

By Dominic Webb

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UK-Australia free trade agreement



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Contributing Authors

Elena Ares;
Dominic Carver;
Sarah Coe;
Melanie Gower;
Ilze Jozepa;
Ali Shalchi;
Matt Ward

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Summary

The [UK and Australia signed a free trade agreement](#) (FTA) in December 2021. This followed an ‘Agreement in Principle’ in June 2021, where most of the deal had been agreed.

This is the first ‘new’ UK trade deal signed since Brexit; the UK’s other trade agreements have largely rolled-over previous EU deals. The UK has also applied to join the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) – a free trade agreement between 11 Pacific Rim countries, including Australia. The Government believes the agreement with Australia will help its bid to join CPTPP.

What’s in the agreement?

The agreement contains 32 chapters covering a wide range of issues.

It will remove most tariffs on trade between the UK and Australia when it comes into force. The UK market for some agricultural goods will be opened to Australia more gradually.

Other provisions cover trade in services, digital trade, public procurement and intellectual property. UK citizens aged under 35 will be able to travel and work in Australia more easily. There are provisions covering technical barriers to trade, and sanitary & phytosanitary (SPS) measures relating to food safety and animal and plant health. There are chapters on small business, the environment, and animal welfare and antimicrobial resistance.

Investor-State Dispute Settlement (ISDS) provisions, which allow foreign investors to take legal action against governments, are not in the agreement.

Limited economic effect

The Government’s Impact Assessment estimates that [the long-run effect of the agreement will be to increase UK GDP by 0.08% or £2.3 billion a year](#) by 2035. Twenty economic sectors are estimated to see an increase in output because of the agreement. It is estimated to have an adverse effect on three sectors, however: agriculture, forestry and fishing; semi-processed foods; and manufacture of other transport equipment (although the effect on this last sector is extremely small). The Impact Assessment notes all these estimates are subject to considerable uncertainty.

The small economic effect of the agreement is unsurprising as Australia accounts for a small proportion of UK trade. The UK exported £9.8 billion of goods and services to Australia in 2021 (1.6% of all UK exports) and imported £4.6 billion from Australia (0.7% of all UK imports). In addition, barriers to trade with Australia are already relatively low for many products.

The Government's case for the agreement

The Government described the agreement as “historic” and said it sets “[new global standards in digital and services and \[in\] creating new work and travel opportunities for Brits and Aussies.](#)” The Government has also said the agreement is “expected to unlock £10.4 billion of additional trade, boosting our economy and increasing wages across the UK.”

The Government has listed [ten key benefits of the agreement](#). These include:

- Unprecedented access to the Australian market for British services and investors
- Tariff-free trade for all British exports
- Greater opportunities to work and travel in Australia for British people aged 18 to 35
- More opportunities for UK businesses to trade digitally with Australia
- Lower prices for UK consumers and businesses
- Greater access for UK companies to the Australian public procurement market

Concerns about impact on UK agriculture

The main issue raised by the agreement is its impact on UK agriculture. The Government's Impact Assessment estimated there would be a negative impact on the agri-food sector. Australia is a large, competitive exporter of agricultural goods. The UK farming sector is concerned the agreement gives greater market access to Australian producers who may be able to undercut the UK industry. The National Farmers' Union (NFU) said “[there is little in this deal to benefit British farmers.](#)”

The Government said these concerns are misplaced for several reasons:

- Market access for Australian producers will be phased in gradually for several sensitive products, such as beef and sheep meat. There will be a quota system limiting the volume of tariff-free imports of certain products from Australia for periods of up to 10 years. A similar system of ‘product-specific safeguards’ will operate for beef and sheep meat for a further five years. The agreement also contains a “[general bilateral safeguard](#)” designed to protect UK industry from serious injury.
- UK consumers strongly prefer British produce.
- Increased imports are likely to displace imports from other countries rather than UK production.
- Australian producers are likely to focus on more profitable and geographically closer markets in Asia.
- The agreement creates greater export opportunities for UK agriculture.
- Australia currently accounts for a tiny proportion of UK imports of beef.

[The farming industry has responded to the Government’s arguments](#), saying:

- While the safeguards are welcome in principle, they will allow immediate access for large volumes of product above current levels. The general bilateral safeguard requires proof that serious injury has been directly caused by increased Australian imports. This will be hard to prove.
- Trading patterns can change and if Australia were to sell less to the Asian market, it might start exporting more to the UK.
- While acknowledging consumers’ preference for UK produce, consumers are not always provided with this information, for example in processed food, food consumed in cafes and restaurants or takeaways.
- With some exceptions, the agreement is unlikely to boost export opportunities due to the relatively small scale of the Australian market and the fact many of its tariffs on agricultural goods are already low.

The issue of environmental, animal welfare and food safety standards has also been raised. It is important to distinguish between two aspects of standards: those which products must meet before they can be imported into the UK and wider questions of differences in animal welfare and environmental practices permitted in Australia and the UK.

On the former, the [Government’s report under section 42 of the Agriculture Act](#) concluded the FTA did not require changes to the UK’s import rules or changes to statutory protections in the areas of human, animal or plant life or health, animal welfare or the environment.

In addition, this report said the UK and devolved governments' right to regulate was not constrained by the agreement. This view was informed by advice from the Food Standards Agency and Food Standards Scotland and by the [Trade and Agriculture Commission](#) (TAC) – the independent advisory body created to examine the impact of trade agreements on UK statutory protections relating to trade in agricultural products.

Some, however, have expressed wider concerns about standards. Farming, environmental and animal welfare groups are concerned that some Australian products are produced to lower animal welfare and environmental standards than in the UK. The NFU said it sees “[almost nothing in the deal that will prevent an increase in imports of food produced well below the production standards required of UK farmers](#)”.

The [Environment, Food and Rural Affairs \(EFRA\) Committee's report](#) on the agreement concluded it was unlikely that food produced to lower animal welfare standards would be imported into the UK. The TAC found “[in most cases, the concerns \[about standards\] were a little bit exaggerated for one reason or another](#)”. The TAC did find, however, there was likely to be an increase in imports of products from Australia produced using pesticides that would not be permitted in the UK.

[Calls to link increased access to the UK market to adherence to “core standards”](#) on the environment and animal welfare have not been taken up by the Government.

Environmental provisions

The agreement includes a chapter on the environment, setting out the UK and Australia's shared commitment to mutually supportive trade and environment policies. The chapter ensures that neither country can fail to domestically enforce environmental laws to gain an unfair competitive advantage.

The FTA refers to the Paris Agreement but has been criticised for the lack of an explicit reference to limiting the global average temperature increase to 1.5°C.

The increase in trade arising from the agreement is likely to affect the environment. The Government estimates that overall greenhouse gas emissions associated with UK-based production are likely to be largely unchanged. However, the estimates indicate there would be an increase in emissions associated with the transport of goods traded with Australia.

The Northern Ireland Protocol

Under the terms of [the Northern Ireland Protocol](#), trading arrangements for the movement of goods differ between Northern Ireland and the rest of the UK. The interaction between the Protocol and the FTA is highly complex.

In short, the position appears to be that exports from Northern Ireland to Australia will benefit from the FTA in the same way as exports from the rest of the UK. For goods entering Northern Ireland, tariffs may not be reduced or eliminated in the same way as in the rest of the UK, depending on the circumstances. This analysis is based on the Protocol as it currently stands. The Government wants to see changes to the Protocol and is bringing forward legislation to amend its operation.

Views of devolved administrations

The [Northern Ireland Executive commented that the agreement brought opportunities for some sectors but was concerned about the impact on agriculture](#) and the adequacy of the safeguards. The Executive also pointed out that the Government's Impact Assessment showed a negative effect on Northern Ireland under some assumptions. The Scottish and Welsh Governments both highlighted risks to the agriculture sector, while acknowledging benefits in some areas from the deal.

Select Committee inquiries

Three select Committees have published reports on the agreement:

- House of Commons International Trade Committee (ITC): [UK trade negotiations: Agreement with Australia](#) (6 July 2022)
- House of Lords International Agreements Committee (IAC): [Scrutiny of international agreements: UK-Australia free trade agreement](#) (23 June 2022)
- House of Commons Environment, Food and Rural Affairs Committee, [Australia FTA: Food and Agriculture](#) (17 June 2022)

The ITC and IAC reports called for the FTA to be debated in Parliament.

On 29 June 2022, the ITC published an interim report, [UK trade negotiations: Scrutiny of Agreement with Australia](#). This criticised the Government's approach to parliamentary scrutiny of the FTA.

CRAG and parliamentary debate

The [Government formally laid the agreement before Parliament](#) under the Constitutional Reform and Governance (CRAG) Act 2010 on 15 June 2022. This Act provides for a minimum of 21 sitting days, which expired on 20 July, before the UK can ratify the agreement. The ITC called on the Government to extend the CRAG period to allow further time for scrutiny but the Government refused to do so.

While there is no requirement for a vote or debate on the agreement, [the Government said it would seek to accommodate a request for a debate](#) from the relevant select committees, subject to parliamentary time.

Parliamentary committees in both the Commons and Lords recommended that there should be a debate on the agreement. A [debate on a “take note” motion was held in the Lords](#) on 11 July 2022. Despite the International Trade Committee’s request for a debate, no such debate was scheduled in the Commons before the expiry of the CRAG period on 20 July 2022. There was, however, an [Urgent Question in the Commons](#) on scrutiny of the agreement on 19 July 2022.

A debate on the FTAs with Australia and New Zealand is scheduled to take place in the House of Commons on 14 November 2022. This is after the expiry of the CRAG period for the agreement with Australia. It is also a general debate rather than a debate on a substantive motion.

1 Background

1.1 Introduction

Having left the EU, the UK is now free to negotiate its own free trade agreements (FTAs). In February 2020, the Government announced its priorities were to negotiate agreements with Australia, New Zealand and the US, and also to accede to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP).¹

Negotiations on a UK-Australia FTA started in June 2020. On 15 June 2021, the Government announced that an ‘Agreement in Principle’ (AIP) had been reached.² The agreement was signed in December 2021.³

The agreement with Australia is significant as it is the first ‘new’ trade agreement the UK has concluded since leaving the EU. The other trade agreements concluded by the UK since Brexit have essentially been “continuity” or “rollover” agreements similar to the EU’s FTAs they replace.

It is also important as it forms part of the Government’s ‘Global Britain’ agenda of trade liberalisation with countries with “shared values”.⁴

1.2 Structure of this paper

The remainder of this section sets out statistics on trade between the UK and Australia and the Government’s objectives for the agreement.

Section 2 considers the economic effects of the deal.

Sections 3 and 4 summarise the main provisions of the agreement. We have not attempted to summarise all chapters of the agreement. While a neat distinction between agricultural and non-agricultural parts of the agreement is not possible, section 3 concentrates on the non-agricultural provisions and section 4 on those relating to agriculture.

¹ [Free trade agreements with the rest of the world](#), Written Statement HCWS96, 6 February 2020

² Prime Minister’s Office, [UK agrees historic trade deal with Australia](#), 15 June 2021

³ DIT, [UK and Australia sign world-class trade deal](#), 16 December 2021

⁴ Michael Gasiorek and Guillermo Larbalestier, [UK-Australia FTA – Elbow bumps and all](#), UK Trade Policy Observatory, 16 June 2021

Section 4 discusses the economic impact on the agri-food sector, sanitary and phytosanitary provisions, animal welfare and geographic indications.

Section 5 sets out the process for parliamentary scrutiny of the agreement, including select committee inquiries.

Section 6 considers implications of the agreement for Northern Ireland (including the interaction between the agreement and the Northern Ireland Protocol), Scotland and Wales.

1.3

Statistics on UK-Australia trade

In 2021:

- The UK exported £9.8 billion of goods and services to Australia and imported £4.6 billion, resulting in a trade surplus of £5.2 billion. There was a surplus in goods of £1.9 billion and a surplus in services of £3.3 billion.⁵
- Australia was the UK's 15th largest export market, accounting for 1.6% of UK exports of goods and services and 27th largest source of imports, accounting for 0.7% of the UK's imported goods and services.⁶
- Australia was the UK's 8th largest non-EU export market and 15th largest source of imports from outside the EU, accounting for 2.7% of the UK's non-EU exports and 1.3% of non-EU imports.⁷



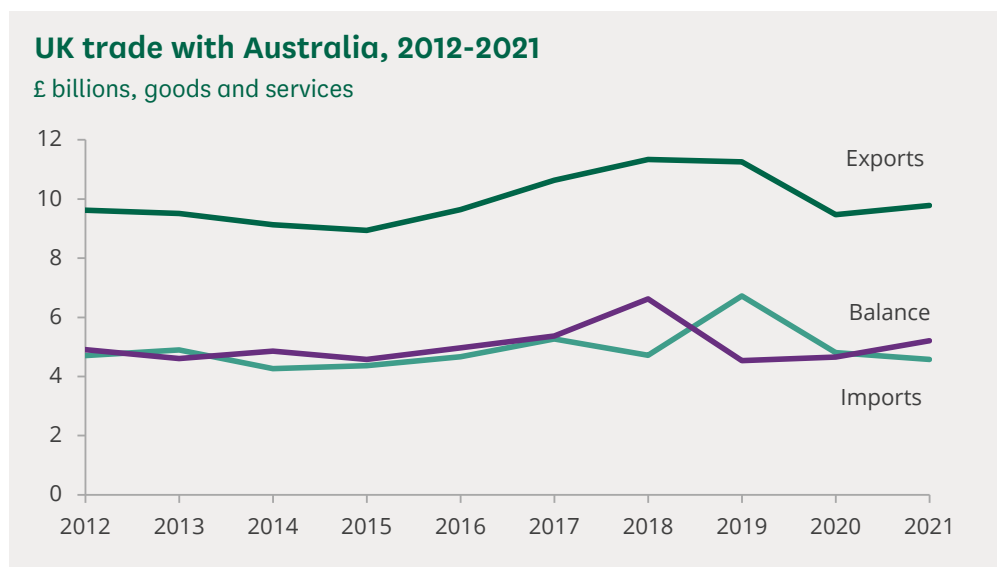
⁵ Office for National Statistics, [UK total trade: all countries](#), 28 April 2022

⁶ As above

⁷ As above

Source: Office for National Statistics, [UK total trade: all countries](#)

The UK has recorded a trade surplus with Australia in each of the last ten years, the largest being £6.6 billion in 2018.



Source: Office for National Statistics, [UK total trade: all countries](#)

Medicinal and pharmaceutical products was the UK’s largest category of goods exported to Australia in 2021, with exports of £561 million, followed by road vehicles with exports of £490 million. HMRC data shows that combined, these two goods categories made up a quarter of UK goods exports to Australia in 2021.

Top 10 UK goods exports to Australia, 2021		
	£ millions	% total
Medicinal & pharmaceutical products	560.8	13.3%
Road vehicles	489.5	11.6%
Miscellaneous manufactured articles n.e.s.	395.4	9.4%
General industrial machinery & machine parts n.e.s.	360.3	8.5%
Machinery specialized for particular industries	259.1	6.1%
Electrical machinery, apparatus & appliances n.e.s.	197.6	4.7%
Beverages	191.3	4.5%
Professional, scientific & controlling ins & app n.e.s.	176.0	4.2%
Articles of apparel & clothing accessories	148.3	3.5%
Power generating machinery & equipment	128.5	3.0%

Source: HMRC, [UK Trade Info](#). Note: n.e.s.: not elsewhere specified

Non-monetary gold was the UK's most valuable imported good from Australia in 2021, followed by non-ferrous metals. These two products accounted for 44% of UK goods imports from Australia. Non-monetary gold refers to gold that is not held as a reserve asset by a monetary authority and can take the form of gold bullion, gold coin, unwrought or semi-manufactured gold and scrap.

Beverages were the UK's third largest category of goods imported from Australia, with imports of £263 million. This was primarily made up of imports of wine; Australia accounted for 8% of the UK's wine imports in 2021 and 23% of UK wine imports from outside the EU.

Top 10 UK goods imports from Australia, 2021

	£ millions	% total
Gold, non-monetary	763.4	27.0%
Non-ferrous metals	480.3	17.0%
Beverages	263.5	9.3%
Miscellaneous manufactured articles n.e.s.	247.0	8.7%
Postal packages not classified according to kind	114.4	4.0%
Power generating machinery & equipment	114.0	4.0%
Metalliferous ores & metal scrap	83.6	3.0%
Coal, coke & briquettes	70.7	2.5%
Electrical machinery, apparatus & appliances n.e.s.	70.4	2.5%
Oil seeds & oleaginous fruits	58.9	2.1%

Source: HMRC, [UK Trade Info](#). Note: n.e.s.: not elsewhere specified

1.4

The Government's objectives

In July 2018, the Department for International Trade (DIT) launched a public consultation on a free trade agreement with Australia. The consultation closed in October 2018. The Government's response is set out in chapter 3 of the document on its strategic approach to the agreement.⁸

The [Government's detailed negotiating objectives](#) are set out on pages 9 to 13 of its strategic approach document.⁹

High-level objectives of the FTA with Australia

The overall objectives are to:

- Agree an ambitious and comprehensive Free Trade Agreement (FTA) with Australia that strengthens our economic relationship with a key

⁸ DIT, [UK-Australia Free Trade Agreement: The UK's Strategic Approach](#), July 2020

⁹ As above

like-minded partner, promoting increased trade in goods and services and greater cross-border investment.

- Strengthen our economic partnership focusing on technology, innovation and research and development (R&D). An FTA with Australia provides an opportunity to enhance co-operation on shared global and economic challenges, including supporting innovation and R&D across our economies. We will seek to set a new precedent with Australia by establishing an ambitious framework for co-operation in these areas, focusing on the role of trade policy in facilitating innovation.
- Increase the resilience of our supply chains and the security of our whole economy by diversifying our trade.
- Futureproof the agreement in line with the Government's ambition on climate and in anticipation of rapid technological developments, such as Artificial Intelligence.
- The Government has been clear that when we are negotiating trade agreements, the National Health Service (NHS) will not be on the table. The price the NHS pays for drugs will not be on the table. The services the NHS provides will not be on the table. The NHS is not, and never will be, for sale to the private sector, whether overseas or domestic.
- Secure an agreement which works for the whole of the UK and takes appropriate consideration of the UK's constitutional arrangements and obligations.
- Throughout the agreement, ensure high standards and protections for UK consumers and workers and build on our existing international obligations. This will include not compromising on our high environmental protection, animal welfare and food safety standards.¹⁰

Negotiating points

In addition, there are negotiating objectives in the following areas:

- **Trade in goods**, including market access, customs and trade facilitation, technical barriers to trade, and sanitary and phytosanitary (SPS) standards (rules on animal and plant health, and food safety). The objectives include securing “broad liberalisation of tariffs on a mutually beneficial basis, taking into account UK product sensitivities, in particular for UK agriculture” and securing “comprehensive access for UK industrial and agricultural goods into the Australian market through the elimination of tariffs.”¹¹

¹⁰ DIT, [UK-Australia Free Trade Agreement: The UK's Strategic Approach](#), July 2020, p9

¹¹ As above, p9

- **Trade in services**, including market access, protections for the right to regulate public services (including the NHS), business travel and mutual recognition of professional qualifications.
- **Digital trade:** including facilitating “the free flow of data, whilst ensuring that the UK’s high standards of personal data protection are maintained and include provisions to prevent unjustified data localisation requirements.”¹²
- Other areas including intellectual property, investment, government procurement, sustainability, trade and development, dispute settlement, small and medium-sized enterprises, and trade and women’s economic empowerment.

Pivot to Asia-Pacific region and CPTPP

The Government’s case for an FTA with Australia emphasises its intention to re-align UK trade towards the Asia-Pacific region. The Department for International Trade has said:

Strategically, the UK Government’s aim is to place the UK at the centre of a network of modern FTAs, turning our country into a global hub for businesses and investors who want to trade in dynamic areas of the world – especially in the Asia Pacific.

Pivoting towards the Asia Pacific will help diversify our trade, make our supply chains more resilient and make the UK less vulnerable to political and economic shocks in certain parts of the world.¹³

The Government has said the FTA with Australia will boost the UK’s bid to join the CPTPP.¹⁴

Trade expert David Henig has pointed out that much of the UK-Australia agreement appears to have been modelled on provisions in CPTPP.¹⁵ Henig comments: “for the British government the path to CPTPP membership appears to have come ahead of consideration for UK stakeholders.”

Other commentators have emphasised the importance of the agreements with Australia and New Zealand in paving the way for CPTPP accession. For example, Sarah Baker of the Agriculture and Horticulture Development Board (AHDB) said that Asia would be an important market for high quality agricultural goods of the type produced in the UK in the future. She told the Environment, Food and Rural Affairs Committee “I cannot emphasise enough

¹² DIT, [UK-Australia Free Trade Agreement: The UK’s Strategic Approach](#), July 2020, p10

¹³ As above, p6

¹⁴ Prime Minister’s Office, [UK agrees historic trade deal with Australia](#), 15 June 2021

¹⁵ David Henig, [Perspectives: Details of Australia FTA speak volumes about new direction of British trade policy](#), Borderlex, 19 January 2022

the opportunity that CPTPP presents, and I see Australia and New Zealand as a gateway to that.”¹⁶

1.5

Timeline

Box: 1 Timeline

July to October 2018: Government consultation

June 2020: negotiations start

June 2020: publication of consultation response, UK objectives and initial economic assessment in [UK-Australia Free Trade Agreement: The UK's Strategic Approach](#)

June 2021: announcement of Agreement in Principle

December 2021: agreement signed

April 2022: [Trade and Agriculture Commission advice on the agreement](#)

June 2022: [Government's report under section 42 of the Agriculture Act 2020](#)

15 June 2022: the agreement is [laid before Parliament](#) under the Constitutional Reform and Governance (CRAG) Act 2010

June 2022, [House of Commons Environment, Food and Rural Affairs Committee report](#)

June 2022: [House of Lords International Agreements Committee report](#)

June 2022: [House of Commons International Trade Committee report](#)

11 July 2022: [House of Lords debate](#)

19 July 2022: [Urgent Question in House of Commons on scrutiny of the agreement](#)

20 July 2022: [end of 21 scrutiny period under CRAG](#)

14 November 2022: General debate in House of Commons on FTAs with Australia and New Zealand

¹⁶ EFRA Committee, [Australia FTA: Food and Agriculture](#), 23 February 2022, HC870, Q148

2 Economic impact

The Government published an Impact Assessment (IA) alongside the signed agreement in December 2021.¹⁷ This document set out the Government's view of the economic, social and environmental impacts of the agreement. An earlier scoping assessment had been published when negotiations started.¹⁸

2.1 Limited overall economic effect

The IA says the FTA is estimated to increase UK GDP by 0.06% to 0.10% in the long run (by 2035) with a central estimate of an increase of 0.08%.¹⁹

The economic effect of the agreement is described as “very limited” by the UK Trade Policy Observatory (UKTPO) at the University of Sussex. The UKTPO's own modelling shows an increase in output of 0.05-0.07% because of the FTA. The UKTPO described the Department for International Trade's (DIT) modelling as “sensible and well done” although it noted that “considerably more information could be provided.”²⁰

Trade between the UK and Australia is expected to grow due to reduced tariff and non-tariff barriers. UK exports to Australia are estimated to increase by £6.2 billion (or 44%) in the long run. The largest increases in exports are expected in the manufacture of motor vehicles, machinery and equipment and electronic equipment.²¹

UK imports from Australia are estimated to increase by £4.2 billion (or 66%) in the long run. The largest increases in imports from Australia are in the semi-processed food and energy sectors.²²

Real wages are estimated to increase by 0.1% (equivalent to £900 million a year when applied to 2019 levels) because of increased productivity arising from greater competition and a change in the sectoral composition of employment.²³

¹⁷ DIT, [UK-Australia FTA: impact assessment](#), 16 December 2021

¹⁸ DIT, [UK-Australia free trade agreement: the UK's strategic approach](#) [pdf], July 2020

¹⁹ DIT, [UK-Australia FTA: impact assessment](#), 16 December 2021, p6 and p24

²⁰ UKTPO, [Written evidence to the International Agreements Committee](#), 1 April 2022 [pdf]

²¹ DIT, [UK-Australia FTA: impact assessment](#), 16 December 2021, p28

²² As above, p28

²³ International Trade Committee, [UK trade negotiations](#), HC 127, 23 March 2022, Q369

These limited overall effects are unsurprising as Australia accounts for less than 2% of UK exports of goods and services and less than 1% of imports.

Also, barriers to trade are already relatively low overall (although may be higher for some products). Australia's trade-weighted average tariff was 2.5% in 2019.²⁴ 89% of UK imports from Australia are already tariff-free.²⁵ Both the UK and Australia already have relatively low barriers to trade in services, as measured by the OECD's Services Trade Restrictiveness Index.²⁶

2.2 Estimates subject to uncertainty

The IA stresses that these estimates are subject to a large degree of uncertainty.²⁷ Richard Price, Chief Economist at DIT, told the International Trade Committee:

... this is not a forecast of what will happen; it is an attempt to assess the specific impact of the FTA. It gives a broad order of magnitude and direction rather than a series of really very precise estimates, and we try to reflect those sources of uncertainty in the impact assessment.²⁸

Tony Venables, Professor of Economics at the University of Manchester, said that the results of DIT's modelling were "good central estimates" but that they were subject to "considerable uncertainty". He pointed to three sources of uncertainty:

- Data issues: data is "always full of errors, out of date and imperfect"
- The structure of the economic model used to produce the estimates: a model must make simplifying assumptions about the economy. Some aspects of the economy are easier to model than others: trade in services is more difficult to model than trade in manufactured goods or agriculture
- Events: trade agreements have effects over many years. There is uncertainty over other events in both the world and UK economies over this period.²⁹

²⁴ WTO, [Tariff profiles](#)

²⁵ DIT, [UK-Australia FTA: impact assessment](#), 16 December 2021, p16

²⁶ OECD, [Services trade](#)

²⁷ DIT, [UK-Australia FTA: impact assessment](#), 16 December 2021, p5

²⁸ International Trade Committee, [UK trade negotiations](#), HC 127, 23 March 2022, Q351

²⁹ As above, Q392

2.3

Sectoral effects

While the impact on the economy as a whole is modest, there may be a bigger impact on individual sectors of the economy. The IA breaks the economy down into 23 sectors. 20 sectors are estimated to see an increase in output as a result of the agreement but three see their output fall in the long term. The overall structure of the economy is largely unchanged with very small changes to each sector's share of the economy.³⁰

Service sectors see the largest estimated gains from the agreement. For example, the wholesale and retail sector is estimated to see an increase in output of £340 million (0.12%), public services an increase of £265 million (0.08%) and business services £210 million (0.07%).

These effects are driven by reductions in regulatory restrictions. In goods trade, manufacture of machinery is estimated to see an increase in output of £230 million (0.59%) and motor vehicles £200 million (1.16%).³¹

Impact on the agri-food sector

Some sectors are expected to see a fall in output because of the FTA. Agriculture, forestry and fishing is expected to see a fall of £94 million (0.7%) and semi-processed food a fall of £225 million (2.65%).³²

The IA emphasises that these estimates, especially those for agri-food, are subject to considerable uncertainty. The IA notes that the estimates are not precise but “represent an indication of the direction of impacts and broad orders of magnitude.”³³

The IA states that “these results are driven by increased import competition in the beef and sheepmeat sub-sectors.”³⁴ The IA notes that Australia is a large, competitive exporter of these products. The impact on the UK agri-food sector reflects Australia's specialisation in these markets.

The possible increase in imports of these products would mean more competition for domestic producers but also benefits to consumers through lower prices and more choice.

The IA notes that the modelling does not take account of several factors which add considerable uncertainty to the estimates:

- Strong growth in other markets such as Asia-Pacific.

³⁰ DIT, [UK-Australia FTA: impact assessment](#), 16 December 2021, p30

³¹ As above, p30

³² As above, p30

³³ As above, p29

³⁴ As above, p31

- The modelling focuses on the long-term so does not take into account safeguards which the Government say will protect the agri-food industry in the first 15 years of the agreement.
- Consumers may base their decisions on a range of factors – not just price – including a preference for British produce. The strength of such preferences is not necessarily captured in the modelling.³⁵

The IA also reports the results of an alternative modelling approach. These results show a fall in gross output of three per cent for beef and five per cent for sheep meat.³⁶

2.4 Effects on countries and regions of the UK

Trade agreements may affect different areas of the UK in different ways. This is because the countries and regions of the UK have varying industrial structures and, as noted above, the FTA is likely to affect industries in differing ways. For example, the semi-processed food industry accounts for a much higher share of employment in Northern Ireland than the UK as a whole.³⁷

The central estimates show an increase in output for all countries and regions of the UK. These range from +0.05% in Northern Ireland to +0.14% in the West Midlands. Scotland is estimated to see a gain of 0.08% and Wales 0.09%.³⁸ Under certain assumptions, however, there is a negative effect on output in Northern Ireland.³⁹ The effects of the Northern Ireland Protocol are not explicitly taken into account.⁴⁰

Tammy Holmes, Deputy Director, Trade Agreements Analysis at DIT, was asked why the Protocol had not been considered. She told the ITC that:

there is no capacity within the model, as it currently stands, to distinguish between the impacts on Northern Ireland and those on any other nation. The modelling, as it is presented, assumes that all nations of the UK benefit from the agreement like one another.⁴¹

She told the Committee that DIT would look into this issue further.⁴²

³⁵ DIT, [UK-Australia FTA: impact assessment](#), 16 December 2021, p31

³⁶ As above, p32

³⁷ As above, p74

³⁸ As above, p33

³⁹ As above, p7

⁴⁰ As above, p74

⁴¹ International Trade Committee, [UK trade negotiations](#), HC 127, 23 March 2022, Q389

⁴² As above, Q390

2.5 Benefits to consumers and exporters

According to the IA, UK consumers will benefit from lower prices, better product quality and increased choice as a result of the deal. Businesses and consumers who buy goods imported from Australia are likely to see lower prices. The extent of these gains depends on the extent to which the tariff reductions are passed on to consumers.

Tariffs on goods imported from Australia are estimated to fall by between £41 million and £43 million in the long run.⁴³ The tariff reductions are concentrated in the alcoholic beverages, tobacco and narcotics category.⁴⁴ Miles Beale, chief executive of the Wine and Spirit Trade Association, told the International Trade Committee that removal of tariffs on wine imported from Australia would save between 6p and 9p a bottle.⁴⁵ It is important to bear in mind, however, that 89% of UK imports from Australia already come into the UK tariff-free.⁴⁶

The IA also argues that businesses exporting to Australia will gain from better market access. This is likely to improve their competitive position relative to exporters to Australia from countries with no FTA. Tariffs on UK exports to Australia are expected to fall by £116 million in the long term.⁴⁷

UK exports which are expected to see the largest tariff reductions (in absolute terms) are: transport equipment (long-term reduction of £40.3 million in tariffs), machinery, mechanical and electrical equipment (£29.4 million) and prepared foodstuffs, beverages and tobacco (£14.5 million).⁴⁸ Businesses will, however, face some costs in familiarising themselves with the agreement and ongoing costs, such as demonstrating compliance with rules of origin.

2.6 Comparison with Government's earlier assessment

The Government had published an earlier "scoping assessment" of the economic effects of an agreement with Australia when the negotiations started.⁴⁹ The updated IA shows some different results from the earlier scoping assessment.

⁴³ DIT, [UK-Australia FTA: impact assessment](#), 16 December 2021, p35

⁴⁴ As above, Table 11, p69

⁴⁵ International Trade Committee, [UK trade negotiations: Agreement with Australia](#), 26 April 2022, HC1002, Q241

⁴⁶ DIT, [UK-Australia FTA: impact assessment](#), 16 December 2021, p16

⁴⁷ As above, p36

⁴⁸ As above, Table 7, p67

⁴⁹ DIT, [UK-Australia free trade agreement: the UK's strategic approach](#) [pdf], July 2020

This earlier assessment showed a smaller economic gain from the agreement, at 0.01 – 0.02% of GDP compared with the 0.06-0.10% gain in the more recent IA.

The Government has explained that various technical changes mean that the results in the new IA are not directly comparable to those in the scoping assessment. These changes, which have been informed by DIT's independent expert modelling review panel, include:

- Updates to the underlying data
- Undertaking the modelling at a more disaggregated sectoral level
- Updating the UK tariff schedule to reflect the UK's Global Tariff (the UK's new post-Brexit tariff schedule)
- Updating the inputs to better reflect the negotiated outcome
- Other technical changes⁵⁰

Sam Lowe, a trade expert at the consultancy Flint Global, described the new, higher estimate of the economic gains from the agreement as “reasonable” although “definitely at the upper end”.⁵¹ The UKTPO said the difference between the scoping assessment and the impact assessment did “not reflect any ‘massaging’ of the numbers” but was “driven by some changes in the underlying data, by some of the modelling assumptions, and also by adjusting the degree of market access liberalisation being modelled.”⁵²

David Henig, a trade expert and former DIT official, was more sceptical about the much higher estimate of economic gains in the new IA commenting: “it is hard to avoid the suspicion that ministers had put pressure on the hitherto scrupulously impartial in-house trade economists’ team to come up with better results.”⁵³

Richard Price was asked about these comments. He rejected the suggestion that Ministers had put pressure on officials. Mr Price said:

No, that is quite wrong. The things that made the difference to the scale of the benefits were as we have described them—data, assumptions about tariffs being updated, and those changes in the model that make it less controversial and more reliable.⁵⁴

⁵⁰ See Annex 1 of DIT, [UK-Australia FTA: impact assessment](#), 16 December 2021

⁵¹ International Agreements Committee, [UK-Australia trade negotiations](#), 13 January 2022, Q53

⁵² UKTPO, [Written evidence to the International Agreements Committee](#), 1 April 2022 [pdf]

⁵³ David Henig, [Perspectives: Details of Australia FTA speak volumes about new direction of British trade policy](#), Borderlex [subscription required] 19 January 2022

⁵⁴ International Trade Committee, [UK trade negotiations](#), HC 127, 23 March 2022, Q387

2.7

Assessment by the Regulatory Policy Committee

DIT's IA has been independently assessed by the Regulatory Policy Committee (RPC). Stephen Gibson, chair of the RPC, told the ITC it was “the independent better regulation watchdog” and that its core role was “to independently review Government impact assessments and to assess whether they are fit for purpose.”⁵⁵

The RPC rated the IA for the FTA with Australia as fit for purpose.⁵⁶ The IA had originally been rated as not fit for purpose with the RPC raising concerns “about the presentation of the results” which it found “disproportionately emphasised the beneficial impacts with very limited discussion of the risks and disadvantageous impacts of the FTA.”⁵⁷ DIT addressed these concerns allowing the RPC to give a fit for purpose rating.⁵⁸

2.8

Monitoring and evaluation

DIT will undertake ongoing monitoring and evaluation of the agreement to ensure that benefits are realised and to inform policy development.⁵⁹

A monitoring report will be published around two years after the agreement comes into force and every two years after that. This report will:

provide DIT's analytical evidence base to inform and engage parliament, the public and other interested stakeholders on progress with implementation of this agreement, its potential emerging impacts and whether its utilisation can be enhanced.⁶⁰

An evaluation report will be published within five years of the agreement coming into force. This will bring together the results of monitoring, evaluation and stakeholder engagement activities to answer three questions:

- How effective and efficient is the agreement and its implementation in achieving the UK's trade policy aims and in delivering benefits to UK businesses and consumers?
- How, if at all, can the agreement and its implementation be improved to maximise benefits for UK businesses and consumers?

⁵⁵ International Trade Committee, [UK trade negotiations](#), HC 127, 23 March 2022, Q371

⁵⁶ As above, Q371

⁵⁷ RPC, [RPC Opinion: UK-Australia Free Trade Agreement](#), 17 December 2021, p2

⁵⁸ International Trade Committee, [UK trade negotiations](#), HC 127, 23 March 2022, Qq371-73

⁵⁹ DIT, [UK-Australia FTA: impact assessment](#), 16 December 2021, p7

⁶⁰ As above, p56

- What can we learn from the agreement, its implementation and its impacts to improve the design and implementation of the UK’s future agreements, and to assess their likely benefits?⁶¹

According to DIT, this will be a “participatory process” and a wide range of stakeholders will be able to share their views.

⁶¹ DIT, [UK-Australia FTA: impact assessment](#), 16 December 2021, p56

3 The Agreement: Non-agricultural aspects

While it is not always possible to draw a neat distinction between the agricultural and non-agricultural parts of the agreement, this section looks at the non-agricultural aspects while section 4 below considers those aspects affecting agriculture.

3.1 Trade in goods

Chapter 2 of the Agreement covers trade in goods.⁶² In particular, this sets out the framework of tariff reductions agreed by each party. Schedules, in Annexes to this chapter, set out the details of the tariff reductions.

Tariffs

Australia has agreed to remove tariffs on the vast majority of UK exports when the agreement comes into force. For a few iron and steel, and cheese, products Australia will remove tariffs gradually over a period of around five to six years.

The UK has also agreed to remove tariffs on the vast majority of imports from Australia when the agreement comes into force. Tariffs remain in the long run for four products: pork, poultry, eggs and long grained rice. These products account for a small proportion of trade.⁶³

To qualify for the preferential tariffs, goods exported by the UK or Australia must meet rules of origin (see section 3.3 below)

Phased liberalisation of imports into UK

For several agricultural products, including beef and sheep meat, the UK market will be opened up to products exported from Australia over several years (see section 4.3 below).

⁶² [Chapter 2: Trade in Goods](#)

⁶³ DIT, [UK-Australia FTA: impact assessment](#), 16 December 2021, p27

3.2

Trade remedies

Introduction

Chapter 3 of the Agreement covers trade remedies.⁶⁴ These aim to provide protection for domestic industry against unfair trading practices or unforeseen surges in imports of goods.

The chapter affirms the UK's and Australia's rights and obligations under the World Trade Organization (WTO) agreements allowing members to apply trade remedies.⁶⁵

Bilateral safeguard

In addition to affirming the WTO provisions, the agreement contains a bilateral safeguard. This essentially allows tariffs to be imposed where a surge of imports from the other party causes serious damage to domestic producers. There are, however, conditions on when and how it can be used.

A bilateral safeguard may be applied if:

- there is an increase in imports of a product from Australia as a result of tariffs being reduced or eliminated;⁶⁶ and
- the increase in imports causes serious injury⁶⁷ or the threat of serious injury⁶⁸ to the domestic industry.

The safeguard may be applied “to the extent necessary to prevent or remedy the serious injury and to facilitate the adjustment of the domestic industry.”⁶⁹ The safeguard allows an increase in the tariff on the relevant good (subject to a cap) or the suspension of further tariff reductions on that good.⁷⁰

There are other conditions on the use of the bilateral safeguard⁷¹:

- it may be applied “only for such period of time as may be necessary to prevent or remedy serious injury and to facilitate the adjustment of the domestic industry”;

⁶⁴ [Chapter 3: Trade Remedies](#)

⁶⁵ As above, Article 3.2

⁶⁶ The safeguard is bilateral so could also be imposed by Australia on its imports from the UK.

⁶⁷ Serious injury is defined as “a significant overall impairment in the position of a domestic industry” ([Article 3.1](#))

⁶⁸ Threat of serious injury is defined as “serious injury that is clearly imminent”. This must be “based on facts and not merely on allegation, conjecture, or remote possibility”. ([Article 3.1](#))

⁶⁹ [Article 3.6, para 1](#)

⁷⁰ The details of how the bilateral safeguard may be applied are set out in [Article 3.6, para 2](#)

⁷¹ [Article 3.7](#)

- the safeguard can be applied for no more than two years (although this may be extended for a maximum of two more years under certain circumstances);
- where the expected duration of a bilateral safeguard measure is more than one year, it shall be progressively liberalised at regular intervals, to facilitate adjustment of the domestic industry;
- where a product has already been subject to a bilateral safeguard, a further safeguard may not be applied for a period of time equal to the duration of the previous safeguard or one year after its termination, whichever is longer; and
- the use of bilateral safeguards is time-limited. They may not be used after the end of the transition period.⁷²

The party applying the bilateral safeguard measure must compensate the other party. The Agreement refers to “mutually agreed trade liberalising compensation.” This is to take the form of “concessions having substantially equivalent trade effects or equivalent to the value of the additional duties expected to result from the bilateral safeguard measure.”

If there is no agreement on compensation, the party against whose good the bilateral safeguard is applied “may suspend the application of substantially equivalent concessions to the trade of the Party applying the bilateral safeguard measure.”⁷³

Finally, the bilateral safeguard may not be used on the same good at the same time as any of the following:

- WTO safeguard measures⁷⁴
- a product-specific safeguard under this Agreement. Product-specific safeguards apply to UK imports of beef and sheep meat from Australia (see section 4.3 below).

3.3

Rules of Origin

To take advantage of the tariff reductions in the agreement, goods must satisfy rules of origin. These rules effectively determine the ‘economic nationality’ of a good. They prevent goods manufactured in third countries

⁷² The transition period ends five years after the completion of the tariff reduction or elimination in relation to a good. [Article 3.1](#)

⁷³ [Article 3.11](#)

⁷⁴ Article XIX of GATT, the Agreement on Safeguards, or a safeguard measure under the Agreement on Agriculture – see [Article 3.12](#)

being rerouted through either the UK or Australia to take advantage of the FTA's lower tariffs.

Rules of origin are often based on a minimum percentage of a product's components coming from a country or a certain amount of processing having taken place in a country. With global supply chains often involving components and processes across a number of countries, rules of origin are important in determining whether products can benefit from reduced tariffs under a trade agreement.

For example, under the agreement, the local content threshold is 25% for cars. This relatively low figure has been described as "sensible" and a success for the UK negotiators by trade expert, Sam Lowe.⁷⁵

3.4 Technical Barriers to Trade

Chapter 7 of the agreement contains provisions on Technical Barriers to Trade (TBT).⁷⁶ The Government's scoping assessment defined TBT as:

... regulations, standards, testing and certification procedures applied to imports and exports which could obstruct trade. The WTO's TBT Agreement aims to ensure that these do not create unnecessary obstacles to trade.⁷⁷

The chapter covers trade in all products (agricultural and industrial) except for measures that fall under government procurement or SPS. Examples of TBT regulations include standardised packaging of tobacco products and minimum cocoa requirements for chocolate.⁷⁸

The aim of the chapter is to "facilitate trade, including by eliminating unnecessary technical barriers to trade, enhancing transparency, and promoting greater regulatory cooperation and good regulatory practice."⁷⁹

The chapter applies to the preparation, adoption, and application of technical regulations, standards, and conformity assessment procedures.⁸⁰ There are certain exceptions such as SPS measures which are covered in chapter 6 of the agreement.⁸¹ The UK and Australia already have a Mutual Recognition Agreement setting out the conditions under which they agree to recognise the results of each other's conformity assessments for certain products.⁸²

⁷⁵ International Agreements Committee, [UK-Australia trade negotiations](#), 13 January 2022, Q57

⁷⁶ [Chapter 7: Technical Barriers to Trade](#)

⁷⁷ DIT, [UK-Australia free trade agreement: the UK's strategic approach](#) [pdf], July 2020, p70

⁷⁸ DIT, [Report pursuant to Section 42 of the Agriculture Act 2020](#), June 2022, p7

⁷⁹ [Article 7.2](#)

⁸⁰ Conformity assessment procedures confirm whether a product meets specified legal requirements and may include testing, inspection and certification.

⁸¹ [Article 7.3](#)

⁸² DIT, [UK-Australia Mutual Recognition Agreement](#), 12 March 2019

According to the Government's Explainer, the chapter commits to ensuring that any regulations either the UK or Australia introduces are non-discriminatory and do not create unnecessary obstacles to trade.⁸³

The chapter contains a range of provisions relating to technical regulations, the use of international standards, conformity assessment procedures, marking and labelling. The UK and Australia will work cooperatively in relation to standards, technical regulations and conformity assessment procedures with the aim of facilitating trade between them.

The UK and Australia will establish a Committee on Technical Barriers to Trade. This will monitor the operation and implementation of the TBT provisions, provide a regular forum for information exchange, be a forum for the resolution of differences and for the consideration of any other matters referred to it by the Joint Committee.⁸⁴

The dispute settlement provisions in chapter 30 of the agreement do not apply to the TBT chapter.⁸⁵

There are particular provisions relating to cosmetics and medical devices and human and veterinary medicines.⁸⁶

3.5 Trade in services

Chapter 8 of the agreement contains provisions for cross-border trade in non-financial services.⁸⁷

Services accounted for 47% of UK exports to all countries and 59% of UK exports to Australia in 2019.⁸⁸ The UK sold £6.7 billion worth of services to Australia in 2019, running a surplus of more than £4.1 billion.⁸⁹

Commensurate with the value of services in UK trade, in the negotiations with Australia the UK Government had a strong interest in improved market access

⁸³ DIT, [UK-Australia Free Trade Agreement: chapter explainers](#), 16 December 2021

⁸⁴ The Joint Committee is established by Article 29.1 and provides a forum to discuss trade related matters and ensures the smooth operation of the agreement.

⁸⁵ Article 7.14

⁸⁶ The provisions on cosmetics are in [Annex 7A](#) and those relating to medical devices and human and veterinary medicines are in [side letters](#).

⁸⁷ [Chapter 8, Cross Border Trade in Services](#); Financial services are covered in Chapter 9.

⁸⁸ Office for National Statistics series IKBB and IKBH; Office for National Statistics, [UK total trade: all countries](#), 28 April 2022

⁸⁹ Office for National Statistics, [UK total trade: all countries](#), 28 April 2022. 2019 figures are used as trade in services is likely to have been particularly affected by the pandemic.

for service suppliers. Reservations or exemptions would be limited to specific service categories.⁹⁰

Beyond existing agreements

Both the UK and Australia were keen to agree terms that would go beyond the respective best precedent in existing agreements.⁹¹

Experts tend to agree that the parties have generally succeeded in achieving a high level of rules for services trade both at the horizontal and sectoral level. The provisions appear more comprehensive, and sometimes more ambitious than those in, for example, the CPTPP.⁹² This is the first trade agreement where Australia has opened up its services market at the federal, and state and territory level.⁹³

The UK has predominantly based its market access offer to Australia on the UK-EU Trade and Co-operation Agreement (TCA). According to trade expert Kirk Haywood this is a significant policy choice, as UK commitments to the EU are broad and reservations or carveouts are limited for an FTA. By committing to a similar level of openness in the first new agreement, the UK “does set expectations from other advanced economies that are open on services that they would seek to get better than this level of offer”.⁹⁴

Other trade experts have pointed out this agreement mostly locks in for the future already existing applied terms of market access for services. For example, Sam Lowe, Director at Flint Global, told the House of Lords International Agreements Committee:

On the services side, which I am sure we will get on to, how we conceptualise and discuss services in the trade debate is not necessarily helpful, in that we often talk about them in terms of exports and then we ask whether a free trade agreement has unlocked new liberalisation and made it easier to export. To be honest, most free trade agreements do not do that. That is not what they are set up to do in the services space. Instead, they lock in the existing applied regimes. They provide companies with the information that how they currently

⁹⁰ DIT, [UK-Australia free trade agreement: the UK's strategic approach](#), July 2020, p19. This is the so-called negative list approach where all services are liberalised except for agreed reservations - areas where countries have reserved the right not to follow the core commitments of the FTA.

⁹¹ DIT, [UK-Australia FTA negotiations: agreement in principle](#), 17 June 2021

⁹² HL International Agreements Committee, UK-Australia trade negotiations, UKTPO, University of Sussex, [written evidence AUTO056](#) (PDF), 1 April 2022; Kirk Haywood, Commonwealth Secretariat, in Trade and Public Policy Network, [What's in the UK-Australia FTA? Preliminary Reflections](#) (PDF), March 2022

⁹³ Chris Horseman, Borderlex (subscription required), [UK-Australia FTA finally signed: what is in the text and what happens next](#), 17 December 2021

⁹⁴ Kirk Haywood, Commonwealth Secretariat, in Trade and Public Policy Network, [What's in the UK-Australia FTA? Preliminary Reflections](#) (PDF), March 2022

either sell, into Australia in this case, or invest in Australia to provide their services, will remain the same.⁹⁵

Lowe pointed towards some additional benefits to UK services providers relating to mobility of workers and the removal of economic needs test.⁹⁶ He told the Committee that the overall benefit was difficult to quantify but it was likely to have a positive impact on UK services exports to Australia.

Definitions and scope

Article 8.1 of the Agreement defines cross-border trade in services by referring to three types of service provision:

- A service is supplied from the territory of a party into the territory of the other party. Examples of such services supplied by electronic means or post include distance learning, consultancy, legal services, or a call centre located in Australia serving UK customers.
- A service is supplied in the territory of a party to a person of the other party. The most common examples are tourism and overseas students enrolling in education programmes in the host country.
- A service is supplied by a national of a party in the territory of the other party. This includes situations where a firm sends an employee to supply a service under a contract in the other country for a limited period of time or transfers an employee to its branch there.⁹⁷

“Cross-border trade” in this chapter does not include services provided through an investment covered by the agreement, that is by a branch, or a subsidiary established in the other country.⁹⁸

In terms of sectoral coverage, the agreement includes specific provisions for international maritime transport services and express delivery services.⁹⁹ Chapter 10 (Professional services and mutual recognition of professional qualifications) contains additional commitments regarding the provision of legal services (see section 3.7 below).

Chapter 11 covers financial services, as set out in section 3.6 below. Chapter 12 contains commitments to give service suppliers access to public

⁹⁵ International Agreements Committee, [UK-Australia trade negotiations](#), 13 January 2022, Q52; See also HL International Agreements Committee, UK-Australia trade negotiations, UKTPO, University of Sussex, [written evidence AUTO056](#) (PDF), 1 April 2022, para 30

⁹⁶ International Agreements Committee, [UK-Australia trade negotiations](#), 13 January 2022, Q55; An economic needs test usually means that market access is granted provided that certain economic criteria are met, which define the host country’s need for foreign workers.

⁹⁷ Article 8.1. This definition is based on the distinction of [four modes of supply applied by the WTO](#): cross-border supply (mode 1), consumption abroad (mode 2), commercial presence (mode 3) and natural persons (people) crossing the border to supply services (mode 4).

⁹⁸ That type of foreign investment is covered under Chapter 13 of the agreement.

⁹⁹ Annexes 8A and 8B respectively.

telecommunications networks or services on a timely, transparent and non-discriminatory basis.

Market access principles

The principle of national treatment is central to market access for cross-border trade in services.¹⁰⁰ It means that if one party's service supplier seeks to offer services in the other party's territory, both central and regional authorities may not treat that supplier any less favourably than a domestic operator, as long as it complies with that party's rules.

An 'MFN' (Most Favoured Nation) clause in the agreement ensures that if Australia or the UK were to offer more generous access to their service markets to another country, that access should then be extended to Australia or the UK as well.¹⁰¹

The agreement locks in the removal of market access barriers, such as the restrictions on the number of persons admitted or the permitted total service output. The agreement prohibits economic needs tests, or requirements to structure a business into a specific legal form.¹⁰² Suppliers will not be required to establish local legal presence or to be resident in the territory of the other party as a precondition to offering services across the border.¹⁰³

Exemptions and reservations

Audio-visual services, such as public service broadcasting, non-commercial government services including the NHS, and certain air services are excluded from the scope of the agreement.

Exemptions to the market access principles – called non-conforming measures – are drawn up for the central and regional levels of government, and for certain sectors and activities.¹⁰⁴ The UK appears to have succeeded in avoiding a cross-cutting carveout for future market access measures at the regional level, which Australia has included in the CPTPP and Japan-Australia Economic Partnership Agreement.¹⁰⁵

A "ratchet provision" limits the scope of future amendments to the exemptions, meaning that if the UK or Australia chooses to liberalise an existing measure unilaterally, it will be brought into the agreement and such liberalisation will not be reversed.¹⁰⁶

¹⁰⁰ Article 8.3

¹⁰¹ Article 8.4

¹⁰² Article 8.5. An economic needs test usually means that market access is granted provided that certain economic criteria are met, which define the host country's need for foreign workers.

¹⁰³ Article 8.6

¹⁰⁴ Article 8.7, Annex I, Annex II

¹⁰⁵ Kirk Haywood, Commonwealth Secretariat, in Trade and Public Policy Network, [What's in the UK-Australia FTA? Preliminary Reflections](#) (PDF), March 2022

¹⁰⁶ Article 8.7 1(c)

Domestic regulation

Regulations such as professional qualification requirements and procedures, technical standards, and licensing requirements can unintentionally create barriers to services trade. To address this, countries may include commitments to improve domestic regulation in preferential trade agreements.

Article 8.8 of the UK-Australia agreement on domestic regulation sets out that competent authorities, when authorising service providers (businesses and individuals) must take their decisions based on clear and transparent, objective and well publicised criteria. This article includes principles for authorisation procedures, fees, technical standards, and others, and favours electronic applications and a one-stop-shop approach where possible.

These provisions appear to lay out a clearer framework for procedural and transparency requirements than present in the CPTPP.¹⁰⁷

Committee on Services and Investment

To support future cooperation, the UK and Australia have agreed to establish a Committee on Services and Investment under the Agreement Joint Committee.¹⁰⁸ The Committee will review and monitor the implementation of the provisions related to services trade and may recommend ways to further develop trade.

3.6

Financial services

In 2020 the UK exported £777 million of financial services to Australia – around 14% of total exports.¹⁰⁹ The Government’s July 2020 negotiating objectives included “reducing barriers to trade by agreeing “best-in-class rules” and easing “frictions to cross-border trade and investment, complementing with co-operation on financial regulatory issues”¹¹⁰

The UK Government says that the FTA “lock[s] in the existing openness in financial services between the UK and Australia”, providing “legal certainty” and allowing UK companies to deliver “high-value financial services” to clients in Australia. It also notes the presence of “world leading terms for closer regulatory cooperation” and that the Australian Government has made commitments that go “further than the” CPTPP and other agreements it has signed.¹¹¹

¹⁰⁷ Kirk Haywood, Commonwealth Secretariat, in Trade and Public Policy Network, [What’s in the UK-Australia FTA? Preliminary Reflections](#) (PDF), March 2022

¹⁰⁸ Article 8.13

¹⁰⁹ DIT, [UK-Australia FTA: impact assessment](#), 16 December 2021, p12

¹¹⁰ DIT, [UK-Australia Free Trade Agreement: The UK’s Strategic Approach](#), July 2020, p10

¹¹¹ UK Government, [UK Australia Free Trade Agreement: Chapter Explainers](#), para 9, 16 December 2021

The Government's impact assessment states that the FTA includes "provisions tailored to the UK financial services industry". It will:

- allow UK financial services to "offshore their back-office functions" while avoiding "arbitrary requirements" imposed on them;
- include "core non-discrimination rules" ensuring that each side cannot be treated unfairly when providing services in the other's country;
- for the first time, allow both countries' firms to provide insurance to each other for additional categories of large risks (e.g., fire and natural resources, or property); and
- allow the free flow of data between financial institutions in both countries.¹¹²

These provisions are expected to add £69 million (0.06%) in gross value added to the UK economy.¹¹³

In evidence to the International Agreements Committee:

- the UK Trade Policy Observatory said the FTA's financial services provisions were "comprehensive and high standard". It was based on Chapter 11 of the CPTPP but had been "further developed" to clarify the language and reflect the needs of businesses, regulators and consumers;¹¹⁴
- Sam Lowe said he was "dissatisfied by the chapters on financial services regulatory dialogue". He said that the current provisions were a "copy and paste type approach on the EU model...but I wonder whether we could do a little bit more"; and¹¹⁵
- George Brandis, the Australian High Commissioner, said the deal would "enable the UK financial services industry much readier access to the burgeoning Australian financial services market."¹¹⁶

3.7

Professional Services and Recognition of Professional Qualifications

The first ever standalone chapter on professional services and recognition of professional qualifications in a UK trade agreement (Chapter 10) combines:

¹¹² DIT, [UK-Australia FTA: impact assessment](#), 16 December 2021, p27

¹¹³ As above, p30

¹¹⁴ UKTPO, [Submission AUT0056 to the International Agreements Committee](#), 1 April 2022

¹¹⁵ International Agreements Committee, [UK-Australia trade negotiations](#), 13 January 2022, Q60

¹¹⁶ International Agreements Committee, [UK-Australia trade negotiations](#), 7 April 2022, Q72

- general provisions for professional services such as accounting and auditing, architectural services, engineering, urban planning and legal services
- a pathway towards a mutual recognition of professional qualifications gained in the UK and Australia
- sectoral commitments regarding legal services

The UK and Australia have agreed to facilitate the exchange of knowledge and expertise between their regulators. They will encourage regulators to treat professionals of the other party similarly to their own nationals with respect to ethical, conduct and disciplinary standards in their profession.

Both countries will consider allowing businesses to provide professional services in various ways: on a cross-border basis, by firms having established commercial presence in the other country, and on a temporary fly-in-fly-out basis, where that is currently not possible. They will support cooperation between UK and Australian service suppliers and a dialogue between the respective professional bodies regarding mutual recognition arrangements.

Mutual recognition of professional qualifications

Mutual recognition of professional qualifications (MRPQ) allows people to have their professional qualifications recognised in a state other than the one they gained their qualification in. This facilitates trade in professional services.

Including such commitments in an agreement opens the way for specialists, particularly those working in [regulated occupations](#), such as legal professions or statutory auditors, to supply services from their home country, ie across the border, as well as to practice in the territory of the other country.¹¹⁷

In the negotiations with Australia, the UK was looking for a structure to create routes for the recognition of professional qualifications, while protecting the autonomy of UK regulators and maintaining the UK's professional standards.¹¹⁸

The UK-Australia agreement does not by itself grant the recognition of professional qualifications, but creates a framework for such recognition which would enable national professional organisations to reach bilateral agreements or arrangements in the future.¹¹⁹ This is similar to the UK-EU TCA,

¹¹⁷ Regulated professions are ones where there are restrictions to pursuing a profession, or legal restrictions for using a professional title.

¹¹⁸ DIT, [UK-Australia free trade agreement: the UK's strategic approach](#), July 2020, p19; see also Commons Library Briefing, [Professional Qualifications Bill \[HL\] 2021-22](#), CBP-9336, section 2.5

¹¹⁹ Articles 10.5 and 10.6

where the commitments do not entail liberalisation in itself, but set pathway for future mutual recognition arrangements for individual professions.¹²⁰

A Professional Services Working Group, established by the agreement, would initiate talks on regulation and support national professional bodies to pursue recognition arrangements.¹²¹

Professional bodies including the Royal Institute of British Architects (RIBA) and the Institute of Chartered Accountants in England and Wales (ICAEW) have welcomed the agreement's provisions on services and professional qualifications.¹²² Some trade experts note, however, the language encouraging cooperation between the UK and Australian professional bodies could have been bolder, and the success of liberalisation will depend on further action.¹²³

Legal services

Legal services provisions in the agreement allow UK and Australian lawyers to advise clients and provide arbitration, mediation and conciliation services in the other country's territory using their original (home) qualifications and title, and without having to requalify. UK lawyers would be able to provide these services in relation to UK law, other relevant foreign law, and international law, but not Australian law.¹²⁴

The agreement establishes a Legal Services Regulatory Dialogue to address the remaining barriers to practise as a local lawyer in the other country's territory.¹²⁵

UK legal professions have welcomed these provisions. The Law Society of England and Wales said the agreement provides certainty by reaffirming the existing market access and creates opportunities for the UK's legal professions.¹²⁶

In evidence to the Lords International Agreements Committee, Penelope Nevell, a barrister representing the Bar Council, commended the binding commitments to start a dialogue between the UK and Australian legal

¹²⁰ Commons Library briefing, [UK-EU Trade and Cooperation Agreement: professional qualifications](#), CBP-9172

¹²¹ In April 2022, UK Parliament passed [legislation that would enable UK professional bodies enter into MRPO arrangements](#) with their overseas counterparts.

¹²² RIBA, Architecture.com, [UK trade deal with Australia signed](#), 6 January 2022; ICAEW, [UK signs Free Trade Agreement with Australia](#), 21 December 2021

¹²³ Kirk Haywood, Commonwealth Secretariat, in Trade and Public Policy Network, [What's in the UK-Australia FTA? Preliminary Reflections](#) (PDF), March 2022

¹²⁴ Article 10.7

¹²⁵ Articles 10.8

¹²⁶ The Law Society, [UK trade deal with Australia will create opportunities for the legal profession](#), 17 December 2021

professional bodies but noted further liberalisation would require a complex agreement across all the professional bodies and all the states in Australia.¹²⁷

3.8 Temporary entry for business persons

Chapter 11 contains agreements on measures to facilitate the temporary entry of business persons into the other party's territory.¹²⁸ "Business person" is defined as "a national of a Party who is engaged in trade in goods, the supply of services, or the conduct of investment activities".

The commitments in chapter 11 apply to UK permanent residents as well as British citizens.¹²⁹

The Government says the Agreement "brings newfound certainty and clarity for business persons to be able to enter and deliver services in each other's countries."¹³⁰

The chapter contains various guarantees concerning visa application procedures (Article 11.3); the granting of temporary entry (Article 11.4); and the provision of information relating to the requirements for temporary entry (Article 11.5).

Article 11.4 includes commitments not to impose or maintain any limitations on the total number of visas granted to business persons of the other party and not to require economic needs tests (including labour market tests) as a condition for temporary entry.

The UK has already abolished its resident labour market test and restrictions on the number of sponsored skilled worker visas as part of post-Brexit reforms to the immigration system which apply to all nationalities.

Specific commitments made by Australia and the UK are detailed in their respective [Schedules to Annex IV](#) of the Agreement, with reference to existing immigration categories.¹³¹

¹²⁷ Penelope Nevill, Barrister, Twenty Essex Chambers, and Bar Council, HL International Agreements Committee, [Corrected oral evidence: UK-Australia trade negotiations](#), 27 January 2022, Q78

¹²⁸ [Chapter 11: Temporary Entry For Business Persons](#)

¹²⁹ DIT, [Explanatory Memorandum](#), 15 June 2022, para 4.35

¹³⁰ As above, para 4.34

¹³¹ Annex IV Specific Commitments on Temporary Entry for Business Persons, [Schedule of the United Kingdom](#); [Schedule of Australia](#)

The mobility provisions have been welcomed by representatives across a range of sectors including the legal, architecture and engineering professions.¹³²

Side letter related to provisions on mobility

Aside from the FTA's provisions on temporary entry for business persons, "understandings" on various other mobility issues are detailed in side letters on provisions on mobility.¹³³

The letters set out agreements on:

- Introducing more favourable **eligibility terms and conditions for Australia's Working Holiday Maker and the UK's Youth Mobility schemes**. These are due to be implemented within two years of the Agreement coming into force. Eligibility for the visas will be extended to 18 – 35-year-olds (rather than 18-30 as currently); the visas will allow up to three years' stay (the UK's Youth Mobility visa currently lasts for two years); and the Working Holiday Maker visa will no longer require UK nationals to undertake specific types of work.
- **Supporting mobility of people involved in agriculture-related work**. A Joint Declaration identifies each Party's existing visa routes potentially applicable to agricultural workers.¹³⁴
- **Launching a new Australian visa pilot scheme** (the 'Innovation and Early Careers Skills Exchange Pilot'). The visa is intended to facilitate mobility for early career professionals (aged 21 – 45) and experienced professionals involved in innovation. It is due to be implemented within a year of the Agreement coming into force.
- Commencing a **review of progress made on mobility arrangements** two years after the Agreement comes into force, "with the aim of further enhancing the ability for citizens to live, work and travel in each other's country on a mutually advantageous basis".

A [Department for International Trade explainer](#) summarises the anticipated benefits to British professionals and firms.

¹³² Law Society of England and Wales, [UK trade deal with Australia will create opportunities for the legal profession](#), 17 December 2021; Engineering Council, [UK and Australia sign trade deal – benefits for engineering mobility](#), 20 December 2021; RIBA, [UK trade deal with Australia signed](#), 6 January 2022

¹³³ UK-Australia Free Trade Agreement: [Australia side letter related to provisions on mobility](#), 16 December 2021; [UK side letter related to provisions on mobility](#), 16 December 2021

¹³⁴ [Joint Declaration on Agriculture and Agribusiness Workers](#), 16 December 2021

3.9

Investment

The investment provisions are in Chapter 13 of the Agreement.¹³⁵

The agreement includes provisions on market access for investors. According to the Government, these will provide greater certainty and transparency for investors.¹³⁶

The agreement contains commitments not to impose further residency or nationality requirements on board members and senior staff, subject to specific reservations by each Party. Evidence to the International Trade Committee indicated that Australia's reservations are "extensive."¹³⁷

The agreement means that only investments over AUS\$1,216 million need to be reviewed by Australia's Foreign Investment Review Board, except in certain sensitive sectors. The previous threshold had been AUS\$281 million.

The agreement does not contain any Investor-State Dispute Settlement (ISDS) mechanism.¹³⁸ ISDS clauses in trade agreements are highly controversial with some arguing that they allow foreign investors to challenge legitimate government policies in areas such as the environment and climate change, workers' rights and health.

3.10

Digital trade

[Digital trade](#) captures digitally enabled trade transactions in goods and services, such as buying goods from online marketplaces or using services of online booking systems. Digital trade is underpinned by movements of data. The commitments of Chapter 14 cover measures that support digital trade and cross-border data transfers in the following areas:

Digital trade facilitation

To help business efficiency in cross-border transactions, the UK and Australia have agreed not to impose customs duties on electronic transmissions (Article 14.3) and endeavour to support paperless trading by admitting electronic trade documentation such as customs declarations (Article 14.8). Both parties will recognise contracts concluded by electronic means (Article 14.5), support e-authentication, such as e-signatures (Article 14.6), e-invoicing (Article 14.9) and other digital tools.

¹³⁵ [Chapter 13: Investment](#)

¹³⁶ DIT, [Explanatory Memorandum](#), 15 June 2022, para 4.38

¹³⁷ Joshua Paine (Senior Lecturer in Law Bristol University), [Written evidence to International Trade Committee \(AUS0014\)](#), 15 January 2022, para XXII

¹³⁸ DIT, [Explanatory Memorandum](#), 15 June 2022, para 4.40

Data governance and data protection

The parties will respect each other's regulations concerning the transfer of information and personal data and will not hinder cross-border flows of information, except in view of "legitimate public policy objectives" (Article 14.10). They will not impose data localisation, that is, requirements to store or process data in either party's territory prior to doing business there (Article 14.11).

Article 14.12 sets out that the UK and Australia will retain their own legal frameworks for the protection of people's personal data, while encouraging compatibility between both regimes. This may include future recognition of regulatory outcomes, including mutual or unilateral decisions on the adequacy of personal data protection regimes.

Technologies and data innovation

Several articles of the agreement aim to develop cooperation in the area of technology innovation through data-sharing projects, regulatory sandboxes, sharing research and alike (Article 14.14).¹³⁹ Both parties shall prevent forced transfer of source code of software (Article 14.18) or encryption keys in commercial ICT products (Article 14.19) as a precondition for market access. The novel stand-alone Chapter 20 on innovation aims to support cooperation regarding artificial intelligence and emerging technologies.

Consumer protection

The agreement also contains general commitments to online consumer protection (Article 14.16), limiting unsolicited electronic messages (Article 14.17), and collaboration in the area of cybersecurity (Article 14.20).

In their evidence to the International Trade Committee and the House of Lords International Agreements Committee, various digital trade experts have noted the provisions of this chapter are more extensive than those in previous UK trade agreements and the CPTPP. They also said the provisions would arguably benefit trade between UK and Australian businesses.

The provisions of the agreement build substantially upon the Australia-Singapore Digital Partnership Agreement, which has so far been considered one of the most advanced for digital trade.¹⁴⁰ However, this agreement is less

¹³⁹ 'Regulatory sandboxes' refer to experimental use of technological innovations, such as new financial technologies, under regulators' supervision.

¹⁴⁰ International Trade Committee, [written evidence from Emily Jones, Danilo Garrido Alves, Beatriz Kira, and Rutendo Tavengerwei of Blavatnik School of Government, University of Oxford](#), AUS0035, 19 February 2022, para 10; HL International Agreements Committee, UK-Australia trade negotiations, UKTPO, University of Sussex, [written evidence AUTO056](#) (PDF), 1 April 2022, para 66

ambitious in areas such as protection from online harms and competition in digital markets.¹⁴¹

The tech sector trade association TechUK, the Federation of Small Businesses and others have welcomed the approach of the digital trade provisions.¹⁴²

According to experts at the UK Trade Policy Observatory of Sussex University, the agreement indicates that Government digital trade policy is moving from “the EU style digital governance with its greater focus on public policy” towards a more market-led approach with free cross-border data flows followed by the US and Asia-Pacific countries.¹⁴³

The provisions on personal data protection in the agreement are “much weaker” than the similar provisions in the UK-EU TCA and there are no clear safeguards to ensure the protection of UK citizens’ data.¹⁴⁴ This could put at risk the free flow of data between the UK and EU. The UK Government is considering granting data adequacy to Australia in the future. If the EU does not follow suit, this could affect the EU’s current recognition of the UK data protection regime which enables free flow of personal data between the UK and EU.¹⁴⁵

3.11 Intellectual property

Chapter 15 of the Agreement contains provisions on Intellectual Property (IP).¹⁴⁶ It contains provisions on a range of issues including trade marks, geographical indications, patents and data, registered industrial designs, copyright and trade secrets.

According to the Government, this chapter “builds on existing shared international standards that support our economies through adequate, effective and balanced protection and enforcement of IP rights”.¹⁴⁷

¹⁴¹ International Trade Committee, [written evidence from Emily Jones and others, University of Oxford](#), AUS0035, 19 February 2022, para 10; HL International Agreements Committee, UK-Australia trade negotiations, [written evidence from UKTPO, University of Sussex, AUTO056](#) (PDF), 1 April 2022, para 66

¹⁴² International Trade Committee, [written evidence submission from TechUK](#), AUS0029, 25 January 2022; [Written evidence submission from the Federation of Small Businesses](#), AUS0031, January 2022

¹⁴³ HL International Agreements Committee, [written evidence from UKTPO, University of Sussex, AUTO056](#) (PDF), 1 April 2022, para 66

¹⁴⁴ International Trade Committee, [written evidence from Emily Jones and others, University of Oxford](#), AUS0035, 19 February 2022, para 9

¹⁴⁵ In June 2021, the EU granted an [adequacy decision](#) to the UK personal data protection regime, which means that EU personal data can be transferred to the UK without additional safeguards. The EU can revoke the decision unilaterally if it finds that the EU protections could be undermined in the UK, eg. by onward transfers of personal data to territories with less protection.

¹⁴⁶ [Chapter 15: Intellectual Property](#)

¹⁴⁷ DIT, [Explanatory Memorandum](#), 15 June 2022, para 4.43

Provisions on geographical indications (GIs) are considered in section 4.7 below.

3.12

Government procurement

Chapter 16 includes commitments on government procurement of goods, services, and construction works by central, sub-central level and wider public sector entities.¹⁴⁸ According to government estimates, this gives UK businesses access to approximately £10 billion per year worth of government contract opportunities in Australia.¹⁴⁹

The Agreement provides that on the procurement market of the other party, UK and Australian goods, services and suppliers will be treated no less favourably than their domestic counterparts (“National Treatment”) and will not be discriminated against.¹⁵⁰

Both parties have agreed to advertise and conduct procurement electronically, including publicising of intended procurement, and upcoming projects, or so-called procurement pipelines. The UK and Australia have committed to providing information on their procurement system and ensuring fair, transparent and non-discriminatory selection processes of suppliers.¹⁵¹ Suppliers will be granted access to domestic review procedures allowing them to challenge procuring authorities for a breach of domestic procurement legislation and seek remedies in UK courts.¹⁵²

The agreement leaves room for consideration of environmental, social and labour aspects in procurement, such as giving a preference to more energy-efficient goods or employing apprentices, provided that any such measures are non-discriminatory.¹⁵³ The parties have also agreed to stimulate participation of small businesses in procurement.¹⁵⁴

¹⁴⁸ The UK and Australia list the covered procuring entities, goods and services in their respective schedules in Annexes 16A and 16B. In side letters, Australia and the UK have committed to negotiate extending the coverage to local government / smaller administrative unit procurement, should either include such procurement in another trade agreement;

[UK-Australia Free Trade Agreement: Australia side letter regarding local government procurement](#) (PDF); [UK-Australia Free Trade Agreement: UK side letter regarding local government procurement](#) (PDF), 16 December 2021

¹⁴⁹ DIT, [Impact Assessment of the Free Trade Agreement between the United Kingdom of Great Britain and Northern Ireland and Australia](#) (PDF), 16 December 2021, p21; for a commentary on the economic value of the wider market access see Albert Sanchez-Graells, [The procurement chapter in the UK-Australia free trade agreement – GPA+ or GPA complex?](#) January 2022, section 5

¹⁵⁰ Article 16.4

¹⁵¹ For example, Articles 16.5, 16.15

¹⁵² Article 16.19

¹⁵³ Article 16.17

¹⁵⁴ Article 16.21

Relation to the Government Procurement Agreement

The commitments of the procurement chapter build on the UK and Australia's obligations under the World Trade Organisation [Agreement on Government Procurement](#) (GPA).¹⁵⁵

Some substantive obligations of the procurement chapter go beyond the GPA, for example in relation to electronic publication of contract opportunities, the inclusion of environmental, social and labour considerations, or a clause on small and medium-sized business access to procurement opportunities. The agreement also widens the economic coverage by including build-operate-transfer contracts and public works concessions.¹⁵⁶ In terms of access to the procurement market, Australia has made the most comprehensive commitments it has ever done in a treaty.¹⁵⁷

At the same time, concerns have been raised about the compatibility of Chapter 16 of the UK-Australia agreement with the GPA.¹⁵⁸ Albert Sanchez-Graells, Professor at Bristol University, has argued that the agreement, by deviating from the text of the GPA, might create lesser commitment than under the GPA and cause legal uncertainty in two areas:

- National treatment obligations

The GPA awards national treatment to suppliers for a particular procurement, which provide goods or services of any other party to the GPA. In comparison, the text of the UK-Australia agreement is open to the interpretation that UK and Australian suppliers of goods and services would be awarded national treatment if they provide goods and services which originate in either the UK or Australia.¹⁵⁹

- Legal remedies available to suppliers

The UK-Australia agreement permits limiting access to remedies under domestic review procedures in a way that differs from the text of the GPA, potentially denying compensation to wronged suppliers on grounds of an

¹⁵⁵ The GPA is a voluntary (plurilateral) agreement between 20 countries and the EU to open up their public procurement markets to each other, subject to open, fair and transparent conditions of competition.

¹⁵⁶ Albert Sanchez-Graells, in Trade and Public Policy Network, [What's in the UK-Australia FTA? Preliminary Reflections](#) (PDF), March 2022; "Build-operate-transfer contract" and "public works concession contract" are contracts for the construction and exploitation of public infrastructure. As part of the contract, the ownership of the works or the right to operate them for profits is temporarily transferred to the supplier.

¹⁵⁷ HL International Agreements Committee, [Uncorrected oral evidence: UK-Australia trade negotiations](#), 7 April 2022, Q72; International Trade Committee, [Oral evidence: UK trade negotiations: Agreement with Australia](#), HC 1002, 9 March 2022, Q158

¹⁵⁸ Letter of Baroness Hayter, Chair of the International Agreements Committee to Lord Grimstone of Boscobel Kt Minister for Investment, Department for International Trade, [Questions on UK-Australia Procurement Chapter \(PDF\)](#), 7 March 2022

¹⁵⁹ Articles 16.4.1 and 16.4.2b; See Albert Sanchez-Graells, [Written Evidence to the House of Lords International Agreements Committee on "UK-Australia trade negotiations"](#) (PDF), 27 January 2022, section 3.1

overriding public interest.¹⁶⁰ This relates to suppliers' ability to challenge procuring authorities for an alleged breach of domestic procurement rules or this agreement, and request (financial) compensation.

Potential legal uncertainty due to the differences between both agreement texts could have a chilling effect on businesses willing to participate in procurement in the UK or Australia, says Sanchez-Graells.¹⁶¹

Lord Grimstone, the then Minister for Investment, responded in a letter to the House of Lords International Agreements Committee that the national treatment obligations in the UK-Australia agreement “[did] not undermine the obligation to not treat suppliers of the other Party less favourably than domestic suppliers.” The specific provisions regarding legal remedies, the wording of which was derived from the CPTPP, were “in practice ... unlikely to have material practical impacts”.¹⁶²

The International Trade Committee [took evidence regarding the procurement provisions](#) in the agreement on 9 March 2022. The Lords [International Agreements Committee took evidence](#) on 7 April 2022.¹⁶³

3.13

Environment

Chapter 22 of the UK-Australia FTA is dedicated to the environment. It aims “to promote mutually supportive trade and environmental policies; promote high levels of environmental protection and effective enforcement of environmental laws; and enhance the capacities of the Parties to address trade-related environmental issues, including through cooperation.”¹⁶⁴

The explanatory memorandum accompanying the FTA provides an overview of the environmental commitments in the agreement. It explains how it affects existing environmental policies of both parties, such as both parties' rights to regulate on climate change:

The Chapter ensures neither Party can derogate from, waive or fail to domestically enforce environmental laws to create an unfair competitive advantage and that both Parties have recourse to dispute settlement if any obligations in the Chapter are not upheld by the other Party. The Treaty also

¹⁶⁰ Article 6.19.7; See Albert Sanchez-Graells, [Written Evidence to the House of Lords International Agreements Committee on “UK-Australia trade negotiations”](#) (PDF), 27 January 2022, section 3.2

¹⁶¹ International Trade Committee, [Oral evidence: UK trade negotiations: Agreement with Australia](#), HC 1002, 9 March 2022, Q150

¹⁶² [Letter of Lord Grimstone of Boscobel](#) (PDF), Minister for Investment, Department for International Trade to Baroness Hayter, Chair of the HL International Agreements Committee, 21 March 2022

¹⁶³ HL International Agreements Committee, [Uncorrected oral evidence: UK-Australia trade negotiations](#), 7 April 2022

¹⁶⁴ DIT, [UK-Australia FTA Chapter 22: Environment](#), 16 December 2021

recognises both the UK's and Australia's right to regulate, including to combat climate change.

The Chapter affirms commitments under multilateral environmental agreements, including all elements of the Paris Agreement, and strengthens cooperation on areas including emissions reduction, sustainable forest management and the transition towards a circular economy.¹⁶⁵

On 2 March 2022, the International Trade Committee took oral evidence on environmental aspects of the Agreement. The first session heard evidence from Sarah Williams of Green Alliance, Ruth Bergan, a senior adviser at the Trade Justice Movement and Sir Lockwood Smith, a former New Zealand trade minister and former High Commissioner to the UK.

Sir Lockwood Smith was asked how common it was to have a dedicated environment chapter in trade agreements. His response referenced the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) and a free trade agreement between New Zealand and China as examples of previous agreements with environmental considerations. On the UK-Australia FTA and proposed New Zealand agreements, he said they “take things a step further”:

The negotiators are to be congratulated. For the first time that I have seen the environment chapter includes a significant section on climate change, a section on sustainable forest management—that is the Australian one—and one on marine litter. The New Zealand draft agreement goes even further and includes provisions on the protection of freshwater resources, fossil fuel subsidy reform and, finally, sustainable agriculture. These agreements are a whole step forward in the international world.¹⁶⁶

Ruth Bergan, agreed with Sir Lockwood Smith that the agreement covered a lot of new issues and that it “looked like progress” when compared to the deals rolled over from the EU. However, she noted some of the language used in the text of the agreement was vague:

For example, on multilateral environmental agreements, it says, “The parties emphasise that efforts to address climate change require collective and urgent action and acknowledge the role of global trade and investment in these efforts”. The chapter is subject to the same dispute settlement mechanism as the rest of the deal, but it is very difficult to see how you could bring a case if the language is that vague. A lot of the language is around, “We will cooperate in these areas. We will exchange information. We will have a dialogue.” I think a lot of this will be in what the commitment is on either side and then how much pressure they feel under to take action and progress on this.¹⁶⁷

¹⁶⁵ DIT, [Explanatory Memorandum](#), 15 June 2022, paras 4.53 and 4.54

¹⁶⁶ International Trade Committee, [UK trade negotiations: Agreement with Australia](#), 2 March 2022, Q57

¹⁶⁷ As above, Q59

Sarah Williams of Green Alliance welcomed the co-operation mechanisms in the agreement but highlighted environmental risks that the deal could open up:

The environment chapter is the minimum that we should be accepting in our new trade agreements but that alone is not going to safeguard against the environmental risks that this deal opens up. That is because of the tariff liberalisation and the fact that Australia's output system does not meet the same high standards and we will be exporting our overseas footprint increasingly.

... the co-operation mechanisms in the agreement are very useful. It is just not clear whether they will deliver any concrete action. We are signing up to an awful lot of them in many different agreements and it is not clear that we are dedicating the resourcing to deliver on all of them.¹⁶⁸

During an earlier EFRA Committee [evidence session on the Food and Agriculture elements of the agreement](#), environmental issues were also discussed. Professor Louise Manning of the Royal Agricultural College expressed disappointment in the Environment Chapter, noting that it “focuses primarily on carbon” and stated that “the environment chapter ought to be more inclusive than air pollution and carbon.”

Professor Manning highlighted the importance of “water, water footprint and externalising the water impact of our food consumption in the UK and our textiles and other industries.”¹⁶⁹ She also noted that soil was not mentioned and suggested it should be thought about when negotiating future trade deals.

Environmental impact of trade deals

On 30 September 2021, the Environmental Audit Committee (EAC) published a report on the [UK's footprint on global biodiversity](#).¹⁷⁰ In the [Government's response to this report](#), it agreed with the EAC that assessing environmental impacts is an important element of all FTAs and set out how it intends to make these assessments in the future:

We agree that an assessment of the environmental impacts is an important element of all trade deals and to that end we do commission scoping and impact assessments in relation to the free trade agreements which we are pursuing with various partners. Scoping and impact assessments for new Free Trade Agreements (FTAs) post-Brexit include both quantitative and qualitative assessments of the impacts on several aspects of the environment, including greenhouse gas emissions, air and water quality, and biodiversity. The Secretary of State for International Trade will work closely with other government departments to assess the environmental impacts of new FTAs,

¹⁶⁸ International Trade Committee, [UK trade negotiations: Agreement with Australia](#), 2 March 2022, Q61

¹⁶⁹ EFRA Committee, [Oral evidence: Australia FTA: Food and Agriculture](#), HC 870, 23 February 2022, Q112

¹⁷⁰ Environmental Audit Committee, [The UK's footprint on global biodiversity](#), 30 September 2021, HC 674, 2021-22

and to improve their coverage and approach. This includes developing methodological improvements and exploring further qualitative assessments, exploiting new data and evidence.¹⁷¹

In December 2021, DIT published its [impact assessment of the FTA](#). Chapter 6 of the report covers environmental issues, including the impact on water quality, air pollution, forests, biodiversity and ecosystems and marine habitats and fisheries. The impact on carbon emissions is also estimated and covered in the following section of this briefing.

Assessing the impact on forest and biodiversity and ecosystems, the DIT's report found both could be affected by changes in trade and production could increase pressure on these areas of the environment:

There is evidence that agricultural activities (especially beef and dairy production) contribute to deforestation in Australia. It is also possible that an estimated increase in trade of wood, paper and rubber products in both directions could also place pressure on forested land.¹⁷²

...UK imports of Australian agriculture and semi-processed food could increase in response to an FTA. Changes to agricultural production in both countries could affect the associated stress on habitats and biodiversity.¹⁷³

Further details of the impacts on the environment and the methodologies used for these assessments are set out in the [DIT's impact assessment report](#).

Carbon emissions

The Lords International Agreements Committee has been taking evidence on the [UK-Australia trade negotiations](#). In a written submission, Dr Giulia Claudia Leonelli, a Lecturer in Law at Birkbeck College, University of London, suggested mandatory commitments on climate change could have been included in the deal. She also proposed mechanisms to address the different carbon intensities of the two countries:

Reaching an agreement on emission reduction targets or common commitments (e.g. climate neutrality or net zero emissions by 2050) would have been extremely difficult. However, specific commitments surrounding the future NDCs [Nationally Determined Contributions] and the Parties' response to the 2021/2023 global stocktake could have been included. Alternatively, Article 22.5 could have included a mandatory obligation of non-regression from the levels of protection achieved by the Parties' current NDCs. This could have also helped address the issue of the (different) carbon intensity of UK and Australian agricultural and industrial products.¹⁷⁴

¹⁷¹ Environmental Audit Committee, [The UK's footprint on global biodiversity: Government response](#), 31 January 2022, HC 1060, 2021-22, para

¹⁷² DIT, [UK-Australia FTA: impact assessment](#), 16 December 2021, p51

¹⁷³ As above, p51

¹⁷⁴ AUT0044 - [UK-Australia trade negotiations](#) (opens PDF), 24 February 2022

The [DIT's impact assessment of the FTA](#) estimates that the agreement will lead to a "0.05% increase in UK greenhouse gas emissions compared to levels of emissions in 2018." Summarising the findings, the report states that:

Overall greenhouse gas emissions associated with UK-based production are largely unchanged from the FTA. Excluding emissions associated with greater transport activity, higher emissions from increased economic activity are offset by a shift in output away from sectors with relatively high emissions.¹⁷⁵

The report also found the FTA with Australia could result in a 31-40% increase in emissions from transport due to increased trade activity. However, this estimate does not factor in future decarbonisation of international shipping.

The [Trade and Agriculture Commission's independent report](#), published on 13 April 2022, set out the following findings on the climate change impacts of the FTA:

We have been provided with no evidence to support the notion that agricultural production in Australia of products likely to be imported at an increased rate into the UK under the FTA is more emission-intensive than comparable products in the UK, and in particular whether if this might occur, that Australian producers would be at a cost advantage compared to UK producers. We do on the other hand have evidence that increased emissions due to transport of these products to the UK is likely to be negligible. What can be said is that the FTA does not change the position of the UK under WTO law, which itself involves unsettled legal questions, to adopt measures to combat climate change.¹⁷⁶

The Government's section 42 report concluded that the environment chapter was consistent with maintaining UK levels of statutory protection. It noted the parties' right to set their own statutory protections on the environment and climate change and highlighted the non-derogation commitment contained in the FTA.¹⁷⁷

Sam Lowe, of consultancy Flint Global, told the International Agreements Committee "this is the first Australian trade agreement that commits to Paris."¹⁷⁸ However, trade pressure groups have criticised the agreement for a lack of ambition on climate change.¹⁷⁹

While the environment chapter of the agreement contains a reference to the Paris Agreement, there is no explicit reference to limiting the global average temperature increase to 1.5°C.¹⁸⁰ In September 2021, press reports said the UK had agreed to remove specific temperature commitments in the FTA

¹⁷⁵ DIT, [UK-Australia FTA: impact assessment](#), 16 December 2021

¹⁷⁶ Independent report, [Trade and Agriculture Commission: advice to the Secretary of State for International Trade on the UK-Australia Free Trade Agreement](#), 13 April 2022, section IV.C

¹⁷⁷ DIT, [Report pursuant to Section 42 of the Agriculture Act 2020](#), June 2022, pp8-9

¹⁷⁸ International Agreements Committee, [UK-Australia trade negotiations](#), 13 January 2022, Q52

¹⁷⁹ Trade Justice Movement, [Australia deal is a disaster for UK climate policy](#), 17 December 2021

¹⁸⁰ [Chapter 22: Environment, Article 22.5, para 1](#)

following pressure from Australia. At the time, UK Government sources told Sky News that references to temperature were now “implicit”.¹⁸¹

Future UK trade agreements

On 18 March 2022, the Public Accounts Committee (PAC) published its report on [progress with trade negotiations](#).¹⁸² The report outlined a series of recommendations to DIT and its work with other relevant departments in concluding ongoing trade negotiations and launching negotiations with new partners.

It said Defra should work with DIT to monitor the impact of free trade agreements in its policy areas. In relation to carbon emissions, the Committee recommended the DIT should:

monitor the actual transport emissions and other environmental effects resulting from increased trade between the UK and Australia, to determine what action may be needed to ensure that the UK can still meet its climate commitments.¹⁸³

The Committee’s report noted that Defra had “looked very carefully into the question of carbon emissions” and that:

Its analysis so far suggests that carbon emissions resulting from shipping goods from Australia to the UK are not the most significant factor when looking at the carbon footprint of different sorts of production. The Department for International Trade added that it has modelled the environmental impact of the UK’s agreement with Australia and it does not think the greenhouse gas emissions of UK production will change much although transport has to be looked at as a whole.¹⁸⁴

However, the PAC also recommended that greater transparency is required in future trade deals to “to aid understanding and inform scrutiny”. The committee recommended that, as part of this, DIT should:

explain clearly to Parliament and the public the policy trade-offs, particularly in relation to human rights and environmental priorities, in new FTAs and the potential impact for sectors, businesses and individuals.¹⁸⁵

In its net zero strategy published ahead of COP26, the UK Government said:

Decisions on the liberalisation of partners goods must account for their environmental and climate impact. Where there is evidence that liberalisation could lead to significant carbon leakage the case for maintaining tariffs or pursuing conditional market access, through clauses on standards or eco/carbon intensity, should be carefully considered.¹⁸⁶

¹⁸¹ [Exclusive: Ministers bowed to pressure to drop key climate commitments for UK trade deal with Australia](#), Sky News, 8 September 2021

¹⁸² Public Accounts Committee, [Progress with trade negotiations](#), 18 March 2022, HC 993, 2021-22

¹⁸³ As above, p7

¹⁸⁴ As above, para 22

¹⁸⁵ As above, p7

¹⁸⁶ BEIS, [Net Zero Strategy: Build Back Greener](#), 19 October 2021, p296

Carbon leakage refers to the idea that businesses may move their production or investment to countries with less stringent restrictions on carbon emissions. This could allow a company to gain a competitive advantage and also mean that whilst emissions fall in one country they might not change on a global level or may even rise. A 2014 study for the UK Government showed that “empirical studies of carbon leakage in the EU ETS generally fail to find convincing evidence of substantial leakage.”¹⁸⁷

3.14 Dispute settlement

The dispute settlement provisions are contained in Chapter 30.¹⁸⁸

The chapter sets out the arrangements for resolving disputes between the parties. This may be through consultations between them or the establishment of a panel to assess whether there has been a breach of the agreement.

The provisions apply to all chapters of the Agreement with the following exceptions:

- the dispute settlement mechanism applies in part to the Trade Remedies Chapter
- the following chapters modify aspects of the dispute settlement mechanism: Environment, Financial Services, Labour, Transparency, Anti-corruption
- the mechanism does not apply to the following ten chapters: Sanitary and Phytosanitary, Animal Welfare and Antimicrobial resistance, Technical Barriers to Trade, Competition Policy and Consumer Protection, SMEs, Good Regulatory Practice, Development, Trade and Gender Equality, Innovation and Cooperation.¹⁸⁹

Fiona Smith, Professor of International Economic Law at Leeds University, pointed out that where the dispute resolution mechanism of the FTA does not apply to certain chapters of the agreement, there would still be recourse to dispute settlement at the World Trade Organization.¹⁹⁰

¹⁸⁷ Vivid Economics, Carbon leakage prospects under Phase III of the EU ETS and beyond, June 2014

¹⁸⁸ [Chapter 30: Dispute Settlement](#)

¹⁸⁹ DIT, [Explanatory Memorandum](#), 15 June 2022, paras 4.6 to 4.9

¹⁹⁰ EFRA Committee, [Australia FTA: Food and Agriculture](#), 23 February 2022, HC870, Q126

4 The Agreement: Agricultural aspects

4.1 Summary

This section covers key aspects of the FTA and agriculture. It summarises advice from the Trade and Agriculture Commission (TAC) and the Secretary of State's statutory report under the Agriculture Act 2020, as well as stakeholder views of the impact of the FTA.

Key issues covered are firstly the economic impact of tariff reductions; and secondly, food and animal welfare standards. Finally, this chapter also considers the provisions on Geographical Indications (GIs) applied to agri-food products.

Tariffs

Much commentary has focused on the FTA's potential negative impact on the UK agricultural sector because of competition from agri-food imports made cheaper by the reduction or removal of tariffs (see section 4.3 below). The [Government's Impact Assessment \(IA\)](#) shows a negative effect on UK agriculture, forestry and fishing; and the semi-processed food sector.

The National Farmers' Union (NFU) considers there is little in the deal to benefit British farmers, while the Australians have "achieved all they have asked for".¹⁹¹ However, the Government considers that the FTA could help increase agri-food exports to Australia. The beverages sector is a key potential beneficiary, with, for example, 5% tariffs to be removed on whisky exports. The impact of the FTA on food and beverage prices for UK consumers from tariff cuts is not likely to be highly significant as any reductions are small in the context of the overall price of a product.

How are UK farmers affected?

Farmers are concerned that the FTA significantly increases the volumes of products that can be imported tariff-free to the UK. They are concerned this could undercut UK producers in key sectors such as beef and lamb. They argue that removing tariff protections would expose them to competition with

¹⁹¹ NFU, [Written evidence to International Trade Committee](#), Agreement with Australia inquiry, February 2022

Australian farmers who have lower costs of production from geographical advantages and lower animal welfare standards.¹⁹²

Currently tariffs on agricultural products are lower on goods being imported to Australia than they are on those being imported into the UK (on average 2.3 % compared to 8.3%). Therefore commentators, including the NFU note that the deal has more in it to the advantage of Australian farmers than for UK farmers.¹⁹³

Changes to tariffs on imports of some key products such as beef and lamb are phased in over a 15-year period. However, farmers consider that starting levels of Tariff Rate Quotas (TRQs) are too high. TRQs set a volume of product which may be imported into the UK at zero (or low) tariffs.

The TRQs for both beef and lamb are set at levels much higher than the current volumes of product imported. Beef and lamb TRQs triple over a period of 10 years.¹⁹⁴ In years 11 to 15, there will be ‘product-specific safeguards’ under which a duty of 20% may be imposed on beef or lamb imports over a defined trigger volume. There will be no tariffs or quotas on imports of beef and sheep meat from Australia from year 16.

Farmers’ concerns over the TRQs are amplified by the fact that TRQs are calculated to allow the whole quota to be met from the most expensive cut of meat, rather than being balanced to represent the whole carcass equivalent weight. If the latter approach was adopted, it would mean a lower volume of these expensive cuts of meat would fall under the tariff-free quotas.

Some UK producers are also concerned that a change in global trade patterns, such as a reduction in Australian exports to China, could lead to diversion of large volumes to the UK market.¹⁹⁵

However, some commentators note that Australia does not fill all of its current TRQs and question whether the higher quotas will be filled.¹⁹⁶ Commentators also note that Australia has a number of other target markets, particularly in Asia and neighbours in the near north, for its products.¹⁹⁷

Cheaper prices for consumers?

In terms of tariff reductions, the impact of the FTA on food and beverage prices for UK consumers is not likely to be highly significant in the context of

¹⁹² NFU, [Written evidence to International Trade Committee](#), Agreement with Australia inquiry, February 2022

¹⁹³ As above

¹⁹⁴ For beef the TRQ in year one is 35,000 tonnes rising in instalments to 110,000 tonnes in year 10. For lamb, the TRQ is 25,000 tonnes rising in instalments to 75,000 tonnes in year 10.

¹⁹⁵ NFU, [Written evidence to International Trade Committee](#), Agreement with Australia inquiry, February 2022

¹⁹⁶ Minako Morita-Jaeger, [The UK-Australia FTA – Can we call it a good deal?](#), UK Trade Policy Observatory, 4 March 2022

¹⁹⁷ Oral evidence to the EFRA Committee, Australia FTA: Food and Agriculture, 23 February 2022, HC870, [Q92](#)

the overall cost of a product. The British Retail Consortium describes it as “[completely negligible](#)”.¹⁹⁸ The Government’s Impact Assessment states that reductions are largest on alcoholic beverages including wine, worth around £34.2 million per year at entry into force of the FTA. Food (largely semi-processed foods) and non-alcoholic beverages are estimated to have the second highest tariff reductions of £2.4 million annually in the long term.¹⁹⁹ However, the reductions may not be passed on to customers in full by importers or retailers.

Will food, animal welfare and environmental standards be affected?

Farmer, environmental and animal welfare groups are concerned that some Australian products are produced to lower animal welfare and environmental standards. This could lead to cheaper costs of production. However, the Government said the trade deal will not lead to lower standard imports.²⁰⁰ The independent advisory body, the Trade and Agriculture Commission (TAC), concluded that the FTA does not require the UK to change its statutory protections and “in part” reinforces the UK’s existing protections.

The TAC concluded the “FTA does not require the UK to change its existing levels of statutory protection in relation to animal or plant life or health, animal welfare, and environmental protection.”²⁰¹

The FTA has provisions relating to three broad groups of standards: sanitary and phytosanitary (SPS); environmental (see section 3.13 above); and animal welfare. Each are covered in separate chapters in the FTA. Animal welfare standards are covered in section 4.5 of this briefing and SPS issues in section 4.6.

Chapter 25 of the FTA covers animal welfare standards. These are a key focus of farmer and public concerns, and for the devolved administrations. Australian farm [animal welfare standards](#) are considered to be lower in some respects than UK standards. Under the animal welfare chapter, each party commits to non-regression on animal welfare standards. These provisions are the first of their kind to be included in an FTA. However, this does not mean that animal welfare standards in either country will be required to change.

Sanitary and phytosanitary (SPS) standards are the standards related to animal and plant health and food safety. These do not change as a result of the FTA provisions. Chapter 6 of the FTA reaffirms existing arrangements under current WTO rules. As the Government has emphasised, the FTA preserves the right for the UK to keep its food standards for imports. For

¹⁹⁸ “[Minimal impact of UK-Australian trade deal on food prices, says BRC](#)”, Food Management Today, 9 March 2022

¹⁹⁹ [DIT, UK-Australia FTA: impact assessment, 16 December 2021](#), p38

²⁰⁰ [HC Deb 5 January 2022 c66](#)

²⁰¹ Independent report, [Trade and Agriculture Commission: advice to the Secretary of State for International Trade on the UK-Australia Free Trade Agreement](#), 13 April 2022, Section V

example, imports of hormone produced beef will continue to be banned. Tariffs remain in place for some Australian products imported to the UK such as poultry and pork so these sectors are of less concern to stakeholders.

4.2 Trade and Agriculture Commission and Agriculture Act Reports

The Agriculture Act 2020

[Section 42 of the Agriculture Act](#) requires the Secretary of State to lay a report before Parliament explaining whether a trade agreement is “consistent with the maintenance of UK levels of statutory protection” in the following areas:

- Human, animal or plant life or health
- Animal welfare
- The environment

The requirement to publish this report relates to any free trade agreement which includes provisions applying to trade in agricultural products. The report must be laid before Parliament before the free trade agreement is laid before Parliament under the Constitutional Reform and Governance Act 2010 (see section 5.1 below).

In preparing the report, the Secretary of State may seek advice from any person they consider to be independent and to have relevant experience. These provisions of the Agriculture Act were amended by the [Trade Act 2021](#) to require the Government to ask for advice from the Trade and Agriculture Commission.

The Trade and Agriculture Commission and the Trade Act 2021

The Trade and Agriculture Commission

The Trade and Agriculture Commission (TAC) is a new body which helps with the scrutiny of agricultural aspects of free trade agreements. It is an independent, expert group made up of trade and agriculture specialists.

The Commission’s role is to advise the Secretary of State on whether a trade agreement could mean a change in the UK’s domestic statutory protections, or government’s ability to set those protections, relating to animal and plant health standards, animal welfare standards and environmental standards as they relate to agricultural products.

[Section 8 of the Trade Act](#) establishes the TAC on a statutory basis. Subsection (1) allows the Secretary of State to appoint members. Subsection (2) says that the TAC’s function is to provide advice under section 42 of the Agriculture Act. Subsection (3) sets out that the Secretary of State must take into account the desirability of appointing members to the TAC who collectively have expertise in:

- UK animal and plant health standards
- UK animal welfare standards
- UK environmental standards as they relate to agricultural products, and
- international trade law and policy.

The Trade Act 2021 amends section 42 of the Agriculture Act to provide a role for the TAC. [Section 9 of the Trade Act](#) requires the Secretary of State, when preparing the report under section 42, to request advice from the TAC. This advice is to cover animal or plant life or health, animal welfare and the environment. Human life or health is excluded. This request for advice from the TAC, plus any terms of reference or guidance, must be published.

Any advice received from the TAC in response to this request must be laid before Parliament before the report under section 42 of the Agriculture Act is laid. This advice must also be copied to the devolved administrations and relevant Parliamentary Committees.

The TAC’s terms of reference were agreed on 6 December 2021.²⁰² On 17 December 2021, the day after this FTA was signed, the Secretary of State, Anne-Marie Trevelyan, formally requested the TAC to provide advice on the agreement.²⁰³

TAC report’s main conclusions

The [Trade and Agriculture Commission published its advice to the Secretary of State on the FTA](#) on 13 April 2022.²⁰⁴

The TAC considered how decisions are made under the FTA and how these might affect UK statutory protections, as well as the impact on border control resources and the UK’s ability to respond to concerns (eg on standards). It also considered the “potential effects of the FTA on animal or plant life or health, animal welfare and environmental protections”.²⁰⁵

²⁰² DIT, [Terms of reference: Trade and Agriculture Commission](#), 6 December 2021

²⁰³ DIT, [Trade and Agriculture Commission commissioning letter: request for advice on UK-Australia FTA](#), 17 December 2021

²⁰⁴ Independent report, [Trade and Agriculture Commission: advice to the Secretary of State for International Trade on the UK-Australia Free Trade Agreement](#), 13 April 2022

²⁰⁵ As above, section I B (Our Mandate, Our approach)

The report noted the TAC mandate did not include quantifying the extent to which tariff reductions were likely to result in increased imports. However, the report focussed on those products which were likely to see increased trade to identify the areas where statutory protections issues might be affected.

Three key questions on standards

The report noted that the TAC had addressed three key questions under its terms of reference:

First, we consider (1) whether the FTA requires the UK to change its levels of statutory protection in relation to (a) animal or plant life or health, (b) animal welfare, and (c) environmental protection.

Second, we consider (2) whether the FTA reinforces the UK's levels of statutory protection in these areas. In this context, we consider obligations in the FTA which require the UK and Australia to adopt high standards of protection in the relevant areas.

Third, we consider (3) whether the FTA otherwise affects the ability of the UK to adopt statutory protections in these areas.²⁰⁶

In outline, the TAC report concluded that:

- on question 1, the FTA did not require the UK to change its statutory protections;
- on question 2, the FTA did “in part” reinforce the UK's protections;
- on question 3, the FTA did not constrain the UK policy space and the Government can continue to impose its statutory protections. In some cases, the FTA enhances the WTO right to regulate. The UK is, however, able to make decisions under the FTA that may constrain its freedom to regulate in the future.²⁰⁷

A key conclusion of the report was that although trade liberalisation obligations are set out in the FTA, they are all fully covered by general exceptions, taken from WTO law, ensuring that “the UK can regulate to protect animal or plant life or health, to protect public morals (including animal welfare), and to conserve exhaustible living and non-living resources, provided that certain conditions are met”.²⁰⁸

The report also noted that provisions in the animal welfare and environment chapters “expand on these rights to regulate”. This gave the UK:

more leeway to override its trade liberalisation obligations than it would have under WTO law. In short, even to the extent that the FTA imposes greater trade liberalisation obligations on the UK, as it does, for example, by reducing

²⁰⁶ Independent report, [Trade and Agriculture Commission: advice to the Secretary of State for International Trade on the UK-Australia Free Trade Agreement](#), 13 April 2022, section I B

²⁰⁷ As above, section V, Conclusions

²⁰⁸ As above, section II

customs duties, the UK not only has the same rights as it would under WTO law to maintain and adopt protections in the areas covered by this advice, but in relation to animal welfare and certain environmental issues it has even greater rights than under WTO law.²⁰⁹

The report explained the FTA establishes certain obligations that require the parties to maintain (or even improve) statutory protections in certain areas, most notably in Chapter 22 (Environment) and Chapter 25 (Animal Welfare and Antimicrobial Resistance). It stated that:

These chapters have two important functions in respect of trade in agricultural products under the FTA. First, they reinforce the UK's ability to maintain its statutory protections, both directly (by requiring the UK to continue certain protections) and indirectly (by serving as interpretive context to other provisions that give the UK a right to maintain statutory protections). Second, these obligations require Australia to enforce certain Australian statutory protections, thereby preventing Australia from obtaining cost and trade advantages by not applying certain of its own laws.²¹⁰

The Chair of the TAC, Professor Bartels, told the International Trade Committee this ensured that there could be no “race to the bottom” on standards to undercut UK producers. Neither could the UK undercut Australian imports or make exports to Australia more competitive by reducing protections.²¹¹

He said that a number of concerns about the impact on UK standards had been raised by stakeholders during the TAC's consultation but he considered these were, in most cases “a little bit exaggerated”. The TAC report, he said, would reassure as the FTA contained “nothing much to be scared of” in terms of its impact on standards.²¹²

Professor Bartels said the whole TAC membership was “happy” with what it had produced.²¹³ However, some commentators, such as Nick Von Westenholz from the NFU (a member of the TAC) noted that the terms of reference for the TAC were narrowly drawn and did not, for example, consider the cumulative impacts of multiple FTAs on the farm sector.²¹⁴ James Russell, Senior Vice-President, British Veterinary Association, commented that while the TAC had done a “good faith assessment” this had been carried out within “very narrow legal terms of reference”.²¹⁵

²⁰⁹ Independent report, [Trade and Agriculture Commission: advice to the Secretary of State for International Trade on the UK-Australia Free Trade Agreement](#), 13 April 2022, section II

²¹⁰ As above, section I

²¹¹ Professor Lorand Bartels, oral evidence to the International Trade Committee inquiry UK Trade Negotiations: Agreement with Australia, 26 April 2022, HC 1002, [Q186](#)

²¹² As above, [Q171](#)

²¹³ As above, [Q165](#)

²¹⁴ Nick von Westenholz, NFU, oral evidence to the International Trade Committee inquiry UK Trade Negotiations: Agreement with Australia, 26 April 2022, HC 1002, [Q215](#)

²¹⁵ International Trade Committee, [UK trade negotiations: Agreement with Australia](#), 26 April 2022, HC 1002, [Q214](#)

Importantly, the TAC report stated that its advice focussed on the “reality” of the FTA rather than the “abstract” principles. This meant a focus on UK statutory protections relevant to agricultural products where they were “likely to be affected by increased trade under the FTA”.²¹⁶

The TAC had identified the use of pesticides and genetically modified canola oil as meeting both the cost advantage and increase in imports criteria but the SPS standards of the product itself would still be enforced as now. Professor Bartels said that if Australian use of pesticides and Genetically Modified Organisms were to be harmful then it is:

Australia’s business and none of the UK’s business, from an international law point of view. One country does not get to tell another country what to do just like that; you need a reason for it. If Australia wants to destroy its animals and that doesn’t affect the UK, Australia can destroy its animals. There are minimum international law baselines, but in principle that is the way it works, which is something that not all the people who wrote to us fully appreciate.²¹⁷

He added that Australian farmers might be operating with an advantage that UK farmers might not have, and there were some products that “may come to the UK more cheaply”:

I think canola oil is imported into the UK anyway, so that probably will not have much of an effect on UK production, but in theory there could be a few cases of products like that where UK farmers would be suffering from competition from products made according to practices that are not permitted in the UK, but are permitted in Australia.²¹⁸

Government section 42 report’s main conclusions

The Government published the section 42 report on 6 June 2022.²¹⁹ The report concluded the FTA was consistent with maintaining UK statutory protections relating to human, animal or plant life or health, animal welfare and the environment. The report found no new import conditions are required and there are no changes to statutory protections.²²⁰

In addition, the report concluded the FTA did not change the UK Government or devolved administrations’ right to regulate. Some of the FTA’s measures supported the maintenance of statutory levels of protection in certain areas.²²¹ These findings were informed by the advice received from the TAC, Food Standards Agency and Food Standards Scotland.

The report also referred to Chapter 31 of the FTA: General Provisions and Exceptions. It stated that this chapter covers measures necessary for the

²¹⁶ Independent report, [Trade and Agriculture Commission: advice to the Secretary of State for International Trade on the UK-Australia Free Trade Agreement](#), 13 April 2022, section 1(c)(4)

²¹⁷ As above, [Q181](#)

²¹⁸ As above, [Q181](#)

²¹⁹ DIT, [Report pursuant to Section 42 of the Agriculture Act 2020](#), June 2022

²²⁰ DIT, [Report pursuant to Section 42 of the Agriculture Act 2020](#), June 2022, p2

²²¹ As above, p2

protection of public morals, human, animal or plant life or health and conservation of exhaustible natural resources. According to the report, this will help to protect the UK's right to regulate domestically.²²²

4.3 What are the main economic impacts on the agriculture and food sectors?

Current trade barriers and levels of trade with Australia

Current Australian tariffs on agricultural goods are, on average, low at 2.3% compared with 8.3% for such goods imported into the UK.²²³ The elimination of tariffs under the agreement is therefore likely to be of greater benefit to Australian producers seeking to access the UK market than UK producers looking to export to Australia. The Trade and Public Policy Network said that:

This heavily implies that the lion's share of benefits of agricultural liberalization will go to Australian exporters (and potentially UK consumers) while the costs will be borne by import-competing firms (UK food producers).²²⁴

Beef

Imports accounted for 29% of UK beef and veal supply in 2020.²²⁵ Over 90% of UK beef imports came from the EU in 2021 with Ireland accounting for around 70% of all UK imports of beef.²²⁶

The UK currently imports relatively little beef from Australia. Imports are limited by a quota and even in-quota imports pay a 20% tariff. According to the Agriculture and Horticulture Development Board (AHDB), "prior to the low beef prices we experienced in 2019, the UK had been importing 2,500-3,000 tonnes of beef from Australia, down from over 7,000 tonnes in 2013 and 2014."²²⁷

²²² DIT, [Report pursuant to Section 42 of the Agriculture Act 2020](#), June 2022, p12

²²³ Trade and Public Policy Network, [What's in the UK-Australia FTA? Preliminary Reflections](#) (PDF). Australian and UK baseline (MFN) tariffs for agriculture are 2.3% and 8.3% respectively for applied tariffs, on a trade weighted basis.

²²⁴ Trade and Public Policy Network, [What's in the UK-Australia FTA? Preliminary Reflections](#) (PDF)

²²⁵ [PQ 96852 \[Meat Imports\], 21 January 2022](#)

²²⁶ AHDB, [Beef trade](#). Figures are by volume and cover fresh and frozen beef, processed beef (including corned beef) and offal.

²²⁷ AHDB, [Australian beef in the UK](#), 17 June 2021

Sheep meat

Imports accounted for 28% of UK mutton and lamb supply in 2020.²²⁸ Australia currently has a tariff-free quota of 15,349 tonnes for sheep meat. The AHDB describes recent trends in UK imports of sheep meat as follows:

Not including 2020's unusual volumes, over the past 10 years the UK has imported around 87,500 tonnes of fresh and frozen sheep meat each year. New Zealand has typically supplied 70% of that, and Australia 13% (11,000 tonnes), most of the rest comes from the EU. It's worth noting that volumes from both Australia and particularly New Zealand have been falling in recent years, as total UK imports have fallen, but also as opportunities in growing markets closer to home have presented themselves.²²⁹

How will tariffs change?

Under the terms of the FTA, tariffs on imports from Australia are removed over a period of up to 15 years. A tariff rate quota or TRQ allows a certain quantity of imports in from Australia tariff-free. In most cases, the TRQ increases over time, allowing more imports to be imported tariff-free (see below for details). Imports above the TRQ threshold pay tariffs.

Beef

For beef, the TRQ is 35,000 tonnes rising in instalments to 110,000 tonnes in year 10. In years 11 to 15, there will be a 'product-specific safeguard' under which imports above a threshold may be subject to a duty of 20%. This threshold increases from 122,000 tonnes in year 11 to 170,000 tonnes in year 15. There are no tariffs or quotas on imports of beef from year 16 onwards.

The limits on the amount of Australian beef allowed tariff-free into the UK market for the first 15 years of the agreement are thus much higher than the current level of imports (around 2,500 to 3,000 tonnes).

Sheep meat

For sheep meat, the TRQ is 25,000 tonnes rising in instalments to 75,000 tonnes in year 10.²³⁰ In years 11 to 15, there will be a 'product-specific safeguard' under which a duty of 20% may be imposed on imports over a defined trigger volume. This trigger volume increases from 85,000 tonnes in year 11 to 125,000 tonnes in year 15.

From year 11 to year 15, if the quantity of sheep meat imported into the UK from Australia is greater than the trigger volume, and the UK increases the duty to 20%, the trigger quantities for the remaining years shall be cut by 25%. The product-specific safeguard lapses from year 16 after which there will be no tariffs or quotas on imports from Australia.

²²⁸ [PQ 96852 \[Meat Imports\], 21 January 2022](#)

²²⁹ AHDB, [Australian sheep meat in the UK](#), 21 June 2021

²³⁰ Under certain conditions, the TRQ volume may be reduced. See page 7 of [Annex 2B Tariff Schedule of the United Kingdom](#).

As for beef, the tariff-free thresholds are considerably higher than current levels of imports from Australia of around 11,000 tonnes.

Other products

The TRQs for other key agri-food products are:

- Milk, cream, yoghurt and whey: a TRQ of 20,000 tonnes annually in years 1-5.
- Butter: a TRQ of 5,500 tonnes in year 1 rising to 11,500 tonnes in year 5.
- Cheese and curd: a TRQ of 24,000 tonnes in year 1 rising to 48,000 tonnes in year 5.
- Wheat and meslin: a TRQ of 80,000 tonnes annually in years 1-4.
- Barley: a TRQ of 7,000 tonnes annually in years 1-4.
- Long-grained rice: a TRQ of 1,000 tonnes a year.
- Broken rice: a TRQ of 11,500 tonnes annually in years 1-4.
- Sugar: a TRQ of 80,000 tonnes in year 1 rising to 220,000 tonnes in year 8.

Agricultural sectors not covered by the trade deal

The FTA does not remove the UK Global Tariff on pig meat, chicken meat and certain egg products. The Secretary of State for International Trade stated:

We have not looked at anything in the poultry, pigs and eggs sector precisely because we did not believe that we could find a level of compatibility in standards.²³¹

An example of incompatibility in standards is the use of Ractopamine in Australian pork production. Ractopamine is an animal feed additive used to promote leanness and increase food conversion efficiency in farmed animals, and its use is banned in the UK.

However, these are not offensive product sectors for Australia so the UK retaining tariffs is unlikely to be controversial. The NFU welcomes this precedent for future agreements where unfair competition could undercut UK producers.²³²

UK pig meat qualifies for export to Australia at a zero-tariff rate provided specific sanitary and phytosanitary measures are adhered to. However, as

²³¹ HC Deb, Australia Free Trade Agreement, 5 January 2021, [vol 706, col 64](#)

²³² National Farmers' Union written evidence to Environment, Food and Rural Affairs Committee inquiry into Australia FTA: food and agriculture, [Submission AFTA 0017](#)

discussed below, Australia has strict requirements for pig meat imports, such as deboning and heat treatments.²³³

The Government's Impact Assessment

The Government's Impact Assessment shows a negative effect of the FTA on agriculture, forestry and fishing; and the semi-processed food sector.

Output in agriculture, forestry and fishing is estimated to fall by 0.7% (£94 million) while semi-processed food is estimated to see a larger fall of 2.65% (£225 million).²³⁴ The Impact Assessment notes that this result is driven by increased import competition in beef and sheep meat.²³⁵ Alternative estimates, also presented in the Impact Assessment, show a fall of 3% in gross output of the beef sector and a fall of 5% in sheep meat.²³⁶

The Impact Assessment describes Australia as “a large and globally competitive exporter of beef and sheepmeat” and notes that the negative effect on these sectors is due to Australia's specialisation in these products. It states that the UK has had high tariffs on these products. The possible increase in imports could lead to lower prices for consumers but also more competition for domestic producers.²³⁷ A report by the Institute for Government also argued that the UK's new trade deals are likely to mean lower prices for domestic customers.²³⁸

Two other agri-food sectors, beverages and tobacco products, and other processed foods, are estimated to see a small increase in output. The Impact Assessment notes that there is considerable uncertainty over its estimates of the effect on different sectors, especially agri-food.²³⁹ The uncertainty around these estimates was referred to by Louise Manning, professor of agri-food and supply chain security at the Royal Agricultural University in evidence to the EFRA Committee. Professor Manning observed that it was difficult to say whether the Government's estimate of a £94 million fall in agricultural output was realistic.²⁴⁰

²³³ National Farmers' Union written evidence to Environment, Food and Rural Affairs Committee inquiry into Australia FTA: food and agriculture, [Submission AFTA 0017](#), para 82

²³⁴ DIT, [UK-Australia FTA: impact assessment](#), 16 December 2021, Table 3, p30

²³⁵ As above, Table 3, p31

²³⁶ As above, Table 3, p32

²³⁷ As above, Table 3, p30

²³⁸ Institute for Government, [Agriculture after Brexit](#), March 2022, p48

²³⁹ In particular, the Impact Assessment's modelling does not take into account strong future growth in other markets, such as Asia-Pacific and the impact of non-price factors such as consumers' preference for UK produce. In addition, by focusing on the long-run effect of the FTA, the Impact Assessment's modelling does not take the FTA's safeguards into account.

²⁴⁰ Environment, Food and Rural Affairs Committee, Inquiry into [Australia FTA: Food and Agriculture](#), 23 February 2022, HC870, Q90

The Government has carried out more detailed modelling, breaking down the effect of the agreement on 61 economic sectors.²⁴¹ These detailed results do not appear to have been published.²⁴²

A report by the Public Accounts Committee recommended that Defra monitor imports to make an ongoing assessment of the impact on beef and sheep farmers and that it set out what support could be provided to those farmers whose livelihoods may be affected.²⁴³

What factors could mitigate the effect on UK farmers of Australian exports?

There are a number of variables which will determine the extent to which the FTA will, in practice, increase imports of Australian agri-food products and the impact of this on the UK's food and farming sector.

How strong is consumer demand for UK produce?

The Government has argued there is strong support for British produce from UK consumers. Around 80% of beef sold by retailers in the UK is under the British logo and a number of supermarkets only use British beef.²⁴⁴

The NFU acknowledged the commitment of retailers to UK food but noted that in other areas, such as food service and manufacturing, the origin of inputs was much less clear.²⁴⁵ The Agriculture and Horticulture Development Board (AHDB) made a similar point, telling the EFRA Committee “you are much less likely, as a consumer, to ask about the provenance of your beef if you are in a restaurant or a takeaway than you are in the supermarket, where it is clearly labelled”.²⁴⁶

Will Australian imports displace EU products?

The Government has argued that any increase in Australian imports is likely to be at the expense of other imports, pointing out that the vast majority of imports of beef are from the EU.²⁴⁷ The AHDB's modelling indicated that most of the increase in imports from Australia would reduce imports from elsewhere, such as the EU.²⁴⁸

Are Australian exporters more focused on Asian markets?

Australian agri-food exports are focused on near neighbours to the north, Asia in particular, according to the Australian High Commissioner, who told

²⁴¹ DIT, [UK-Australia FTA: impact assessment](#), 16 December 2021, p59

²⁴² NFU, [Written evidence to International Trade Committee](#), February 2022, para 60

²⁴³ Public Accounts Committee, [Progress with trade negotiations](#) [pdf], 18 March 2022, HC 993,2021-22 p6

²⁴⁴ DIT, [UK-Australia Free Trade Agreement: agri-food explainer](#), 16 December 2021

²⁴⁵ NFU, [Written evidence to International Trade Committee](#), February 2022, para 53

²⁴⁶ EFRA Committee, [Australia FTA: Food and Agriculture](#), 23 February 2022, HC870, Q97

²⁴⁷ DIT, [UK-Australia Free Trade Agreement: agri-food explainer](#), 16 December 2021

²⁴⁸ EFRA Committee, [Australia FTA: Food and Agriculture](#), 23 February 2022, HC870, Q92

the EFRA Committee the idea that Australian produce would swamp the UK was “entirely fanciful”.²⁴⁹

Currently, more than three quarters of Australia’s beef exports go to Asia-Pacific markets compared with 0.1% coming to the UK.²⁵⁰ Asia-Pacific markets may remain more attractive for Australian producers given lower transport costs and growth in demand there.²⁵¹ This point was made by the then DIT Minister Lord Grimstone in evidence to the Lords International Agreements Committee:

The Asia-Pacific market, because of its proximity and the demand for high-quality meat there, is already Australia’s export focus for its agricultural products. We believe, therefore, that it is unrealistic to think that large volumes of beef and sheep will be diverted to the UK from these frankly lucrative nearby markets.²⁵²

The AHDB has noted that geographically closer markets are probably more attractive for Australian producers than the UK market. However, it also noted that the UK could become a more attractive market if trading conditions were to change. It noted that if trade relations between Australia and China were to get worse, Australian exports would be searching for another destination.²⁵³

The NFU pointed to worsening trade relations between Australia and China and a large fall in Australian beef exports to China in the last year. The NFU argued there should be stronger safeguards in the FTA, observing that if their concerns did not materialise, these stronger safeguards would be academic as they would not need to be used.²⁵⁴

How much will the agreement increase export opportunities for UK agriculture?

The Government has argued the FTA paves the way for the UK’s accession to CPTPP. Demand for beef and lamb is increasing in the Asian region. The Government has said the agreement provides export opportunities for UK agriculture.²⁵⁵

The then trade minister Greg Hands said in June 2021 that tariff reductions secured by the UK will benefit exporters across the country and help farmers and food producers “capitalise on the enormous global demand for British food and drink”.²⁵⁶ In evidence to the Lords International Agreements

²⁴⁹ George Brandis, Oral evidence to the EFRA Committee, Australia FTA: Food and Agriculture, 23 February 2022, HC870, [Q246](#)

²⁵⁰ DIT, [UK-Australia FTA: impact assessment](#), 16 December 2021, p31. Australian exports figures based on weight.

²⁵¹ As above, p31

²⁵² International Affairs Committee, [The Comprehensive and Progressive Agreement for Trans-Pacific Partnership \(CPTPP\) and UK-Australia Trade Negotiations](#), 19 July 2021, Q52

²⁵³ EFRA Committee, [Australia FTA: Food and Agriculture](#), 23 February 2022, HC870, Q92

²⁵⁴ NFU, [Written evidence to International Trade Committee](#), February 2022, paras 43-44

²⁵⁵ DIT, [UK-Australia Free Trade Agreement: agri-food explainer](#), 16 December 2021

²⁵⁶ [PQ 16813 \[Beef: Australia\], 21 June 2021](#). See also PQs 16811, 16812, 16814-21, 21 June 2021

Committee, Emily Rees of Trade Strategies singled out the whisky industry as the sector making “quite substantial wins”, but she noted that other sectors would lose out economically overall as a result of the FTA.²⁵⁷

The FTA is asymmetric in terms of tariff concessions for agri-food with the most significant number of changes on the UK tariff schedule. The Australian tariff schedule is already highly liberalised for this sector reflecting the direction of its international trade policy. While there have been tariff reductions for some UK exports to Australia – such as whisky and some cheeses, significant immediate opportunities through tariff liberalisation alone are likely to be limited.

For example, AHDB and Harper Adams University analysis indicates that whilst the FTA could result in a 199% (2,600 T) increase in cheese exports to Australia, this volume is generally diverted away from the EU market and does not increase domestic production.²⁵⁸ Dairy UK considers that:

The agreement will not bring a step change in the current level of access to the Australian dairy market. The Australian market shares the UK’s food culture, but the market is relatively mature, with limited growth in demand. High transport costs will continue to make UK generic products generally uncompetitive in this market regardless of the elimination of tariffs.²⁵⁹

The NFU has said that some agri-food sectors such as premium cheeses, cereal preparations, cakes, biscuits, whisky and gin may gain from greater access to the Australian market. In general, however, the NFU regards the benefits of improved market access as “limited” due to the relatively small size of the Australian market and the fact that many of its tariffs are already low.²⁶⁰

The Institute for Government questioned whether the UK’s new trade deals would have much of an effect on exports. The IFG noted that UK producers are not significant exporters, in part because they are competing with larger, resource-rich countries.²⁶¹

How will safeguards protect UK producers?

The Government has pointed to the safeguards in the agreement in response to concerns that the FTA will damage UK agriculture.

Tariff reductions on sensitive products are phased in over a number of years through the use of tariff rate quotas and product-specific safeguards. These mean that imports above certain volume thresholds will continue to pay tariffs for periods of up to 15 years.

²⁵⁷ International Agreements Committee, [UK-Australia trade negotiations](#), 13 January 2022, Q52

²⁵⁸ AHDB, [The impact of a UK-Australia free trade agreement on UK agriculture](#), November 2021, p57

²⁵⁹ Dairy UK, Written Submissions to Environment, Food and Rural Affairs Committee inquiry, Australia FTA: food and agriculture, submission [AFTA 0014](#)

²⁶⁰ NFU, [Written evidence to International Trade Committee](#), February 2022, para 15

²⁶¹ Institute for Government, [Agriculture after Brexit](#), March 2022, p49

It is, however, worth noticing that these thresholds are higher than current levels of imports from Australia. For example, the threshold for beef increases from 35,000 to 170,000 tonnes. This is much higher than current levels of imports of around 2,500 to 3,000 tonnes. For sheep meat, the threshold rises from 25,000 to 125,000 tonnes. This compares with current levels of imports from Australia of around 11,000 tonnes.

The Government has also referred to the general bilateral safeguard mechanism. This mechanism, described in section 3.2 above on trade remedies, essentially provides a safety net if an industry faces serious injury from increased imports arising from the agreement's tariff liberalisation.

The bilateral safeguard may take the form of an increase in tariffs or a suspension of further tariff liberalisation for up to four years.²⁶² However, as noted above, there are conditions on the use of this mechanism. The NFU has criticised the safeguard as setting a high bar for action to be triggered. Furthermore, it would be difficult to prove that “serious injury” had been directly caused by increased imports from Australia rather than other factors.²⁶³

Does the small proportion of imports from Australia mean that concerns are overstated?

The UK Trade Policy Observatory argued that the concerns of beef and sheep producers were “overstated” as only 1% of beef imports historically come from Australia and more than 80% of domestic final consumption of beef is from domestic production. Australia, it says, has rarely filled its existing beef and sheep quotas and there is a long phase-in period.²⁶⁴

Trade expert Dmitry Grozoubinski of [Explaintrade.com](https://www.explaintrade.com) told the International Agreements Committee that even a ten-fold increase in beef imports from Australia would take it from a “tiny fraction” of a percent of the UK beef market to close to 1%. He said that:

Australia exported somewhere between 1,000 tonnes and 3,000 tonnes of beef to the UK last year, compared with 936,000 tonnes produced in the UK.[...] A tenfold increase may sound a lot scarier than it is.²⁶⁵

4.4 Views of agriculture and food stakeholders

Farming organisations

The FTA is generally regarded with concern by the farming sector. When the Agreement in Principle was signed, the NFU called for the Government to

²⁶² DIT, [UK-Australia Free Trade Agreement: agri-food explainer](#), 16 December 2021

²⁶³ NFU, [Written evidence to International Trade Committee](#), February 2022, paras 18-28

²⁶⁴ Minako Morita-Jaeger, [The UK-Australia FTA – Can we call it a good deal?](#), UK Trade Policy Observatory, 4 March 2022

²⁶⁵ International Agreements Committee, [UK-Australia trade negotiations](#), 13 January 2022, Q54

develop a trade strategy for agriculture to deal with the impact of trade agreements and to help farmers sell more abroad. The NFU said:

As a matter of urgency, it is critical the government showcases its plan to ensure its own domestic farming industry is not damaged by current or future trade deals, to seize the opportunities from our new independent trade policy, and to ensure trade deals the government negotiates do not undermine our country's own high farming standards and do not reward and incentivise lower standards overseas.²⁶⁶

The NFU also warned then that the agreement could have a “significant” impact on UK farming, with livestock and sugar particularly affected.²⁶⁷

Reacting to the final FTA in December 2021, the NFU President noted “there appears to be very little in here that benefits UK farmers” and “there is much to please our Australian counterparts who have successfully negotiated huge wins for their highly proficient agri-food exporters”.²⁶⁸ Furthermore, farming organisations are concerned that this agreement could set a precedent for future trade agreements such as those with CPTPP, Canada, the US, India and the major agricultural producers in South America.²⁶⁹ Overall, the NFU called on the Government to engage more with the industry to improve productivity to allow it to operate in the new, more competitive, trading environment. Without this, it would “be challenging for UK farm businesses to compete with Australia either at home or abroad.”²⁷⁰

More detail on the farming sector's key concerns are set out below.

Costs of production are lower in Australia

The Government's Impact Assessment describes Australia as “a large and globally competitive exporter of beef and sheepmeat”.²⁷¹

The NFU has pointed out that UK farmers face higher costs of production than those in Australia. Production costs of Australian beef farmers are around 2.5 times lower than those for UK farmers. For sheep meat, Australian costs are 65% lower. Australian agriculture can take advantage of economies of scale. The climate means that animals can be kept outside for longer, also reducing costs.²⁷²

Submissions to the Environment, Food and Rural Affairs (EFRA) Committee's [inquiry Australia FTA: food and agriculture](#) from a number of key stakeholders (including the NFU, the Farmers Union of Wales, HCC-Meat Promotion Wales and the National Beef Association) raise issues regarding typically lower

²⁶⁶ NFU, [NFU urges government to provide strategy on trade and exports](#), 21 June 2021

²⁶⁷ NFU, [NFU responds to UK-Australia trade agreement in principle](#), 15 June 2021

²⁶⁸ NFU, Minette Batters: [The details of the UK's deal with Australia](#), 29 December 2021

²⁶⁹ NFU, [Written evidence to International Trade Committee](#), February 2022, para 61

²⁷⁰ NFU, [Written evidence to International Trade Committee](#), February 2022, para 45

²⁷¹ DIT, [UK-Australia FTA: impact assessment](#), 16 December 2021, Table 3, p30

²⁷² NFU, [Written evidence to International Trade Committee](#), February 2022, para 36

costs of beef production in Australia and potential advantages gained through economies of scale.²⁷³

Australian goods are produced to different animal welfare, environmental and food standards

The NFU said that it was concerned that imports from Australia can be produced to different environmental and animal welfare standards. The [Government's manifesto](#) said “we will not compromise on our high environmental protection, animal welfare and food standards.” However, the NFU raised questions over how this commitment would be met when the UK market is being opened up to imports produced to different standards.²⁷⁴ In evidence to the International Trade Committee, the NFU said:

The terms of the agreement do not create a level playing field in either animal welfare or environmental standards. The starting point of each party remains unaltered by the presence of the FTA commitments. However, what is foreseen is “non-regression and non-derogation” commitments that would prevent standards going backwards in a manner that affects trade, in either party. This is fundamentally different from whether there is a level playing field at the outset.²⁷⁵

The NFU has argued that greater access to the UK market through trade agreements should be conditional on imports meeting high UK domestic productions standards, including those relating to the environment.²⁷⁶

A number of organisations including [The Humane League UK](#), The Farmers' Union of Wales and Sustain told the EFRA Committee that the lack of equivalence in standards has created an “unfair playing field” where UK producers are at a competitive disadvantage to their Australian partners.

[Meat Promotion Wales](#) said that “Australia has achieved trade liberalisation (allowing for an increase in exports to the UK) whilst farmers in the UK face increased competition in a potentially unfair playing field.”

The [National Food Strategy](#) (also known as the Dibleby review) also identified several areas in which lower animal welfare standards give Australian producers a competitive advantage over UK producers: stocking density for broiler chicken (although these have not been included in the FTA), castration, tail docking and mulesing for lambs, and welfare for animals in transport.²⁷⁷

Tariff liberalisation will have negative consequences for sensitive agricultural sectors

The NFU said it had “repeatedly raised” concerns about proposed levels of tariff liberalisation on sensitive sectors, such as beef, lamb and sugar, and

²⁷³ EFRA Committee, Australia FTA: Food and Agriculture, [written evidence](#)

²⁷⁴ NFU, [NFU responds to UK-Australia trade agreement in principle](#), 15 June 2021

²⁷⁵ NFU, [Written evidence to International Trade Committee](#), February 2022, para 63

²⁷⁶ NFU, [Written evidence to International Trade Committee](#), February 2022, para 78

²⁷⁷ [National Food Strategy: An independent review for Government](#), chapter 15, July 2021[[pdf](#)]

the subsequent impact this could have on domestic producers if they are undercut by imports.²⁷⁸

A cross-cutting set of high-level concerns with the FTA's tariff liberalisation have emerged from the National Beef Association, HCC-Meat Promotion Wales, National Sheep Association, FUW and NFU - as summarised below:

- Immediate Australian access to significant additional UK tariff free quota;
- The application of time limits on UK safeguards for sensitive products;
- UK quotas based on weight – permitting higher value cuts of meat to be prioritised for export.²⁷⁹

The NFU's written evidence to the EFRA Committee's inquiry into the trade deal explains the concerns about the use of shipped product weight. The NFU noted that this favours the imports of high value cuts, such as striploins and boneless legs of lamb and results in imbalance across the carcass:

When determining whether the existence of a progressively sizeable quota is to be considered an effective safeguard, we cannot just consider the volume of imports limited by the quota – we must also consider the value. A relatively small volume of high value imports, such as steak cuts of Australian beef entering under the TRQs has the potential to significantly disrupt domestic markets and negatively impact British beef farmers. For example, a quota usage of say 20% in Year One (i.e. 7,000 tonnes of striploins) would require the equivalent of 20% of UK prime beef kill to produce.²⁸⁰

Whisky and wine

The alcoholic beverages sector has broadly welcomed the trade deal noting that although the current tariffs on these products are low, their removal is positive for exporters.

The Wine and Spirits Trade Association told the International Trade Committee that there is more Australian wine on the UK market than from any other destination, about 250 million litres a year and 330 million bottles. Removing current tariffs will save between 6p and 9p per bottle imported to the UK. The Association considered that “more could be done” however on reducing technical barriers to trade:

The agreement in principle included some ideas around a wine and spirit annex. That did not materialise in the Australia free trade agreement,

²⁷⁸ NFU, [NFU urges government to provide strategy on trade and exports](#), 21 June 2021

²⁷⁹ TRQs in the FTA for beef and lamb are defined by ‘shipped product weight’ not ‘carcase weight equivalent’. The chosen method also sets quotas as a single product, not broken down into, for example fresh/frozen/bone in or boneless product.

²⁸⁰ National Farmers' Union, Written Submission to the Environment, Food and Rural Affairs Committee inquiry into the Australia FTA: food and farming, [AFTA 0017](#), paras 20 & 21 January 2022

although it has in the New Zealand one. I think we would accept that there was a bit of a trade-off between speed and the perfect outcome.²⁸¹

Sugar

The sugar company Tate and Lyle welcomed the agreement, although it told the International Trade Committee that it would have liked quotas and duties to have been removed “much earlier” than the eight years in the FTA. Gerard Mason from Tate and Lyle told the Committee that while EU manufacturers had “unlimited duty-free, quota free access to the UK today, [UK trade policy] prevents us, as a UK manufacturer, competing with them, by limiting where we can buy cane sugar from.” He emphasised Australian producers’ “high ethical environmental standards”. Around 40% of the sugar mills the company could buy from in Australia were independently certified to the highest standards, against an average among cane sugar producers globally of about 7%. He added that the carbon footprint, including transport, for imported Australian sugar was competitive with the best EU beet sugar producers.²⁸²

The EFRA Committee’s report on the agreement noted that the NFU, which represents domestic sugar beet growers, said the deal “increases the risk that the market is not able to deliver the returns needed to support beet growing.”²⁸³

4.5

Animal welfare and antimicrobial resistance

Provisions of the FTA

Chapter 25 of the FTA on Animal Welfare and Antimicrobial Resistance opens with a statement setting out both parties’ position on animal welfare, including recognition of animal sentience:

The Parties recognise that animals are sentient beings. They also recognise the connection between improved welfare of farmed animals and sustainable food production systems.²⁸⁴

It goes on to set out the following provisions:

- That parties will endeavour to ensure not to weaken or reduce their level of animal welfare protection to encourage trade or investment between them.

²⁸¹ Miles Beale, Wine and Spirits Trade Association, oral evidence to the International Trade Committee inquiry UK Trade Negotiations: Agreement with Australia, 26 April 2022, HC 1002, [Q 241](#)

²⁸² Gerard Mason, Tate and Lyle Sugars Ltd, oral evidence to the International Trade Committee inquiry UK Trade Negotiations: Agreement with Australia, 26 April 2022, HC 1002, [Q224](#)

²⁸³ EFRA Committee, [Australia FTA: Food and Agriculture](#), 17 June 2022, HC 23, 2022-23, para 9

²⁸⁴ [Chapter 25: Animal Welfare and Antimicrobial Resistance](#)

- Parties will endeavour to ensure that policies encourage high levels of welfare protection and work to improve animal welfare
- Establishment of a Joint Working Group on Animal Welfare, which will meet within a year of the FTA coming into force, and regularly after that, and which will provide a forum for:
 - cooperation on initiatives of mutual interest
 - reviewing developments in animal welfare
 - promoting high animal welfare practices; and
 - information sharing.²⁸⁵

In contrast to the environment chapter, in which environmental enforcement requirements are backed by sanctions, requirements to uphold animal welfare protections in this chapter are exempted from the dispute settlement mechanism of the FTA.

Antimicrobial resistance

The animal welfare chapter also commits both parties to cooperate on combatting antimicrobial resistance (AMR). While there are no non-regression or non-derogation requirements, the Parties agree that antimicrobial resistance is “a serious global threat” and commit to “explore initiatives to promote the reduced need for...antimicrobial agents”, and to cooperate on this issue.

The [WHO has declared antimicrobial resistance](#) “one of the top 10 global public health threats facing humanity” and considers “misuse and overuse of antimicrobials are the main drivers in the development of drug-resistant pathogens”.²⁸⁶

Concerns regarding the impact of [antibiotic use in farm animals](#) arise because many of the bacteria present in animals can cause human disease, and many antibiotics important for human health are often also licensed for animals. This means antimicrobial resistance that arises in animals can be passed from animals to humans through direct contact, the food chain and the environment.²⁸⁷

Stakeholder concerns

The lack of any stronger commitments in the FTA has been criticised by stakeholders. [Evidence from the Alliance to Save Antibiotics](#) (PDF) to the International Agreements Committee raised concerns that Australian regulation of antibiotic use in farm animals is lighter than in the UK. It

²⁸⁵ [Chapter 25: Animal Welfare and Antimicrobial Resistance](#)

²⁸⁶ The WHO, [Antimicrobial resistance](#) [website visited 9 June 2022]

²⁸⁷ The Conversation, [Antibiotic resistance: how drug misuse in livestock farming is a problem for human health](#), 10 August 2020

referred to the ban of the use of antibiotics as growth promoters for farm animals in the UK compared to the voluntary ban in Australia; and the permitted use of antibiotics in farm animals in Australia that are banned or no longer licenced in the UK.²⁸⁸

[Four Paws UK](#) (PDF), an animal welfare charity, was critical of the FTA's position on AMR, it said the FTA "only creates loose commitments and cooperation rather than the strong measures we would need to see so as to safeguard public health".²⁸⁹ This is viewed as significant because [Compassion in World Farming](#) (PDF) calculated that "the misuse of antibiotics in Australian farms means use per animal is up to 16 times higher than in the UK."²⁹⁰

Animal welfare standards in UK and Australia

The FTA is drafted within the context of differing animal welfare legislation and standards in both countries set out below.

The [World Animal Protection Index](#) ranks animal welfare in countries from A-G and was most recently updated in 2020. [The UK is ranked B overall](#), and for its laws against causing animal suffering, although it is ranked D for protection of farm animals. [Australia is ranked D overall](#), C for its laws against animal suffering and E for its protection for farm animals.

However, it should be noted that the FTA has excluded eggs, pork and poultry from any reduction in tariffs, partly because of welfare standards, and therefore the focus within the context of the FTA is on welfare standards of cattle and sheep.

UK legislation and codes of practice

Animal welfare is devolved in the UK. The approach and legislation is similar in all four devolved administrations, with the following key pieces of legislation:

- The [Animal Welfare Act 2006](#) which covers England and Wales.
- The [Animal Health and Welfare \(Scotland\) Act 2006](#)
- The [Welfare of Animals Act \(Northern Ireland\) 2011](#)

The legislation applies to farm and companion animals. All make it an offence to cause unnecessary suffering to an animal in one's care by an act, or by a failure to act. It is also an offence not to take reasonable steps to

²⁸⁸ International Agreements Committee, [Alliance to Save Our Antibiotics – Written Evidence \(AUT0018\)](#), 9 October 2020

²⁸⁹ EFRA Committee, [Written Evidence submitted by Four Paws UK \(AFTA0019\)](#), 2 February 2020

²⁹⁰ EFRA Committee, [Written Evidence submitted by Compassion in World Farming \(AFTA0006\)](#), 2 February 2020

meet the needs of an animal in your care. The needs listed in legislation include the need for:

- a suitable environment
- a suitable diet
- to exhibit normal behaviour patterns
- to be protected from pain, suffering, injury and disease.

In addition to primary legislation there is a range of secondary legislation covering areas such as transport, together with Codes of Practice for specific animals, which provide guidance on complying with the legislation. It is not an offence to fail to comply with the Codes of Practice, although failure to do so could be considered evidence of failure to comply with the legislation.

Examples of regulations and Codes of Practice for England covering animal welfare include:

- [Welfare of Farmed Animals \(England\) Regulation 2007](#) and [guidance](#)
- [Codes of recommendations and animal welfare guides](#) for farmed poultry, cattle, pigs, sheep, deer and rabbits

The maximum [penalty for any offence](#) is an unlimited fine and/or a six-month prison sentence.

Australian animal welfare legislation and codes of practice

Animal welfare is devolved in Australia to State and Territory level. Each state has enacted animal welfare legislation. At national level the Government introduced a number of voluntary [National Model Codes of Practice for the Welfare of Livestock](#), which are in the process of being updated. They are being replaced by [Australian Animal Welfare Standards and Guidelines](#).

The 2020 Animal Protection Index report on Australia highlighted practices that are allowed under the Codes including sow stalls and farrowing crates and barren caged hens. It summarises the current regulation and slow rate of improvement as follows:

With regards to farm animals, the Commonwealth Government developed a series of National Model Codes of Practice for the Welfare of Livestock, providing guidance on various farming activities – from rearing to transport and slaughtering. These Model Codes cover various species – pigs, sheep, cows, poultry and goats – however, they are not legally binding. State and Territories have incorporated most these Codes into their legislation. These Codes leave wide exceptions to basic animal protections, legalising cruel practices such as the use of sow stalls and farrowing crates, piglet mutilations without anaesthesia and the confinement of egg-laying hens in cages, among others. Stunning is not required prior to slaughter.

The Commonwealth Government is aiming to replace the Model Codes with nationally agreed Australian Animal Welfare Standards and Guidelines. The

development of such Guidelines has been incredibly slow, with only four completed – for cattle, sheep, land transport, sale yard and depots – in over a decade. There has been strong concern about industry influence and conflicts of interest in the government agencies developing the rules.²⁹¹

The [Australian RSPCA highlights a number of welfare concerns](#) for farm animals in Australia. The focus of their work is on the welfare of farmed pigs, caged hens, live export of sheep and cattle, and slaughter without stunning for religious purposes.

The National Food Strategy (Dimbleby Report)

The National Food Strategy was an independent review of the UK food system commissioned by the Government and led by Henry Dimbleby. [Part Two of its report](#) noted the Conservative Party's 2019 Manifesto commitment not to compromise the UK's high standards when negotiating trade agreements.

Part One of the strategy proposed a mechanism that would allow the government to keep this promise without falling foul of the WTO's anti-protectionism rules. It suggested that the previous Trade and Agriculture Commission (TAC) should be asked to define a set of core UK standards.^{292 293}

In any future trade deals, the UK would then agree to remove import tariffs only on those products that meet these standards. The Dimbleby Part One report was followed by a report from the Trade and Agriculture Commission (TAC)²⁹⁴, which made the same recommendation. As the Part Two report notes, the TAC suggested that:

if trading partners could not demonstrate equivalence with core standards, then they would not be considered for zero tariff, zero quota access for those products to which the core standards applied." The TAC was clear that these standards should cover not just food safety but "climate change, environmental, ethical and animal welfare measures".²⁹⁵

Animal welfare stakeholder views of the FTA

[Four Paws UK](#) told the EFRA Committee inquiry, animal sentience "is yet to be formally recognised in Australian law", and therefore welcomed its recognition in the FTA provision, as did [Compassion in World Farming](#).²⁹⁶

²⁹¹ [Animal Protection Index, Australia \[website visited 7 June 2022\]](#)

²⁹² National Food Strategy Independent Review: The Plan [pdf], July 2021, p137

²⁹³ The previous TAC is the earlier non-statutory body which is separate from the new TAC referred to in section 4.2 and which advised the Government on this agreement.

²⁹⁴ This is the earlier non-statutory TAC which is separate from the new TAC referred to in section 4.2 and which advised the Government on this agreement.

²⁹⁵ [National Food Strategy Independent Review: The Plan](#), July 2021, pp137-38

²⁹⁶ Written Submission to Environment, Food and Rural Affairs Committee inquiry, Australia FTA: food and agriculture, [Four Paws UK \(AFTA0019\)](#); Submission from [Compassion in World Farming \(AFTA0006\)](#)

The [RSPCA](#) considered that the Animal Welfare chapter of the FTA is “undoubtedly far reaching and probably the best yet written into any FTA.” It welcomed the inclusion of a welfare chapter as separate to the SPS chapter.

As set out in [its strategic approach to negotiating the FTA](#), the Government stated that it would “not compromise on our high standards of food safety and animal welfare”.²⁹⁷ However, as noted by the RSPCA, the FTA does not set any conditions or require equivalence of imports based on animal welfare standards. Instead, the FTA provides for each side to maintain “its own policies and priorities” for animal welfare. The RSPCA explained that [the “absence of any equivalence language on animal welfare in the FTA means that products produced from lower standards will enter the UK market .”](#) (PDF)²⁹⁸

This is a key issue emphasised in evidence to the EFRA Committee from across the agricultural and animal welfare sector including: [BVA](#), [RSPCA](#), [The Humane League UK](#), [Sustain](#), [Compassion in World Farming](#) and [NFU](#). These groups recommend the Government should introduce animal welfare and environmental ‘core standards’ on imports. However, the Government has not required Australia to implement ‘core standards’ in exchange for tariff elimination.

Specific animal welfare issues raised by stakeholders include the following:

- **Barren feedlots for cattle:** according to the RSPCA, around one million of the Australian beef herd, 20% of the total herd, is kept on barren feedlots and shade on feedlots will not be mandatory until 2026.²⁹⁹
- **Hot branding cattle:** it is mandatory to hot brand beef cattle in two Australian States, Queensland and the Northern Territories. It became optional in Western Australia on 1 January 2002. It is [allowed in all states](#). Other methods such as tagging and freeze branding are also used. In the UK hot branding of cattle was [banned](#) in 1968 but is still allowed in horses.³⁰⁰
- **Travel times for cattle and sheep:** In the UK the legislation for maximum journey times for cattle and sheep without a break is 14 hours. The rules in Australia allow up to 48 without a break for food or water, with some caveats.
- **Mulesing of sheep:** The main animal welfare issue raised relating to sheep is mulesing, which is not a practice used in the UK. This is a procedure where flaps of skin from around a lamb’s breech and tail are cut off using sharp shears to reduce the risk of [flystrike](#). Mulesing is a

²⁹⁷ DIT, [UK-Australia free trade agreement: the UK's strategic approach](#), 17 July 2020

²⁹⁸ Written Submission to Environment, Food and Rural Affairs Committee inquiry, Australia FTA: food and agriculture, [RSPCA\(AFTA0005\)](#)

²⁹⁹ Written Submission to Environment, Food and Rural Affairs Committee inquiry, Australia FTA: food and agriculture, [RSPCA\(AFTA0005\)](#)

³⁰⁰ As above

procedure that is most often carried out on Merino sheep bred for wool. According to RSPCA Australia, which campaigns for greater use of anaesthesia and the use of alternatives strategies, this causes pain and stress to animals:

Whilst flystrike does present a serious animal welfare concern, mulesing and sheep freeze branding both cause pain and stress to sheep. In Victoria, it is a legal requirement that a person not mules a sheep unless the sheep is administered with pain relief. In all other states and territories, there is currently no mandatory requirement for producers to apply anaesthetic or pain relief during or after the procedure.³⁰¹

Trade experts' views

Some trade experts consider the FTA to have missed opportunities to make greater market access for Australian products conditional on meeting certain animal welfare standards. For example, Emily Rees, a trade strategy consultant told the Lords International Agreements Committee that:

we can talk about the missed opportunity to have put in perhaps some conditions, notably in the liberalisation of the beef and lamb segments as regards animal welfare commitments.³⁰²

She cited as an example that a ban on hot-branding of cattle could have been included.³⁰³

Trade and Agriculture Commissions conclusions

As set out in section 4.2, the TAC report's main conclusions were that the FTA did not require the UK to change its statutory protections; it partly reinforced some of the UK protections; and it did not constrain the UK Government from continuing to impose its own protections.³⁰⁴

The Commission also examined several specific animal welfare concerns and set out its conclusions in the report. On mulesing of sheep, the TAC concluded that sheep raised for meat are generally not mulesed. Imported wool is more likely to be from mulesed sheep, but wool imports from Australia (3.2% of UK total wool imports) are already zero tariff and therefore unlikely to be impacted by the FTA:

The likelihood of Australian mutton from mulesed sheep being imported into the UK under the FTA is negligible, but there is a much higher chance of imports of wool from mulesed sheep (with or without pain relief). That said, the FTA does not restrict the UK's WTO rights to prohibit imports of products from Australia produced using the practice of 'mulesing' without pain relief and may even enhance these rights. The UK is also able to raise the matter in the FTA's

³⁰¹ RSPCA Australia, [Mulesing of sheep](#) [website visited 7 June 2002]

³⁰² International Agreements Committee, [UK-Australia trade negotiations](#), 13 January 2022, Q56

³⁰³ International Agreements Committee, [UK-Australia trade negotiations](#), 13 January 2022, Q58

³⁰⁴ Independent report, [Trade and Agriculture Commission: advice to the Secretary of State for International Trade on the UK-Australia Free Trade Agreement](#), 13 April 2022

Animal Welfare Working Group. The FTA does not change the WTO legal position on labelling of ‘mulesed’ products.³⁰⁵

On transport of cattle, the TAC concluded that although longer distances were allowed for transport, in the case of cattle this was unlikely to give a cost advantage. In addition, it was of the view that UK imports were most likely to be of meat from [bos taurus](#) breeds, reared in more temperate climates and transported shorter distances. [Bos indicus](#) breeds, reared on larger farms in northern Australia, were not considered likely to be exported to the UK. It concluded:

There is a low risk that meat from stock that has travelled much longer times than would be permitted in the UK will be imported into the UK in increased quantities under the FTA.³⁰⁶

On hot branding, the TAC again concluded that the practice was in the most part restricted to *bos indicus* cattle. It would also be difficult for the UK to make a case for banning imports based on animal welfare concerns, as the practice is allowed in horses in the UK.

On imports of non-stunned meat, as export is not allowed in Australia this was not a risk:

Imports from abattoirs not using CCTV could be imported in increased quantities under the FTA; there is however no risk that meat from animals that have not been stunned will enter the UK, as such meat cannot legally be exported from Australia.³⁰⁷

On feedlots for cattle, the TAC concluded: “it is not easy to see how the UK could prohibit beef from feedlots on ‘public morals’ grounds [on WTO rules] if its own space allowance standards are lower than in Australia”. On the differences in pain relief for procedures on farm animals, it reached similar conclusions, that while there are differences the UK allows some procedures without pain relief.³⁰⁸

UK and Australian governments’ positions

The [UK Government’s Impact Assessment](#) of the FTA highlighted that a non-regression clause had been included and what this should mean for trade between the two countries:

This FTA is the first Australian FTA that has agreed a non-regression clause on animal welfare. Securing a commitment to non-regression on animal welfare standards means both countries must strive to uphold their current animal

³⁰⁵ Independent report, [Trade and Agriculture Commission: advice to the Secretary of State for International Trade on the UK-Australia Free Trade Agreement](#), 13 April 2022

³⁰⁶ As above

³⁰⁷ Independent report, [Trade and Agriculture Commission: advice to the Secretary of State for International Trade on the UK-Australia Free Trade Agreement](#), 13 April 2022

³⁰⁸ As above

welfare standards and that neither country should lower their animal welfare standards to undercut the other.³⁰⁹

The [Section 42 report](#) considers the impact of the FTA on relevant UK statutory protections. In it the UK Government again reiterates the same point:

In most cases the TAC found that there was not necessarily a general correlation between differing levels of statutory protections and either a potential increase in the volume of imports entering the UK or cost savings for Australian producers. Nevertheless, to address stakeholder concerns, the UK and Australia have agreed to strong cooperation commitments to work together on areas such as animal welfare and the environment.³¹⁰

The Scottish Government expressed its concerns about farm animal welfare in its submission to the International Agreements Committee because “difference in animal welfare standards between Scotland and Australia will place our producers at a distinct economic disadvantage”.³¹¹ In March 2022, the [Scottish Rural Affairs Secretary Mairi Gougeon wrote to the UK Government welcoming some of the animal welfare provisions](#) but stated they “fall short of the ambition demonstrated in the UK-EU Trade and Cooperation Agreement”, and expressing concerns about differing standards:

I am also concerned that the animal welfare non-regression clause does not go near far enough. Australian farmers adhere to lower animal welfare standards than their UK counterparts therefore, the non-regression clause incorporates Australia’s lower welfare standards into the agreement.³¹²

The [Welsh Government’s own assessment of the FTA](#), published in May 2022, welcomed some aspects of the animal welfare chapter but highlighted that “some of the practices [in Australia] do not align with our domestic standards or commitment to animal welfare”. It was of the view that the FTA should have included provisions “which sought binding and more ambitious commitments to improving standards of animal welfare”.³¹³

While there appears to have been little commentary in Australia on the animal welfare implications of the FTA, the Australian High Commissioner, speaking on the impact of the FTA on Northern Ireland, has rejected the suggestion that Australia had “inferior animal welfare standards” stating that:

I am emboldened to say that because the objective assessor of animal welfare standards, the World Organisation for Animal Health, carried out an independent audit or veterinary assessment of animal welfare standards in the Australian pastoral industry in 2015. It concluded that Australia met with its

³⁰⁹ DIT, [UK-Australia FTA: impact assessment](#), 16 December 2021

³¹⁰ DIT, [Report pursuant to Section 42 of the Agriculture Act 2020: UK Australia Free Trade Agreement](#), 6 June 2022

³¹¹ International Agreements Committee [Scottish Government written evidence to the International Agreements Committee \[AUT0049\]](#), 3 March 2022

³¹² [Letter from Rural Affairs Secretary Mairi Gougeon to the Minister of State for Trade Policy outlining concerns with UK Free Trade Agreements with New Zealand and Australia](#), 23 March 2022

³¹³ Welsh Government, [UK-Australia Free Trade Agreement: A Welsh Government perspective](#), 10 May 2022

highest level—level 5 of a five-level standard—of animal welfare practices in its industry. The suggestion that Australia’s animal welfare practices lead to an inferior animal welfare outcome—although they are in some respects different—is something that we reject entirely.³¹⁴

4.6 Sanitary and Phytosanitary measures

Chapter 6 of the Agreement covers Sanitary and Phytosanitary (SPS) matters. SPS chapters of an FTA concern plant, animal or human life or health regulation. They address border controls and regulatory risk assessment to ensure that agri-food products moving between Parties are safe. They also address how countries can reduce regulatory barriers and the need for border checks.

The chapter includes provisions allowing for regional differentiation in approaches, for example where diseases affect certain geographic areas only:

The Parties acknowledge that adaptation of SPS measures to recognise regional conditions, including through application of concepts such as pest or disease free areas, areas of low pest or disease prevalence, zoning, compartmentalisation, pest free places of production, and pest free production sites, is an important means of facilitating trade.³¹⁵

How does the agreement affect food and farming standards?

Food standards have been an important part of the debate about the UK’s free trade agreements.

The Government has committed to retain UK food standards under new trade deals. The SPS chapter in the FTA does not remove or reduce food standards for imports of Australian products. Bans on imports of hormone treated beef or ractopamine treated pig meat remain. As the UK Government explainer states, the SPS chapter “commits to provisions that facilitate trade whilst ensuring the protection of human, animal and plant life and health” but:

This agreement does not create any new permissions or authorisations for imports from Australia. All products imported into the UK must, as they do now, comply with our import requirements.³¹⁶

Trade experts have noted that the deal did not mean that lower standard products would be allowed into the UK. For example, Emily Rees, a trade

³¹⁴ Northern Ireland Affairs Committee, [Australia, New Zealand free trade agreements: effect on NI](#), 26 January 2022, HC 950, 2021-22, Q42

³¹⁵ [UK Australia Free Trade Agreement, Article 6.6](#), Adaption to Regional Conditions

³¹⁶ UK Government, [UK Australia Free Trade Agreement: Chapter Explainers](#), para 6.2, 16 December 2021

strategy consultant, told the Lords International Agreements Committee that the rules had not been weakened since:

No hormone-treated beef will be coming in from Australia, nor ractopamine treated pork. Nothing that was not allowed before will be allowed now.³¹⁷

The SPS rules do not cover wider food production standards, such as animal welfare issues. However, the Agreement has a separate chapter on animal welfare, discussed in the section above.

The section 42 report concluded that the FTA does not create any new permissions or authorisations for imports from Australia and that the SPS chapter does not require the UK to change existing levels of statutory protection. Furthermore, the report said that nothing in the SPS chapter restricts the right to regulate of the UK Government or the devolved administrations.³¹⁸

UK and Australian approaches to SPS standards

The UK adopts a precautionary approach to its SPS standards.³¹⁹ As the Lords International Agreements Committee explains, this approach allows restrictions to “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.”³²⁰

While Australia does integrate the precautionary principle into its [domestic legal framework](#), its approach to a number of food safety issues is less restrictive than in the UK.³²¹ It allows use of anti-microbial washes for carcasses (‘chlorinated chicken’), hormone treatment for cows and ractopamine for pigs. Australia also permits higher pesticide residue levels and has approved a greater variety of pesticides and GMOs.

UK exporters also encounter SPS barriers when trading with Australia which has what the NFU considers to be a “strict import regime” for pig meat.³²² For example, uncooked pig meat may only be imported from Canada and New Zealand and there are specific requirements for the heat treatment and deboning of pig meat. No live pig imports are allowed into Australia for example and this includes pig semen and frozen embryos. The NFU states that:

³¹⁷ International Agreements Committee, [UK-Australia trade negotiations](#), 13 January 2022, Q56

³¹⁸ DIT, [Report pursuant to Section 42 of the Agriculture Act 2020](#), June 2022, p4

³¹⁹ International Agreements Committee, [UK accession to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership \(CPTPP\): Scrutiny of the Government’s Negotiating Objectives](#), 17 November 2021, HL Paper 94, 2021-22, para 108

³²⁰ As above

³²¹ Deboarah C Peterson, [Precaution: principles and practice in Australian environmental and natural resource management](#), *The Australian Journal of Agricultural and Resource Economics*, 50, pp. 469–489 [pdf]

³²² National Farmers’ Union written evidence to Environment, Food and Rural Affairs Committee inquiry into Australia FTA: food and agriculture, [Submission AFTA 0017](#) para 6

We export high quality genetics to other countries around the world and accessing the Australian market for genetic material would be a valuable addition for UK farmers.³²³

Hormone Growth Promoters

The UK's prohibition on Hormone Growth Promoters (HGP) is identified by Meat and Livestock Australia as the most challenging regulatory barrier for export of Australian beef to the UK.³²⁴

The NFU agrees this is the “most apparent” difference between the UK and Australia's SPS regimes. The EU and UK require that Australian beef be certified under a European Union Cattle Accreditation Scheme as traceable, auditable and free from HGP. Meat and Livestock Australia states that only 10% of Australian beef is accredited.³²⁵

In a 1998 dispute, the WTO Appellate Body determined that the EU had failed to demonstrate that the use of HGP is unsafe, thus it contravenes WTO SPS requirements.³²⁶ However, despite international pressure to remove the ban, the UK Government has repeatedly given assurances that it will maintain it, including [specifically in the context of the FTA with Australia](#).

How does the SPS chapter affect trade barriers?

SPS chapters can address these types of regulatory barriers through agreement to increase regulatory cooperation, reduce conformity assessment requirements and reduce frequency of border checks. As is standard in FTAs, the chapter creates an SPS Committee as a direct channel of communication between officials to address regulatory barriers.

Basis in science

Commentators have noted that the SPS chapter does not strengthen the existing requirements for trade conducted under World Trade Organization (WTO) SPS rules. Under the WTO SPS Agreement, a country can set standards for imports to protect the health of humans and animals/plants from diseases etc based on a scientific assessment of risk. The WTO guide on Understanding the SPS Agreement notes that:

[SPS] regulations must be based on science. They should be applied only to the extent necessary to protect human, animal or plant life or health. And they should not arbitrarily or unjustifiably discriminate between countries where identical or similar conditions prevail.

Member countries are encouraged to use international standards, guidelines and recommendations where they exist. However, members may use measures which result in higher standards if there is scientific justification. They can also

³²³ National Farmers' Union written evidence to Environment, Food and Rural Affairs Committee inquiry into Australia FTA: food and agriculture, [Submission AFTA 0017](#) para 6

³²⁴ Meat and Livestock Australia, [Beef and Sheepmeat: United Kingdom](#) [Accessed 23 May 2022]

³²⁵ Meat and Livestock Australia, [Food Safety: Hormones](#) [Accessed 8 February 2022]

³²⁶ See WTO document, [Appellate Body Report, paras 195-208](#): [pdf]

set higher standards based on appropriate assessment of risks so long as the approach is consistent, not arbitrary.³²⁷

The UK Trade Policy Observatory (UK TPO) told the International Trade Committee that the FTA requires SPS measures to be based on scientific principles, taking into account assessment techniques developed by the relevant international organisations' (Article 6.5). However, the UK TPO points out that:

This contrasts to the CPTPP, which requires that measures are based on 'objective scientific evidence that is rationally related to the measures.' Thus there is no explicit reference [in the FTA] to the more restrictive precautionary approach to SPS measures currently applied by the UK, only to the more limited WTO version of the principle.³²⁸

The Trade and Agriculture Commission concluded that the wording of the FTA was unclear as to the extent to which the WTO position on the precautionary principle applied in relation to SPS.

TAC Chair Professor Bartels told the International Trade Committee, that Article 5.7 of the WTO SPS Agreement allowed a country to use SPS grounds to restrict imports where there was no clear science - but not just to "play it safe". Where evidence existed, this must be the basis for the SPS rule. He explained that the FTA:

says that SPS measures will be based on science, effectively, in accordance with relevant provisions of the [WTO] SPS agreement. We have said that it is not entirely clear whether that includes just the science-based part of the SPS agreement that I've been talking about, or whether it also includes that small exception to the science-based agreement—the precautionary principle in article 5.7. It depends a bit on how you read the provision. We don't think it's very well drafted; we think it should be drafted a little more clearly".³²⁹

The section 42 report set out the Government's view:

The Government's position is that the FTA maintains the UK's right to take provisional or precautionary measures for human and animal health purposes and does not interfere with our existing WTO rights to take such an approach.

The FTA states that SPS measures should be "based on risk assessment in accordance with Article 5 and other relevant provisions of the SPS Agreement". We are clear that this includes taking provisional measures where scientific evidence is insufficient, which is detailed in Article 5 of the SPS Agreement.³³⁰

³²⁷ World Trade Organisation, [Understanding the WTO Agreement on Sanitary and Phytosanitary Measures](#) (accessed 5 April 2022)

³²⁸ UK Trade Policy Observatory, [Written Submission to International Trade Committee inquiry into UK Trade negotiations: Agreement with Australia](#), AUS 0028

³²⁹ Professor Lorand Bartels, oral evidence to the International Trade Committee inquiry UK Trade Negotiations: Agreement with Australia, 26 April 2022, HC 1002, [Q177](#)

³³⁰ DIT, [Report pursuant to Section 42 of the Agriculture Act 2020](#), June 2022, p5

Notably, the entire SPS chapter has been exempted from dispute settlement, suggesting little appetite for either side to be challenged on its domestic SPS regulation.

Meeting SPS rules by different methods (equivalence)

The SPS chapter includes provisions on equivalence, which give each country latitude to demonstrate it meets SPS rules by methods that lead to an equivalent outcome, not necessarily using exactly the same methods:

The importing Party shall recognise the equivalence of SPS measures, even if the measures differ from its own, if the exporting Party objectively demonstrates to the importing Party that the exporting Party's measures achieve the importing Party's appropriate level of protection. The final determination of equivalence rests with the importing Party.³³¹

However, the equivalence provisions are not as strong as those established in CPTPP, for example.³³² Trade expert, David Henig said the FTA's provisions on SPS barriers to trade were "weak" as the chapter's text "barely goes beyond basic WTO norms" and there are no specific equivalence arrangements between each country's regulations.

This suggested to him there would be "little effective reduction in non-tariff barriers between the parties".³³³ There is no provision to reduce regulatory compliance requirements, unlike the [Agreement with New Zealand](#) which includes a commitment to remove approval processes for establishments and facilities, and determines that low risk food within the scope of the chapter will not require health certification except for phytosanitary purposes.

The TAC's advice noted that decisions on equivalence procedures could be made without the parliamentary scrutiny needed for a formal amendment to the FTA. In the section 42 report, the Government confirmed that were the UK and Australia to amend the FTA to include a procedure for the recognition of equivalence, this would be subject to parliamentary scrutiny under CRAG.³³⁴

UK import controls and checks

While the UK Government has committed to maintaining its ban on hormones, several groups have raised concerns about whether it is enforcing this ban, and other SPS controls, effectively.

The UK's system of SPS import controls and assurances are based on EU legislation which has been transposed post-Brexit. The list of [approved establishments](#) for export to the UK and [frequency of checks on agri-food](#)

³³¹ [UK Australia FTA, Chapter 6, Article 6.7](#), para 2

³³² The SPS chapter with Australia contains a non-binding obligation that Parties 'may...consider establishing a procedure for recognition of equivalence...' (Article 6.7). CPTPP in contrast introduces requirements for Parties to respond expeditiously to requests to determine equivalence of regulation, explain the basis of their decisions.

³³³ David Henig, [Perspectives: Details of Australia FTA speak volumes about new direction of British trade policy](#), Borderlex, 19 January 2022

³³⁴ DIT, [Report pursuant to Section 42 of the Agriculture Act 2020](#), June 2022, p5

remains the same as prior to Brexit. The UK Government has stated that it will continue to apply EU requirements which include auditing food production systems in other countries in order to ensure that trading partners can meet or exceed local import requirements, and carrying out inspection visits in foreign facilities.³³⁵ The National Beef Association and Dairy UK expressed concern to the EFRA Committee inquiry into the trade deal that SPS controls were inadequate to ensure that Australian imports comply with UK requirements.³³⁶ The NFU said that:

In the UK and Europe animals are routinely sampled for [HGP] residues, it is unclear if this happens and to what level in Australia. We expect the government to put in place a meaningful testing regime at the UK border to ensure that our strict legal requirements of having no hormone treated beef sold on the UK market is enforced.³³⁷

The Government's section 42 report said that Australia had set up a segregation system to ensure that beef exported to the UK was hormone-free and commented that the TAC "found no reason to believe the scheme is not reliable and robust."³³⁸

Further Trade and Agriculture Commission advice

The TAC includes assessments of specific SPS issues including the use or ban of hormonal growth promotants (HGPs) in cattle. The FTA does not change the WTO legal position on such a prohibition. The TAC advice notes that litigation in the WTO has led to "inconclusive results" but that:

In any event, should this be necessary, it is highly unlikely that under WTO law the UK could not adopt a labelling regime to distinguish between HGP and non-HGP products for consumers. Indeed, such schemes exist in Australia. Nor does the FTA change the UK's ability to adopt such schemes.³³⁹

On pesticides, the TAC notes that the FTA has "no effect" on the UK's existing WTO rights to regulate the import of products produced using pesticides that are harmful to UK animals, plants, or the environment. However, the TAC report notes that:

The FTA is likely to lead to increased imports of products that have been produced at lower cost by using pesticides in Australia that would not be permitted in the UK. That said, Australia is under enforceable obligations to maintain and implement certain environmental laws (at Commonwealth level), and depending on the facts, these obligations may be relevant to pesticide use

³³⁵ HM Government, [The UK assurance system for official controls in the agri-food chain](#), 20 December 2020 [pdf]

³³⁶ National Beef Association, Dairy UK, Written Submissions to Environment, Food and Rural Affairs Committee inquiry, Australia FTA: food and agriculture, submission AFTA00 and AFTA 000 respectively

³³⁷ National Farmers' Union Written Submission to Environment, Food and Rural Affairs Committee inquiry, Australia FTA: food and agriculture, [Submission AFTA0017](#) para 83

³³⁸ DIT, [Report pursuant to Section 42 of the Agriculture Act 2020](#), June 2022, p14

³³⁹ Independent report, [Trade and Agriculture Commission: advice to the Secretary of State for International Trade on the UK-Australia Free Trade Agreement](#), 13 April 2022, section IV C

in Australia, even if this does not harm UK animals, plants or the environment.³⁴⁰

On genetically modified organisms (GMOs), the TAC noted that it is currently legal to import and market GMO products, provided that they are labelled as such. It concluded that:

It is possible that GM canola oil (from rape oilseed) from Australia will be imported in increased quantities under the FTA. The other 2 crops which are produced using GMOs in Australia, cotton and safflower, will not be imported in increased quantities under the FTA. The UK's WTO rights to regulate the import of GM products remain the same under the FTA.³⁴¹

4.7

Geographical indications

Chapter 15 (Intellectual Property) contains provisions on geographical indications (GIs). GIs identify a product as coming from a particular location where the quality or reputation of the product is linked to that location. GIs therefore protect these products from imitation and allow producers to charge a premium. Examples include Cornish clotted cream and Welsh lamb.

Under the terms of the FTA, if Australia reaches agreement with another country (ie other than the UK), on protections for agri-food and spirits GIs, the UK and Australia will consult with a view to amending the FTA so that the UK receives at least as favourable treatment.³⁴² Under these circumstances, the UK will be able to provide Australia with a list of agri-food and spirits GIs for which it seeks protection.³⁴³

If Australia has not reached such an agreement within two years of the FTA coming into force, the UK and Australia will review the GI provisions in the agreement “with a view to considering further provisions governing the protection or recognition of geographical indications”.³⁴⁴

In her statement to the House of Commons on 5 January 2022, Anne-Marie Trevelyan, Secretary of State for International Trade, said the FTA “could see a wide range of iconic UK products, including Scotch whisky, Irish cream and Welsh cider, given protected geographical indication status in Australia”.³⁴⁵

In evidence to the International Trade Committee, the NFU commented that the “agreement provides no upfront legally binding commitment from Australia to protect the use of the UK's agri-food Geographical Indicators

³⁴⁰ Independent report, [Trade and Agriculture Commission: advice to the Secretary of State for International Trade on the UK-Australia Free Trade Agreement](#), 13 April 2022

³⁴¹ As above

³⁴² Article 15.32. A list of UK GIs for which the UK Government intends seek protection was set out in an exchange of [side letters](#) [pdf]. The list could be amended when this protection was sought.

³⁴³ Article 15.33

³⁴⁴ Article 15.34

³⁴⁵ [HC Deb 5 January 2022 c66](#)

(GIs)” nor a requirement for Australia to establish such a system.³⁴⁶ The NFU said it was “incredibly disappointing and a genuinely missed opportunity that the government has failed to reach an agreement with Australia on the use of GIs” and called on this to be a priority in future trade agreements.³⁴⁷

³⁴⁶ NFU, [UK trade negotiations: Agreement with Australia \(AUS0034\) Written evidence to International Trade Committee](#), February 2022, para 83

³⁴⁷ As above, para 85

5 Scrutiny by UK Parliament

5.1 Ratification: CRAG and implementing legislation

Before the FTA can be ratified and come into force, the requirements of the Constitutional Reform and Governance Act (CRAG) 2010 must be met. In addition, any legislation (primary and secondary) needed to implement the agreement must be passed.³⁴⁸ These requirements are discussed in the sections below.

The Constitutional Reform and Governance Act 2010

Parliament's formal role with respect to treaties, including trade agreements, is governed by part 2 of the [Constitutional Reform and Governance Act 2010](#) (CRAG).

This does not require Parliament's approval for the Government to ratify treaties. Instead, it gives any parliamentary objection to ratification a limited statutory effect. Under CRAG's provisions:

- The Government must lay the treaty and an Explanatory Memorandum before Parliament. [The Government did this](#) on 15 June 2022.
- The Government may not ratify the treaty for 21 'sitting days' (ie days when both Houses were sitting) after it was laid before Parliament. For the agreement with Australia, [the 21 day period expired on 20 July 2022](#).
- If, within those 21 sitting days, either House resolves that the treaty should not be ratified, by agreeing a motion on the floor of the House, the Government must lay before Parliament a statement setting out its reasons for nevertheless wanting to ratify.
- If the Commons resolves against ratifying – regardless of whether the Lords did or not – a further 21 sitting day period is triggered from when the Government's statement is laid. During this period the Government cannot ratify the treaty.

³⁴⁸ DIT, [New Bill to enable implementation of Australia and New Zealand trade deals](#), 11 May 2022

- If the Commons again resolves against ratification during this period, the process is repeated. This can continue indefinitely, in effect giving the Commons the power, in theory, to block ratification.

In practice, Parliament's power to block ratification of a treaty has never been used.

The Government has made several commitments which go beyond these statutory requirements:

- The Government said it anticipated a period of at least three months between the text of the signed agreement being published and it being laid before Parliament under CRAG. This would allow time for scrutiny by, for example, the International Trade Committee and the Trade and Agriculture Commission.³⁴⁹ In the event, around six months has elapsed between publication of the text of the agreement in December 2021 and it being laid under CRAG in June 2022.
- While there is no statutory requirement for a debate or vote on the agreement in Parliament, the Government has said it would seek to accommodate a request for a debate on the agreement from the House of Commons International Trade Committee or the House of Lords International Agreements Committee, subject to parliamentary time.³⁵⁰ This agreement was debated in the House of Lords. A Commons debate on the FTAs with Australia and New Zealand is scheduled for 14 November 2022 (see section 5.3 below).
- An “independently verified impact assessment” covering economic and environmental aspects of the agreement was published alongside the text of the agreement in December 2021.³⁵¹

Parliament cannot amend a signed agreement, it can only object to ratification of an entire treaty.

The Library briefing [How Parliament treats treaties](#) has more information on the CRAG requirements.

Legislation

Implementing trade agreements may require changes to domestic legislation. Signing and ratifying an FTA does not, of itself, change domestic law. Any legislative changes required to implement the agreement must be approved by Parliament in the usual way. Implementing legislation may be primary or secondary.

³⁴⁹ [Letter from Liz Truss to Angus Brendan MacNeil, Chair of the International Trade Committee](#), 6 July 2021

³⁵⁰ [HCWS 623 7 December 2020](#)

³⁵¹ DIT, [UK-Australia FTA: impact assessment](#), 16 December 2021

Details of legislative changes required to implement the FTA are set out in the Government's Explanatory Memorandum (section 5).³⁵² Primary legislation is required to implement procurement obligations. Primary legislation will also be required to implement changes over the lifetime of the agreement, such as when there are Machinery of Government changes.

The 2022 Queen's Speech announced a bill to ensure the UK can comply with the obligations in the FTAs with Australia and New Zealand by making the necessary changes to the UK's domestic procurement regulation.³⁵³ The Library briefing on [the Trade \(Australia and New Zealand\) Bill](#) has more details.

Secondary legislation is required to implement tariff changes and to extend UK copyright protection to Australian wired broadcasts to comply with the provisions of the Intellectual Property chapter. Changes are also required to the Immigration Rules.

There is no direct link between the implementing legislation and the CRAG process as the Library's briefing paper on treaties explains:

The long-standing practice of successive UK Governments is not to ratify a treaty unless and until it is in a position to implement that treaty in domestic law. Any implementing legislation – whether primary or secondary – that is needed to bring UK domestic law into line with the proposed new international obligations will therefore be introduced or made before ratification. However, there is no direct link in CRAG or elsewhere between treaty scrutiny and implementing legislation.

The Government can introduce or make implementing legislation at any point, before, during or after the CRAG period, and irrespective of any committee scrutiny of the treaty. Any debates on the treaty are not linked to debates on implementing legislation (primary or secondary).³⁵⁴

5.2 Scrutiny by select committees

The agreement has been scrutinised by several select committees: the International Trade Committee, the Environment, Food and Rural Affairs Committee and the Welsh Affairs Committee in the Commons and the International Agreements Committee in the Lords. Their reports are summarised below.

³⁵² DIT, [Explanatory Memorandum](#), 15 June 2022, paras 5.1 to 5.8

³⁵³ Prime Minister's Office, 10 Downing Street, [Queen's Speech 2022: background briefing notes](#), 10 May 2022. Details of the Bill are on the UK Parliament website: [Trade \(Australia and New Zealand\) Bill](#)

³⁵⁴ [How Parliament treats treaties](#), Commons Library briefing CBP-9247, p38 (see also section 3.2)

International Trade Committee

The International Trade Committee published two reports. The first was a short report focused on the arrangements for scrutiny of the agreement and was critical of the Government's approach. The second longer report was on the substance of the agreement.

Report on scrutiny arrangements

On 29 June 2022, the ITC published a short report which was highly critical of the Government's approach to parliamentary scrutiny of the FTA.³⁵⁵ The Committee said that its scrutiny of the agreement had been hindered by the Government's failure to provide timely responses to its requests and the failure of Ministers to give timely evidence. As a result, the Committee had been unable to conclude its report before the statutory scrutiny period was triggered under CRAG. The report said:

By failing to keep its commitment to allow us enough time to conclude our scrutiny in full, including reflecting its own position in our report, before triggering the statutory scrutiny period the Government has undermined that statutory process and shown great discourtesy to Parliament.³⁵⁶

The Committee said the Government had not acted in good faith and had displayed a "high-handed" attitude.³⁵⁷

The Committee recommended there should be a debate in the House of Commons on the agreement. While the Committee was endeavouring to complete its full report as soon as possible, as CRAG had been triggered, there would be little time until the end of the 21 day scrutiny period. The Committee therefore recommended that the Government use the powers under CRAG to extend the scrutiny period to after the summer recess.³⁵⁸

The Liaison Committee also wrote to the Prime Minister asking for the CRAG period to be extended.³⁵⁹

Despite these requests, the Government did not extend the CRAG period.³⁶⁰

The [Government's response to this report](#) was published on 29 September 2022.³⁶¹

³⁵⁵ International Trade Committee, [UK trade negotiations: Scrutiny of Agreement with Australia](#), 29 June 2022, HC 444, 2022-23

³⁵⁶ As above, para 18

³⁵⁷ As above, para 21

³⁵⁸ [Section 21 of CRAG](#) allows a Minister to extend the scrutiny period by up to 21 sitting days.

³⁵⁹ [Australia/UK trade agreement: Liaison Committee writes to Prime Minister seeking extension to period allowed for parliamentary scrutiny](#), 1 July 2022

³⁶⁰ International Trade Committee, [UK trade negotiations: Agreement with Australia](#), 6 July 2022, HC 117, 2022-23, Q251

³⁶¹ International Trade Committee, [UK trade negotiations: Scrutiny of Agreement with Australia and Agreement with Australia: Government Response to the Committee's First and Second Reports](#), 29 September 2022, HC 704, 2022-23

Report on the FTA

The Committee's second report focused more on the substance of the agreement.³⁶² It did, nevertheless, reiterate criticisms about the Government's approach to parliamentary scrutiny, noting that the Government had triggered the CRAG period before the Committee had published its report. The Committee also noted that it had been obliged to publish the report before the Secretary of State had given evidence. The Secretary of State had cancelled an appearance in front of the Committee on 29 June and did not give evidence until 6 July.

The Committee called on the Government to publish a trade strategy and explain how each trade negotiation would fit in with this strategy.

The Committee described the liberalisation of trade in unprocessed agri-food as a "significant step" and noted the concerns of UK agri-food producers about the adequacy of transitional safeguards. The report expressed disappointment that the liberalisation of agri-food imports was not made conditional on their meeting core standards. The report called on the Government to explain how it would monitor unfair competition for UK farmers and how it would mitigate adverse consequences.

The report welcomed the fact that the agreement did not change UK SPS protections, including the ban on importing hormone-treated beef. The Committee also noted that the Government had failed to secure concessions on the protection of UK geographical indications in Australia.

The Committee welcomed certain aspects of the agreement, including those relating to trade in services, mutual recognition of professional qualifications, government procurement and digital trade.

The Committee said that the interaction of the Northern Ireland Protocol with the FTA was "complicated and opaque". It called on the Government to say what it would do to help those affected. It also called on the Government to involve Parliament and the Northern Ireland Executive where the agreement will operate differently in Northern Ireland compared to the rest of the UK.

The report called for improvements to Impact Assessments in areas including the environmental impact of agreements and the effects on the nations and regions of the UK.

The Committee said the Government should be careful about overselling the benefits of trade agreements. The Impact Assessments should contain a realistic assessment of potential winners and losers from a trade agreement.

³⁶² International Trade Committee, [UK trade negotiations: Agreement with Australia](#), 6 July 2022, HC 117, 2022-23

The [Government's response to this report](#) was published on 29 September 2022.³⁶³

International Agreements Committee

The House of Lords International Agreements Committee published a report on the agreement in June 2022.³⁶⁴

The Committee welcomed the progress made by the Government in signing new trade agreements. However, it said that prioritising the speed of negotiations may have been at the expense of securing better outcomes on, for example, geographic indications and the environment.

The Committee heard evidence welcoming aspects of the deal such as the provisions on financial and legal services and digital trade.

The Committee noted concerns of farming organisations and said it remained to be seen whether the agreement's safeguards would be adequate. The "unconditional approach" to removing tariffs could set a precedent for other agreements. The Government should take into account the cumulative effect of trade agreements on the agriculture sector. Northern Ireland, Scotland and Wales were likely to be particularly affected. Future impact assessments should provide more information on this aspect of trade agreements.

The Committee expressed concerns over the "lack of ambition" in the environment chapter. It said the Government could have pushed for stronger commitments on climate change and for an explicit reference to the Paris temperature goals.

The Committee called on the Government to do more to involve the devolved administrations, especially given the importance of agriculture in their economies.

Overall, the Committee welcomed the agreement and said it clearly brought benefits to both the UK and Australia.

The Committee said it would be important for the House of Lords to debate the agreement, not just for its own sake, but also as a forerunner of future agreements and to make sure that the Government responded to the issues raised.

Baroness Hayter, the Committee's chair, also said:

The UK-Australia free trade agreement underlines the need for the Government to publish a comprehensive trade policy, before it signs any other major trade agreement. This will enable trade policy to be understood in relation to other

³⁶³ International Trade Committee, [UK trade negotiations: Scrutiny of Agreement with Australia and Agreement with Australia: Government Response to the Committee's First and Second Reports](#), 29 September 2022, HC 704, 2022-23

³⁶⁴ International Agreement Committee, [Scrutiny of international agreements: UK-Australia free trade agreement](#), 23 June 2022, HL Paper 26, 2022-23

policy priorities and enable us to assess the impacts and trade-offs of trade liberalisation and debate Negotiating Objectives in context, assisting Parliamentary scrutiny.³⁶⁵

The [Government's response to the IAC report](#) was published on 5 September 2022.

Environment, Food and Rural Affairs Committee

The Environment, Food and Rural Affairs Committee conducted an inquiry into the [Australia FTA: Food and Agriculture](#), and published its report on 17 June 2022.³⁶⁶

The Committee concluded that, “while most sectors are forecast to benefit from the deal the Government’s own analysis predicts that the agriculture and food sectors will be worse off”. Cheap imports could undercut UK producers and undermine standards on animal health and welfare and the environment. The main findings included:

- Some witnesses said there was “unlikely to be a significant immediate impact on UK cattle and sheep farmers” as there were more lucrative markets for Australian exporters closer to home at present. However, limits on imports will be removed after 15 years and the Committee recommended that “the Government must monitor the impact on the sector and develop plans to intervene should this be necessary”.
- The meat volume limits (tariff rate quotas) were agreed based on weight, which could “risk undermining the domestic market for certain cuts by allowing Australian imports to focus on the most profitable part of the market. [The Committee] recommend that in future deals these limits are negotiated on the basis of carcass weight equivalents”.
- The Government estimated that the agriculture and food sectors would be £278 million worse off. The Committee said the Government “must aid the sector to make up any losses it suffers through additional support for exports” and “commit to increasing the value of UK food and drink export by at least £278m in its new trade strategy, through additional export promotion and tariff reduction. If necessary, it should increase its investment in export promotion to ensure it reaches this target”.
- The Committee concluded that “in practice it appears unlikely that food produced to lower animal welfare standards will enter the UK as a result of this deal”. However, the report expressed disappointment that the “deal did not go further on animal welfare and include more far-reaching

³⁶⁵ International Agreements Committee, [UK-Australia free trade agreement welcomed, but a published trade policy is needed](#), 23 June 2022

³⁶⁶ Environment, Food and Rural Affairs Committee, [Australia FTA: Food and Agriculture](#), 17 June 2022, HC 23, 2022-23

provisions that would have shown greater global leadership in this area”.

- The Committee welcomed the continuation of the ban on hormone treated beef under the deal. The report said that “the Government needs to ensure it continues to uphold this and its restrictions on antimicrobial carcass washes (chlorinated chicken) in future trade agreements. It must also set out a plan for how it will resource a verification system which ensures these bans are being enforced and to monitor animal welfare standards”.
- The Committee also recommended that future trade deals should include core standards that food products must meet before they can enter the UK. These would cover animal welfare, health and the environment. Committing to such standards would “reassure the sector about the Government’s commitments to high standards and strengthen the hand of UK negotiators when raising these issues with other countries”.
- The Committee urged the Government to learn lessons from the trade deal to improve processes for the future, including improving how it communicated with stakeholders to enable the Government to make use of their knowledge and expertise. The Government should also “properly resource the Trade and Agriculture Commission” to enable it to scrutinise future deals including the Comprehensive and Progressive Agreement for Trans-Pacific Partnership”.³⁶⁷

The [Government’s response](#) to this report was published on 12 October 2022.³⁶⁸

Welsh Affairs Committee reports

The Welsh Affairs Committee has also published two reports of relevance to the agreement: Implications of the UK-Australia FTA for Wales (August 2021)³⁶⁹ and The economic and cultural impacts of trade and environmental policy on family farms in Wales (April 2022).³⁷⁰ These are summarised in section 6.4 below.

³⁶⁷ Environment, Food and Rural Affairs Committee, [Australia FTA: Food and Agriculture](#), 17 June 2022, HC 23, 2022-23, pp3-4

³⁶⁸ Environment, Food and Rural Affairs Committee, [Australia FTA: Food and Agriculture: Government Response to the Committee’s First Report](#), 12 October 2022, HC 700

³⁶⁹ Welsh Affairs Committee, [Implications of the UK-Australia FTA for Wales](#), 4 August 2021, HC 481, 2021-22

³⁷⁰ Welsh Affairs Committee, [The economic and cultural impacts of trade and environmental policy on family farms in Wales](#), 7 April 2022, HC 607, 2021-22

5.3

Parliamentary debates

The Government made the following commitment in relation to Parliamentary debates on new free trade agreements:

Should the IAC or ITC produce a report on a new FTA and as part of this request a debate, the Government will seek to facilitate this subject to available Parliamentary time.

[...]

The Government does not envisage a new FTA proceeding to ratification without a debate first having taken place on it, should one have been requested in a timely fashion by the ITC or IAC, subject to available Parliamentary time.³⁷¹

As noted above, the International Trade Committee and the International Agreements Committee both recommended that the FTA be debated. The debate in the House of Lords took place on 11 July 2022 on a motion to “take note” of the IAC’s report.³⁷²

No debate in Commons during CRAG period

In July, the ITC asked the Secretary of State whether Government would extend the CRAG period to allow more time for Parliamentary scrutiny. The Secretary of State said that the Government would not be extending the CRAG period.³⁷³ In evidence to the ITC on 6 July, the Secretary of State said it would be good to have a debate on the agreement and that she was asking business managers for parliamentary time to be made available.³⁷⁴

Despite the ITC calling for a debate in the House of Commons, no such debate took place within the CRAG period.

The issue was raised at Business Questions on 14 July when the Government set out matters for debate in the Commons in the week commencing 18 July. This was the last week in which there could be a debate within the CRAG period which ended on 20 July. Anthony Mangnall MP, a member of the ITC, asked the Leader of the House, Mark Spencer MP, whether a debate could be scheduled:

Anthony Mangnall:

It is essential for all Members of Parliament to be able to give their views on the trade deals that we are signing, and to give our constituents a voice in this

³⁷¹ [Letter from Lord Grimstone to Baroness Hayter](#), 19 May 2022

³⁷² [HL Deb 11 July 2022 cc1278-1319](#)

³⁷³ International Trade Committee, [UK trade negotiations: Agreement with Australia](#), 6 July 2022, HC 117, 2022-23, Q251

³⁷⁴ International Trade Committee, [UK trade negotiations: Agreement with Australia](#), 6 July 2022, HC 117, 2022-23, Qq252-55

place. I know that this is ambitious, given that my right hon. Friend has already outlined next week's business, but may we please have a debate on the UK-Australia free trade agreement before we ratify it?

Mark Spencer:

The International Trade Committee had six months in which to examine the agreement before the commencement of the CRaG process. The Government's commitment to holding debates on free trade agreements during that process is subject to the timeliness of requests and the availability of parliamentary time, and my hon. Friend will doubtless appreciate that there is a wide range of competing demands on time in the Chamber before the House rises for the summer recess.³⁷⁵

On 19 July 2022, there was an Urgent Question in the House of Commons on scrutiny of the agreement.³⁷⁶

Commons debate: November 2022

A debate on the FTAs with Australia and New Zealand is scheduled to take place in the House of Commons on 14 November 2022. As noted above, the 21 day CRAG period has ended for the Australia agreement (although it does not end until 1 December 2022 for the agreement with New Zealand).

The debate on 14 November is also a general debate rather than on a substantive motion. The International Trade Committee has called for debates on free trade agreements to be on a substantive motion.³⁷⁷ The chair of the Committee wrote to the Prime Minister to express disappointment that the debate on 14 November would be a general debate rather than a substantive one.³⁷⁸

A general debate takes place on a neutrally worded motion that does not commit the House to a particular opinion or course of action. A general motion cannot be amended but there may be a vote. By contrast, a substantive motion calls for action or expresses an option. It may be amended. Amendments, if selected, and the motion, may also be voted on.³⁷⁹ As the CRAG period has ended for the FTA with Australia the distinction between a general debate and one on a substantive motion is perhaps less significant than for the agreement with New Zealand for which the CRAG period does not expire until 1 December 2022.

³⁷⁵ [HC Deb 14 July 2022 c503](#)

³⁷⁶ [HC Deb 19 July 2022 cc843-55](#)

³⁷⁷ International Trade Committee, [UK trade negotiations: Parliamentary scrutiny of free trade agreements](#), 27 October 2022, HC 815, 2022-23

³⁷⁸ [Letter from Chair of ITC to the Prime Minister](#), 3 November 2022 [pdf]

³⁷⁹ UK Parliament, [General debates](#) and [Substantive motions](#)

6 Devolution

6.1 Consultation with devolved administrations

While FTAs are negotiated by the UK Government, their implementation involves some devolved policy areas, such as agriculture. The UK Government has acknowledged this and noted the interest of devolved administrations in trade agreements.³⁸⁰

The Government said it had “created engagement structures at all levels to ensure a constructive approach to working” with the devolved administrations.³⁸¹ Details were set out in the Explanatory Memorandum and included regular meetings at Ministerial and senior official level, consultation with devolved administrations after every negotiation round and sharing the text of the agreement and impact assessment before signature.³⁸²

The devolved administrations have, however, criticised the level of engagement with the Government. The Scottish Government has said “the involvement of devolved administrations has been limited.” It noted it had received useful briefings from DIT but observed that “information is not the same as involvement.” The Scottish Government said:

we had no say in the decisions taken by the UK Government throughout the negotiations and saw no detail on key parts of the agreement, such as tariffs and tariff rate quotas (TRQs), until after they were agreed. Nor were we given the underpinning analysis or rationale behind the decisions.³⁸³

The Northern Ireland Executive said “the impact assessment was only shared the afternoon before publication, allowing no time to discuss the impacts on Northern Ireland.”³⁸⁴

The Welsh Government described engagement with the UK Government as “predominantly positive” especially in areas where the latter accepted there was interaction with devolved policy areas. The Welsh Government, did say,

³⁸⁰ DIT, [Explanatory Memorandum](#), 15 June 2022, para 11.3

³⁸¹ As above, para 11.4

³⁸² As above, paras 11.3-11.7

³⁸³ Scottish Government, [Written evidence to International Trade Committee, UK trade negotiations: Agreement with Australia](#), 17 January 2022, paras 1-2

³⁸⁴ Northern Ireland Executive, [Written evidence to International Trade Committee, UK trade negotiations: Agreement with Australia](#), January 2022, para 21

however, that engagement was more limited in areas which the UK Government regarded as reserved, such as market access.³⁸⁵

6.2 Northern Ireland

The Northern Ireland Protocol

The Protocol on Ireland/Northern Ireland is part of the UK/EU Withdrawal Agreement. Its purpose is to protect the 1998 Belfast/Good Friday Agreement “in all its dimensions”, including through measures to avoid a hard border between Northern Ireland and Ireland after the UK’s departure from the EU.

Under the terms of the Protocol, trading arrangements for the movement of goods are different in Northern Ireland compared with the rest of the UK. Various EU customs and single market rules, which no longer apply in England, Scotland and Wales, still apply to Northern Ireland. Northern Ireland’s trading arrangements under the Protocol have implications for the FTA with Australia. The interaction between the Protocol and the FTA is recognised in Article 1.2.3 of the Agreement which effectively says the Protocol takes precedence over the FTA.³⁸⁶

The Government is seeking changes to the Protocol either through negotiation with the EU or by UK legislation.³⁸⁷ This section is based on the operation of the Protocol as it currently stands.

The Government has said relatively little about the interaction of the Protocol and the FTA. The Explanatory Memorandum refers to Article 1.2.3 but does not elaborate on the implications of how the Protocol and FTA will work together.³⁸⁸ The Impact Assessment “does not explicitly take account of any impacts” arising from the Protocol.³⁸⁹ A Parliamentary Question asked the Government whether, in light of the Protocol, the FTA treated NI in the same way as the rest of the UK. The Government’s response said:

We have provided for the application of the UK-Australia Free Trade Agreement (FTA) to all four parts of the UK, which includes Northern Ireland. The FTA also takes into account the effects of the Protocol on Ireland/Northern Ireland by allowing the UK to take measures under the Protocol designed to avoid a hard border on the island of Ireland and to protect the peace process.

³⁸⁵ Welsh Government, [UK-Australia Free Trade Agreement: A Welsh Government perspective](#), 10 May 2022, p14

³⁸⁶ [Article 1.2.3](#) says “nothing in this Agreement shall preclude the United Kingdom from adopting or maintaining measures, or refraining from doing so, further to the Protocol ... provided that such measures, or the absence of such measures, are not used as a means of arbitrary or unjustified discrimination against the other Party or as a disguised restriction on trade.”

³⁸⁷ [Northern Ireland Protocol Bill](#) (see also Government Statement: [HC Deb 17 May 2022 cc545-70](#))

³⁸⁸ DIT, [Explanatory Memorandum](#), 15 June 2022, para 4.12

³⁸⁹ DIT, [UK-Australia FTA: impact assessment](#), 16 December 2021 p74

Exporters in Northern Ireland will benefit from this FTA in the same way as exporters in England, Scotland and Wales.³⁹⁰

This section considers how the Protocol affects the application of the agreement to Northern Ireland. This is a highly complex area.³⁹¹ In short, Northern Ireland exports to Australia benefit from the FTA in the same way as exports from the rest of the UK. For goods entering Northern Ireland, tariffs may not be reduced or eliminated in the same way as the rest of the UK, depending on the circumstances.

NI exports to Australia

Northern Ireland producers benefit from increased access to the Australian market in the same way as those in the rest of the UK. Article 4 of the Protocol states that Northern Ireland is part of the customs territory of the UK.

Article 4 also says “nothing ... shall prevent the United Kingdom from including Northern Ireland in the territorial scope of any agreements it may conclude with third countries [ie non-EU countries], provided that those agreements do not prejudice the application of this Protocol.”

The Protocol also expressly says “nothing in this Protocol shall prevent the United Kingdom from concluding agreements with a third country that grant goods produced in Northern Ireland preferential access to that country's market on the same terms as goods produced in other parts of the United Kingdom.”³⁹²

Goods moved from NI to the rest of the UK

Northern Ireland producers moving their goods to Great Britain will face greater competition from Australian producers who have improved access to the Great Britain market under the FTA. The Northern Ireland Executive has said that NI agricultural produce will face greater competition from Australian imports in the Great Britain market.³⁹³ Northern Ireland producers will also continue to be bound by EU regulatory standards.

Goods entering Northern Ireland directly from Australia

Under the Protocol, goods imported into Northern Ireland from outside the rest of the UK or the EU are subject to EU tariffs, if they are “at risk” of subsequently entering the EU market.³⁹⁴

³⁹⁰ [PQ HL7269 \[Trade Agreements: Australia\] 30 March 2022](#)

³⁹¹ This is a simplified discussion which does not take account of, for example, the requirements relating to commercial processing for determining “at risk” goods or goods subject to trade remedies. Neither are provisions for reimbursement or waiver of tariffs on goods entering Northern Ireland considered here.

³⁹² [Northern Ireland Protocol Article 4](#) [pdf]

³⁹³ Department for the Economy, Northern Ireland Executive, [Written evidence to International Trade Committee, UK trade negotiations: Agreement with Australia](#), January 2022, para 14

³⁹⁴ [Northern Ireland Protocol Article 5\(1\)](#) [pdf]

“At risk” goods are defined by Article 5(2) of the Protocol and the December 2020 decision of the Withdrawal Agreement Joint Committee.³⁹⁵ For goods imported into Northern Ireland from outside the rest of the UK and the EU, goods are not “at risk” if:

- The UK tariff is equal to or higher than the EU tariff or
- The importer is authorised under the UK Trader Scheme³⁹⁶, the import is for consumption in Northern Ireland and the difference between the UK tariff and the EU tariff for the good is less than three percentage points.

By cutting tariffs on Australian goods imported into the UK, the FTA makes it less likely these conditions will be met because the EU tariffs on most goods will be higher. As a result, goods are more likely to be considered “at risk” and thus more likely to pay the EU tariff. The reason for this is to ensure the Northern Ireland market is not used as backdoor entry point to the EU Single Market. For any particular good, a comparison of the applicable UK and EU tariff would have to be made.

This means Northern Ireland producers may face less import competition from Australian imports than those in the rest of the UK. But it also means Northern Ireland consumers would be less likely to see any reduction in prices.

In essence, the interaction of the Protocol and the FTA may mean that the implications of the FTA are different for Northern Ireland compared with the rest of the UK where goods are imported directly from Australia.

The EU does not currently have a free trade agreement with Australia although negotiations are in progress.³⁹⁷ The interaction between the UK-Australia FTA and the Protocol would change if the EU and Australia were to reach a trade agreement which removed tariffs on trade between them.

Goods entering Northern Ireland from Australia via Great Britain

Rather than arriving directly in Northern Ireland, imports from Australia might be shipped via Great Britain. These goods would pay any applicable UK tariff on entering Great Britain.

Australian goods which enter Northern Ireland via Great Britain may also be subject to EU tariffs unless they are considered not “at risk” of entering the EU market. They would be considered not “at risk” if either (a) the EU tariff is zero

³⁹⁵ HM Government, [Decision of the Withdrawal Agreement Joint Committee on the determination of goods not at risk](#), December 2020

³⁹⁶ Under the UK Trader Scheme, businesses register with the UK Government and authorisation is given subject to certain criteria, such as that the business has mechanisms in place to monitor and control the movement of goods. See HMRC, [Apply for authorisation for the UK Trader Scheme if you bring goods into Northern Ireland](#), 13 September 2021

³⁹⁷ European Commission, [Australia](#)

or (b) the importer is authorised under the UK Trader Scheme and the good is for consumption in Northern Ireland.

These goods would pay no further tariff when moving from Great Britain to Northern Ireland and would therefore create greater competition for Northern Ireland producers and potentially provide lower prices for consumers.³⁹⁸ For these goods, Northern Ireland producers and consumers would be in the same position as those in the rest of the UK as far as tariffs are concerned, although Northern Ireland would still be subject to EU regulatory standards.

The Northern Ireland Executive (NIE) said the interaction between the FTA and the Protocol was “complex and uncertain” in its evidence to the International Trade Committee:

Ultimately, the interaction between the provisions of UK Free Trade Agreements and Northern Ireland’s legal obligations under the Protocol are complex and create uncertainty in two key regards: firstly, the extent to which NI importers and consumers can access the full range of goods covered by the agreement, and; secondly, the effect on the competitiveness of NI suppliers within the UK. With limited success, officials continue to press their UK counterparts for greater clarity and assurances around the interaction of trade policy and the Protocol.³⁹⁹

Views of the Northern Ireland Executive on the FTA⁴⁰⁰

The Northern Ireland Executive (NIE) welcomed potential opportunities for the Northern Ireland financial and cyber security sectors through the mobility and professional services provisions of the FTA. It also believed the removal of trade barriers could boost exports in the manufacturing, machinery and transport sectors.

However, the NIE said the agreement did “not deliver on UK interests as sensitive agriculture sectors are not given sufficient protection from imports.” There were particular concerns around the impact on the beef and sheep sectors. The TRQs had been set at high levels and the safeguard mechanism had been set at too high a level to provide protection to the agriculture sector. The NIE was also concerned about the cumulative effect of the various trade deals planned by the UK Government.

Beef imports

The NIE pointed out that if increased UK imports of beef from Australia displaced imports from the EU, this would particularly affect the Republic of Ireland. Any surplus beef on the Irish market could have a negative effect on the market in Northern Ireland. The NIE expected Northern Ireland beef and

³⁹⁸ This assumes goods were in free circulation in Great Britain. See [Declaring goods you bring into Northern Ireland 'not at risk' of moving to the EU - GOV.UK \(www.gov.uk\)](#)

³⁹⁹ Department for the Economy, Northern Ireland Executive, [Written evidence to International Trade Committee, UK trade negotiations: Agreement with Australia](#), January 2022, para 23

⁴⁰⁰ This section is based on Department for the Economy, Northern Ireland Executive, [Written evidence to International Trade Committee, UK trade negotiations: Agreement with Australia, January 2022](#)

sheep meat producers to lose market share in Great Britain to Australian imports. Great Britain is an important market for Northern Ireland agri-food.

The NIE welcomed the fact that tariffs were being kept on imports of pig, poultry and egg products from Australia.

Animal welfare and antimicrobial resistance

The NIE said that while the outcome on SPS standards was satisfactory, it had concerns over animal welfare and antimicrobial resistance (AMR), citing various practices allowed in Australia but banned in the UK, such as mulesing of sheep and the use of growth hormone to increase the weight of cattle. The NIE commented that the “UK should have taken the differing animal welfare standards and approach to AMR into account in the negotiations on market access for beef, sheep and dairy products.”⁴⁰¹

The tariff regime

There were also concerns the FTA creates a divergent tariff regime between Great Britain and Northern Ireland, complicating movement of goods from Great Britain to Northern Ireland. In addition, the NIE said that differences in tariffs undermined the UK Internal Market.

Economic output

The NIE highlighted that the Government’s Impact Assessment showed a negative effect on economic output in Northern Ireland under certain assumptions. Northern Ireland was the only country or region of the UK to see a fall in output, due to its relatively large agriculture and semi-processed food sector. The agriculture and food processing sectors employ around 78,000 people in Northern Ireland and account for around 4% of its economic output.

The NIE’s submission to the International Trade Committee said:

The impact assessment is believed to accurately reflect the negative impact that will be felt in Northern Ireland from the FTA. There are concerns that given the commitment by the UK Government that trade deals must work for all parts of the UK, it did not seek a different outcome on agriculture which would have avoided a negative impact on Northern Ireland. It is worth noting that the impact assessment was only shared the afternoon before publication, allowing no time to discuss the impacts on Northern Ireland.⁴⁰²

⁴⁰¹ Department for the Economy, Northern Ireland Executive, [Written evidence to International Trade Committee, UK trade negotiations: Agreement with Australia](#), January 2022, para 12

⁴⁰² Department for the Economy, Northern Ireland Executive, [Written evidence to International Trade Committee, UK trade negotiations: Agreement with Australia](#), January 2022, para 21

6.3

Scotland

The Scottish Government has raised a number of concerns about the agreement, especially its effect on farming communities in Scotland.⁴⁰³ The effect on beef and sheep meat producers was highlighted. The Scottish Government said that the significant TRQs would not provide the necessary safeguards for domestic agricultural producers.⁴⁰⁴

Agri-food industry

Specific concerns were raised around the level of protection for the agri-food industry from the TRQs, that Australian producers were subject to lower standards and that the non-regression clause on animal welfare incorporated Australia's lower animal welfare standards into the agreement.

The Scottish Government said it expected the agreement would benefit exporters including the whisky industry but commented that it was unfortunate that a commitment on an enforceable definition for Scotch whisky in Australia had not been secured.

Environmental impact

On the environment, the Scottish Government was concerned the impact assessment referred to an increase of up to 40% in transport-related greenhouse gas emissions. The reference to the Paris Agreement was welcome but the Scottish Government wanted to see binding commitments to take steps to keep global warming to 1.5 degrees.

Turning to the Impact Assessment, the Scottish Government called on the UK Government to provide more detailed analysis of the effect of the agreement on the different nations of the UK and to provide more analysis of the short and medium term impact.

A letter from Mairi Gougeon MSP, Rural Affairs Secretary, to the UK Government summarised the Scottish Government's view as follows:

All in all, it is hugely disappointing that these first "from scratch" trade deals have compromised the interests of Scottish farmers, crofters and food producers so comprehensively and in so many different ways. These trade deals are evidentially not delivering the outcomes that people were promised if they voted to leave the EU.⁴⁰⁵

⁴⁰³ Scottish Government, [Written evidence to International Trade Committee, UK trade negotiations: Agreement with Australia](#), 17 January 2022, para 4

⁴⁰⁴ [Letter](#) from Mairi Gougeon MSP, Rural Affairs Secretary to Penny Mordaunt MP, Minister for Trade Policy, 23 March 2022

⁴⁰⁵ [Letter](#) from Mairi Gougeon MSP, Rural Affairs Secretary to Penny Mordaunt MP, Minister for Trade Policy, 23 March 2022

6.4

Wales

Welsh Government

The Welsh Government has published a report setting out its views on the agreement.⁴⁰⁶ The Welsh Government welcomed some provisions of the agreement, such as those on mobility for service providers and those recognising the importance of tackling climate change. It was, however, concerned about the impact on agriculture. The report said:

Overall the deal appears to provide opportunities for Welsh businesses in some areas, particularly around services and mobility. There are also provisions in the deal that the Welsh Government would want to see replicated in other deals. However, there are also risks, more significantly those to our agricultural producers.⁴⁰⁷

Senedd Cymru/Welsh Parliament

The Economy, Trade and Rural Affairs Committee of the Senedd Cymru/Welsh Parliament is undertaking an inquiry into the agreement.⁴⁰⁸ The Committee's findings were set out in a letter to the Welsh Government Minister for the Economy.⁴⁰⁹ The Minister replied on 9 June.⁴¹⁰

Welsh Affairs Committee reports**Implications of the UK-Australia FTA for Wales**

The Welsh Affairs Committee published a report, [Implications of the UK-Australia FTA for Wales](#), in August 2021.⁴¹¹ This was based on the June 2021 Agreement in Principle. The Committee said that the report offered “some initial conclusions and recommendations for the UK Government to consider”. The Committee noted that it would scrutinise the final text of the agreement when it was published.

⁴⁰⁶ Welsh Government, [UK-Australia Free Trade Agreement: A Welsh Government perspective](#), 10 May 2022

⁴⁰⁷ As above, para 1.16

⁴⁰⁸ Welsh Parliament, Economy, Trade and Rural Affairs Committee, [UK-Australia Free Trade Agreement](#)

⁴⁰⁹ Letter from Paul Davies MS, Chair of the Economy, Trade and Rural Affairs Committee to Vaughan Gething MS, Minister for the Economy, Welsh Government, [UK-Australia Free Trade Agreement - impact on Wales](#), 3 May 2022 [pdf]

⁴¹⁰ [Letter from Vaughan Gething MS to Paul Davies MS](#), 9 June 2022 [pdf]

⁴¹¹ Welsh Affairs Committee, [Implications of the UK-Australia FTA for Wales](#), 4 August 2021, HC 481, 2021-22

The conclusions and recommendations included the following:

- The Committee welcomed the Agreement in Principle with Australia and thought it was unlikely to have significant impact on Wales in the short term.
- The Committee acknowledged there were concerns about the agreement in the Welsh agricultural sector. The UK and Welsh Governments should work with the industry to help it succeed in a new global trading environment.
- The Welsh Government should have access to the draft treaty text before it is published. This would allow it to give feedback on regional and local impacts to inform the UK Government's impact assessment. It would also allow the Welsh Government to produce its own impact assessment.
- The UK Government should publish a Wales-specific impact assessment for free trade agreements, including that with Australia. This should include impacts by sector in Wales.
- The Committee noted the concerns of Welsh farmers about the removal of tariffs. However, the Committee thought imports of lamb and beef from Australia were unlikely to be a threat in the short term and it was by no means certain that the UK would be flooded with Australian beef and lamb in the long term.
- The Government should clarify the circumstances under which the agricultural safeguards would be applied.
- The Government should respond to the non-statutory Trade and Agriculture Commission's report.
- On establishing the statutory TAC, the Government should publish a statement setting out its role and the role it will play in assisting Parliamentary scrutiny of trade agreements.
- The TAC must have at least one member who understands and has direct experience of the agricultural and regulatory situation in Wales.
- The UK should significantly increase the number of Agriculture and Food Counsellors based overseas, particularly in the Asia-Pacific and Middle East regions.

The [Government's response to this report](#) was published on 25 November 2021.⁴¹²

⁴¹² Welsh Affairs Committee, [Implications of the UK/ Australia FTA for Wales: Government response to the Committee's Third Report of Session 2021-22](#), 25 November 2021, HC 895, 2021-22

The economic and cultural impacts of trade and environmental policy on family farms in Wales

The Welsh Affairs Committee published a report on the economic and cultural impacts of trade and environmental policy on family farms in Wales in April 2022.⁴¹³

The report noted the significant role played by agriculture in the Welsh economy with the sector employing a higher proportion of the workforce than in other parts of the UK. The report also said that livestock and dairy farming were important elements of Welsh agriculture and highlighted the fact that many farms in Wales were small and often family-run. The Committee said “this paints a picture of higher risk: a sector dependent on a narrower range of production and farms less resilient to economic shock.”⁴¹⁴

The Committee also argued the distinctive features of Welsh agriculture should be considered when the UK Government was negotiating trade agreements.⁴¹⁵ The report noted the concerns of Welsh farmers about the potential competitive threat from FTAs. It said that it was far from certain that the UK would be flooded with imports as a result of these agreements but that it was important that due consideration was given to the impact on the Welsh agricultural sector.⁴¹⁶

The Committee made a number of recommendations including that the UK Government should consider including cultural impact in the impact assessment process for trade negotiations and the TAC’s terms of reference.⁴¹⁷ The Committee noted that the UK Government had rejected its previous recommendation for a Wales-specific impact assessment for FTAs. The Committee reiterated its call for a Welsh impact assessment taking into account the distinctive characteristics of agriculture in Wales.⁴¹⁸

The Government’s response was published on 14 July 2022.⁴¹⁹

⁴¹³ Welsh Affairs Committee, [The economic and cultural impacts of trade and environmental policy on family farms in Wales](#), 7 April 2022, HC 607, 2021-22

⁴¹⁴ Welsh Affairs Committee, [The economic and cultural impacts of trade and environmental policy on family farms in Wales](#), 7 April 2022, HC 607, 2021-22, para 14

⁴¹⁵ As above para 20

⁴¹⁶ As above para 30

⁴¹⁷ As above para 19

⁴¹⁸ As above para 31

⁴¹⁹ Welsh Affairs Committee, [The economic and cultural impacts of trade and environmental policy on family farms in Wales: Government response to the Committee’s Fifth Report of Session 2021-22](#), 14 July 2022, HC 470, 2022-23

6.5

UK Government view

Announcing the deal in the House of Commons in January 2022, the Secretary of State, Anne-Marie Trevelyan, said:

The agreement that I have signed delivers for the whole of the Union. The economies of Wales, Scotland and Northern Ireland are estimated to benefit from a combined boost of £200 million, and the economic impact assessment that we have published shows that the west midlands, the north-east, the north-west, the south-east, the south-west and Wales are set to see the biggest proportional gains. The deal will benefit Scotland's financial services industry, boost innovative aerospace design and manufacture in the west midlands, provide new opportunities for Welsh fintech companies, allow Northern Ireland's manufacturers to export more competitively, and help car makers to support thousands of jobs in the north-east.⁴²⁰

⁴²⁰ [HC Deb 5 January 2022 cc64-65](#)

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