities for government intervention to achieve public policy objectives. In contrast, the EU's FTA approach pays more attention to public policy objectives reflecting its constitution and societal interests. Second, the scope of the CPTPP's

services chapter is wider and provisions are deeper. This indicates that from a business point of view, the CPTPP's rules are likely to provide more opportunities.

- m) Looking at the new opportunities that the CPTPP could create for countries, regarding UK's trade with these four principal trade partners, seems limited for two reasons. First, services market in these countries are de facto the least restrictive among OECD members, although the degree of restrictiveness differs across sectors.¹¹ Second, their liberalisation commitments in the bilateral FTA with the UK already provided a high degree of liberalisation which is more or less similar to commitments made under the CPTPP with some exceptions in detail. Thus, the CPTPP does not seem to offer additional advantages to the UK in many services sectors.
- n) For example, Japan's services commitments under the CPTPP and the UK-Japan CEPA are almost the same except for some cases.¹² However, there is a case that the CPTPP can be seen as more user-friendly. Since the CPTPP restricts its members to require a local presence as a condition of providing cross-border services (Art. 10.6), derogations from the local presence requirement are clearly provided in the CPTPP members' non-conforming measures.¹³ In comparison, CEPA does not include a local presence prohibition in the text. The prohibition of local presence requirement is important for British services providers such as business services, since cross-border services is becoming a major mode of supply as economic digitisation is developed.
- o) In the case of trade with Australia, given that the UK-Australia FTA was drafted based on the CPTPP text, and further developments were made responding to business needs, the CPTPP does not seem to provide new opportunities. One of the important improvements is that the UK-Australia FTA clearly includes regional or local level of government to commit market access (Art. 8.5) which is not the case under the CPTPP (Art. 10.5). Still, there are many non-conformity measures at the regional government level in Australia's existing and future non-conformity measures. Nevertheless, the UK-Australia FTA improved legal certainty for UK business in comparison to its commitments under the CPTPP.
- p) Potential new opportunities derived from the UK's major services exports to the emerging market (Chile, Mexico, Malaysia (not ratified), Peru and Vietnam) look more positive. Since the services chapter under the CPTPP looks more comprehensive than the UK's bilateral FTAs (originally EU's FTAs), it will provide more legal certainty, which is critical for doing business, particularly in the emerging markets.
- q) New opportunities created by liberalisation commitments are not clear. Although country by country analysis in depth is necessary to compare the CPTPP and the UK's existing bilateral FTAs with these countries, the level of liberalisation looks similar. Differences in detail depends on when a bilateral FTA was negotiated (before or after the CPTPP) and an the emerging market's strategy for services sector.

¹¹ [Services Trade - OECD](#)

¹² Some non-conforming measures in the air transport services are not listed under CEPA while some non-conforming measures in the telecom and the manufacturing related services are not listed under the CPTPP. The conforming measures have to be examined in relation with the sectoral rules.

¹³ Non-conformity measures: An FTA parties list reservations for existing measures and those for future measures that do not conform with the core obligations: market access (cross-border services (mode 1) and investment (mode 3)), national treatment (mode 1 and mode 3), MFN (mode 1 and mode 3), senior management and boards of directors (mode 3), and prohibition of performance requirements (mode 3). In the case of the CPTPP, local presence is specifically added as core obligations of mode 1.

- r) Taking Vietnam as an example, in comparison with the UK-Vietnam FTA, which is a continuity agreement of the EU-Vietnam FTA, the services chapter under the CPTPP is wider and deeper. Especially, the stand-alone chapters in financial services and telecommunications - which go beyond the UK-Vietnam FTA - will facilitate UK business activities. As for services liberalisation commitments, while the CPTPP applies the negative list approach, the EU-Vietnam applies the positive list approach where parties explicitly list what they can undertake (in terms of market access, national requirement and performance requirement) and list all exceptions or conditions in any in these sectors and sub-sectors. Although the approach taken are different, Vietnam's commitments seem pretty much similar.

Digital trade

20. Digital trade provisions under the CPTPP provide new opportunities to CPTPP members that have only a continuity agreement with the UK relating to digital trade. The CPTPP's digital trade rules (Chapter 14) are more comprehensive and deeper than the UK's continuity agreements that replicated the EU's FTA. The CPTPP focuses on market-driven digital trade and innovation and includes some key provisions for business, such as non-discriminatory treatment of digital products (Art. 14.4), free data flow (Art. 14.11), ban of data localisation (Art. 14.13) and ban on disclosure of software code (Art. 14.17).¹⁴ In comparison, for example, the chapter on electronic commerce in the UK-Canada continuity agreement (Chapter 16) has only minimum obligations, such as prohibitions of customs duties on electronic deliveries. From the business point of view, the CPTPP digital trade rules will facilitate UK's business.
21. For trade with some emerging economies that commit to comprehensive digital trade rules only under the CPTPP, such as Malaysia (not yet ratified the CPTPP), Peru and Vietnam, the CPTPP will greatly improve legal certainty for doing business. Also, the UK could promote digital trade with Canada and Mexico on the better terms using the CPTPP as the UK has currently the "CPTPP-minus" digital trade rules with these two countries under its bilateral FTA.¹⁵ On the other hand, the UK may possibly conclude "CPTPP-plus" digital trade rules with Canada and with Mexico in its negotiations for a new bilateral FTA.¹⁶
22. It is worth noting that the UK already has the "CPTPP-plus" digital trade rules in terms of coverage and depth of commitments with some CPTPP members. These included the most ambitious UK-Singapore Digital Economy Agreement (signed February 2022), and the digital chapters in the UK-Australia FTA (signed December 2021), the UK-NZ FTA (signed February 2022), and the UK-Japan CEPA. Thus, the CPTPP cannot be seen to provide new opportunities in relation with these three countries.
23. While the CPTPP is expected to provide a better policy environment for digital trade, especially with emerging markets, there are some concerns from the regulatory governance perspective (see in the section of challenges).

The furthering of the UK's strategic regional objectives

24. For the UK, the value of the CPTPP can be seen in the wider foreign policy context beyond trade. The CPTPP will play an important role in the UK's geopolitical strategies in its "Global

¹⁴ Morita-Jaeger, M. (2021). Accessing CPTPP without a national digital regulatory strategy? Hard policy challenges for the UK, UKTPO Briefing Paper 61, July 2021. [Briefing-paper-61.pdf \(sussex.ac.uk\)](https://www.uktpo.org.uk/wp-content/uploads/2021/07/Briefing-paper-61.pdf)

¹⁵ Canada and Mexico commit to the market-oriented digital trade rules with the US under the USMCA.

¹⁶ The negotiations with Canada have started in March 2022 and ones with Mexico have started in July 2022.

Britain” discourse. As explained in the Integrated Review 2021,¹⁷ the UK government set the CPTPP as a major policy tool for pursuing the Indo-Pacific tilt after leaving the EU. The UK would be able to raise its profile in the Indo-Pacific region while the EU does not have a similar plurilateral trade policy tool. Future expansion of the CPTPP is likely to add foreign policy value of the CPTPP in the Indo-Pacific.

25. Given the fact that the UK has become a middle-power player after leaving the EU, the CPTPP creates an opportunity for the UK to pursue its trade policy interests in collaboration with like-minded countries in the Indo Pacific and beyond. For CPTPP members, the UK’s membership could enhance the common values of the CPTPP and give it potential of becoming global. Currently, the CPTPP is a club of the like-minded countries that promotes free trade and rules-based international trade system in the Indo Pacific. Since the US withdrew from the TPP and the WTO is fighting to reestablish its presence in the international trading system, current CPTPP members, especially highly-developed countries with democratic value (especially Australia, Canada, Japan and New Zealand) expect the UK to work together in promoting free trade and in enhancing the CPTPP to become a major contributor of establishing global trade rules. One example is the WTO Joint Initiative on e-commerce where Australia, Japan and Singapore are promoting core e-commerce rules derived from the CPTPP.¹⁸ The UK would be able to enhance collaboration with its like-minded countries in the Indo-Pacific at the international stage in the future.

Question: What challenges might the UK face as a result of membership of the CPTPP, and how can the UK best address them, including, but not limited to;

- China’s possible accession to CPTPP;
- The safeguarding of UK standards; and
- The cumulative impact of CPTPP membership on specific sectors of the UK’s economy, when considered in conjunction with the UK’s other new FTA commitments.

China’s possible accession to the CPTPP

26. There are two types of challenges that the UK will face regarding China’s possible accession to the CPTPP. The first is whether the UK’s accession creates a higher threshold for CPTPP accession. China’s application to the CPTPP incentivises CPTPP members to swiftly accomplish the UK’s accession process so that the CPTPP can cement its core value of free trade based on market-oriented rules. At the same time, it casts a challenge to the UK to fully comply with the CPTPP rules so that a high threshold for joining the CPTPP can be demonstrated to following applicants.¹⁹ It is important to note that the key condition of CPTPP accession is the full compliance with its rules. If the UK, which has been a front runner of free trade, market economy and democracy, manages to join the CPTPP with some or many derogations from the CPTPP rules using “side instruments”, China will surely exploit the UK’s case as a precedence to justify its positions to derogate from the rules if

¹⁷ [The Integrated Review 2021 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/97222/2021-integrated-review-uk.pdf)

¹⁸ [WTO | 2022 News items - E-commerce talks mark new phase in negotiations](https://www.wto.org/press/2022/220101_e-commerce_talks.htm)

¹⁹ Morita-Jaeger, M and Larbalestier, G. (2021). [The economics and politics of China’s accession to the CPTPP](#), UKTPO blog, October 2021.

accession negotiations take place. Since the CPTPP rules were written to promote market-driven economy, strongly reflecting the US's interests at the time of the Obama administration, accepting the rules especially in the area of labour rights, state enterprises and monopolies, and digital trade will become a big hurdle for China. If the CPTPP allows China to derogate from the rules in these areas, there is a risk this may initiate a race to the bottom.

27. The other challenge is how the UK positions itself once it has joined the CPTPP. There are political tensions between China and CPTPP members. Some CPTPP members have a hostile relation with China over security concerns in the South China Sea,²⁰ different political and economic systems (autocracy and state-driven economy), and China-US trade and technology conflicts. In addition, China's close relation with Russia and its neutrality on Russia's war in Ukraine and continuous military threats to Taiwan are exacerbating political tensions. Once joining the CPTPP, the UK, like other CPTPP members, will have to decide on a response to China's application by seeking a sensitive balance between the potential conflicts and benefits which China's membership will bring about. We observe that the UK has to make a strategic decision not only for its own sake but for the regional, political and economic long-term stability in the Indo-Pacific region. This requires a deep understanding of the region and commitments beyond the current political expediency.

Safeguarding UK standards

28. UK's joining the CPTPP symbolises the UK's desire to harness regulatory independence from the EU. But joining the CPTPP does not allow the UK to rewrite the existing CPTPP rules. According to the CPTPP accession procedure, joining the CPTPP requires full compliance with the CPTPP rules as explained before. Since the UK has high regulatory standards such as in the areas of consumer safety, food safety, data protection, and environment protection, potential challenges for the UK are how to safeguard UK standards while accepting the CPTPP rules. We observe that some areas of the CPTPP rules may cause conflict with UK's high standards, as follows.

a. Digital trade

- i. One area of potential challenge will be the CPTPP's digital trade rules that takes a market-driven and innovation-friendly approach. Although the UK already concluded the CPTPP-plus digital agreements with highly-industrialised economies including Australia, Singapore, NZ, and Japan, the CPTPP includes countries with a lower level of digital governance, such as Chile, Mexico, Malaysia, and Vietnam. According to the Global Data Governance Map,²¹ while European countries show a high standard of global governance, some CPTPP members (even Singapore) have weak digital governance, especially the legal framework to protect ethical, trust and human rights are behind.²² This means that the UK will have to abide by the CPTPP's digital trade rules with countries with lower standards of digital governance.
- ii. One of challenges is to balance economic objectives and public policy objectives.²³ Under the CPTPP, the scope and degree of general prohibitions of government

²⁰ [China has fully militarized three islands in South China Sea, US admiral says | South China Sea | The Guardian](#)

²¹ [Digital Trade and Data Governance Hub - Global Data Governance Mapping](#)

²² Morita-Jaeger, M. (2022). What a digital divide and divergence of data governance in the Asia-Pacific mean for the UK, UKTPO blog, May 2022. [What a digital divide and divergence of data governance in the Asia-Pacific mean for the UK « UK Trade Policy Observatory \(sussex.ac.uk\)](#)

intervention for public policy objectives are stricter than those under the EU-UK TCA and the UK-Japan CEPA. The CPTPP applies the WTO approach of general exceptions to safeguard public policy objectives (GATT XX and GATS XIV). Countries are required to fulfil a strict threshold to justify its public policy objectives in this case. We observe that striking a balance between economic objectives and public policy objectives (e.g. security, data privacy and consumer protection) is important, especially in relation with countries with weaker digital governance capacity.

- iii. Another important challenge is how the UK can maintain its high standards of data protection while ensuring free data flow with CPTPP members (and future members) that have lower standards of data protection. A degree of legal obligation on adopting or maintaining a domestic legal framework on data privacy differs across FTAs (e.g. soft commitments, intermediate commitments or hard commitments). While free data flows are mandatory, the provisions regarding private data protection under the CPTPP only encourages CPTPP members to develop mechanisms to promote compatibility and take into account the principles and guidelines of relevant international bodies without any specific reference (Art. 14.8). Building consumer confidence in digital trade should coincide with free data flow to enhance confidence in the digital economy and trade.
- iv. As trusted legal framework enables further innovation and technology. We recommend the UK government to be transparent about the legal and technical mechanisms regarding how conditions or exceptions are applied for free cross-border data flow with CPTPP members, especially with members with lower digital governance capacity. Since the Data Protection and Digital Information Bill was introduced to Parliament in July,²⁴ the UK government should explain the domestic data reforms in relation with the CPTPP.

b. Animal welfare and environment standards

- v. Maintaining current levels of protection in agri-food standards seems another big challenge for the UK. The UK shows a radical policy shift on agriculture under the UK-Australia FTA, in which the UK schedules to phase out tariffs on all agricultural products. As for the CPTPP, although the UK Government addressed new opportunities to export British agri-food products and promised to maintain food safety, environmental protection, and animal welfare standards, its approaches for tariff eliminations on agri-foods and how to safeguard the high standards are not mentioned in the UK's strategic approach.²⁵
- vi. If the UK removes all tariffs and quotas on a non-reciprocal basis for joining the CPTPP and the UK does not create any policy space to safeguard its high animal welfare and environment standards, producers located in CPTPP countries could export their agri-food products to the UK as long as products meet the SPS provisions. Accordingly, UK agri-food producers will be exposed to competition with agri-food imports with lower standards and will face enormous pressure to lower standards to reduce production costs.²⁶

²³ See p5 in Morita-Jaeger (2021).

²⁴ [Data Protection and Digital Information Bill: Impact assessments - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/data-protection-and-digital-information-bill-impact-assessments)

²⁵ DIT (2021).

- vii. One example is the ‘precautionary principle’ related provision in the SPS chapter. The CPTPP strongly reflects the US’s interests on agricultural exports. While the US adopts science-based risk assessment approaches, the UK’s approach (as is the EU’s), is more ex-ante and which reflects the ‘precautionary principle’, under which restrictions can be justified where safety is uncertain. A potential legal challenge lies in the CPTPP’s approach regarding regulations for products for which the scientific evidence is uncertain. The CPTPP provision (CPTPP Art. 7.9 (2)) narrows the scope of the WTO exemption which allows a limited application of the precautionary principle when scientific evidence is uncertain. The provision risks preventing the UK’s ‘precautionary’ approach to risk arrangement. We assess that the CPTPP SPS rules could lower the level of UK food standards in the future.²⁷
- viii. Since the UK’s position on agricultural imports is not known, we recommend the UK Government to clarify the key issues. These include (i) UK’s positions on using tariff rate quotas to protect sensitive agricultural industries like some CPTPP members do, (ii) analysis of agricultural export interests of CPTPP members, and (iii) the UK’s approach on agri-food regulation, such as using precautionary principles - whether the UK will modify its approach to join the CPTPP.

²⁶ Lydgate, E. and Gasiorek, M. (2021). CPTPP and agri-food regulation: Crossing the EU-exit rubicon?, UKTPO Briefing Paper 60, July 2021. [Briefing-paper-60.pdf \(sussex.ac.uk\)](#)

²⁷ Lydgate and Gasiorek (2021).