

By Dominic Webb

15 November 2021

UK-Australia free trade agreement



Summary

- 1 Background
- 2 Details of the Agreement
- 3 Reaction
- 4 Scrutiny by UK Parliament

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Contents

Summary	4
1 Background	7
1.1 Introduction	7
1.2 Statistics on UK-Australia trade	7
1.3 The Government's consultation	10
1.4 The Government's objectives	10
1.5 Economic impact	12
1.6 The progress of the negotiations	13
1.7 When will the text of the agreement be published?	13
2 Details of the Agreement	14
2.1 Outline	14
2.2 Areas covered by the Agreement in Principle	15
3 Reaction	22
3.1 Food, farming and animal welfare groups	22
3.2 Business groups	26
3.3 Devolved administrations	27
4 Scrutiny by UK Parliament	29
4.1 Introduction	29
4.2 Scrutiny by select committees	29
4.3 Ratification: The Constitutional Reform and Governance Act 2010	31
4.4 The Agriculture Act 2020	33
4.5 The Trade Act 2021 and the Trade and Agriculture Commission	34

Summary

On 15 June 2021, the [Government announced it had reached a free trade agreement with Australia](#). This is the first ‘new’ UK trade deal since Brexit; the UK’s other trade agreements have largely rolled-over previous EU deals.

The then International Trade Secretary Liz Truss [described the deal as “historic”](#) and said the “gold-standard agreement shows what the UK is capable of as a sovereign trading nation.”

The Government also believes the agreement with Australia will help its bid 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’s estimates suggest that the overall effect of the agreement on the UK economy is likely to be very small, with a projected increase of between 0.01 and 0.02% of GDP. This is partly because Australia accounts for only 1.7% of UK exports and 0.7% of imports and because tariffs on most UK-Australia trade are already low. Individual sectors of the economy may, however, be affected much more.

What is covered by the agreement?

The agreement removes tariffs on all UK goods exported to Australia and nearly all Australian exports to the UK, subject to ‘rules of origin’ which determine where the goods are deemed to come from. According to the Government, over £4 billion of UK exports will no longer be subject to tariffs.

The agreement also includes trade in services, digital trade and intellectual property. UK citizens aged under 35 will be able to travel and work in Australia more easily.

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

Currently the deal is an ‘agreement in principle’ (AIP). Some details still need to be finalised and the AIP needs to be converted into legal text. The legal text is expected to be published by the end of the year.

How is agriculture affected?

Farming groups are concerned [the deal could affect them adversely](#).

Under the AIP, full tariff and quota free access for imports from Australia will be phased in over a number of years.

Full access for beef and sheepmeat imports will not occur for 15 years. However, the amount of beef and sheepmeat allowed into the UK in the first year of the agreement is significantly larger than the volumes currently imported from Australia. Tariffs on dairy will be gradually removed over five years and on sugar over eight years.

Removal of all tariffs and quotas could lead to an increase in imports from Australia. Farming groups say the agreement is likely to set a precedent for future trade deals with major agricultural exporters and that the cumulative effect of these agreements [could have a major impact on UK agriculture](#).

Farming and animal welfare groups have raised questions about how the Government will meet its manifesto commitment not to compromise on the UK's high environmental, animal welfare and food standards while opening up the market to food produced to different standards.

How will Parliament scrutinise the agreement?

Select Committees carry out much of the detailed scrutiny. The House of Commons International Trade Committee and the House of Lords International Agreements Committee are both examining the agreement.

Parliament's statutory role in relation to trade agreements is limited. There is no requirement for a debate or vote on the agreement.

Parliament's role in ratifying trade agreements is set out in the Constitutional Reform and Governance Act (CRA) 2010. Under CRA, the Government must lay the agreement and an Explanatory Memorandum before Parliament. The Commons has the theoretical power to delay ratification indefinitely but this has never been used. Parliament has no powers to amend a signed treaty. Any changes to legislation required to implement the agreement must be passed by Parliament in the normal way.

The Government has made commitments to help parliamentary scrutiny. It will publish an independently verified impact assessment when the text of the agreement is laid before Parliament.

The Government will give the treaty text to the International Trade Committee and the International Agreements Committee confidentially before it is laid before Parliament. The Government has also said that it expects there to be a period of at least three months between publication of the treaty text and laying the treaty before Parliament under CRA. This is to give the committees more time to publish their reports. The Government said it will

seek to accommodate a request from these committees for a Parliamentary debate.

In addition, the Agriculture Act 2020 requires the Government to publish a report explaining whether certain trade agreements (including the agreement with Australia) are consistent with UK statutory protections relating to human, animal or plant life or health, animal welfare and the environment.

The Government is setting up the Trade and Agriculture Commission (TAC). When preparing the report required under the Agriculture Act, the Secretary of State must ask the TAC for advice on animal or plant life, animal welfare and the environment (ie not human life or health). The TAC was launched in October 2021 with Professor Lorand Bartels as its chair.

A separate TAC was established in 2020. Its function was to advise the government on how best to promote the interests of British farmers, food producers and consumers in future trade agreements. This earlier version of the TAC had a fixed term which ended with the [publication of a report](#) in March 2021 setting out a range of recommendations. The Government published its [response to this report](#) in October 2021.

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 that 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. In April 2021, the UK Government announced that agreement had been reached with Australia on the vast majority of areas and that the parties were aiming for an agreement in principle (AIP) by June.² On 15 June, the Government announced that an AIP had been reached.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 which are similar to the EU’s FTAs they replace.

The UK Trade Policy Observatory at Sussex University has also noted that the trade agreement with Australia is important as it forms part of the Government’s ‘Global Britain’ agenda of trade liberalisation with countries with shared values.⁴

1.2 Statistics on UK-Australia trade

In 2020:

- The UK exported £9.8 billion of goods and services to Australia and imported £4.1 billion, resulting in a trade surplus of £5.6 billion – this was composed of a surplus in goods of £1.9 billion and a surplus in services of

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

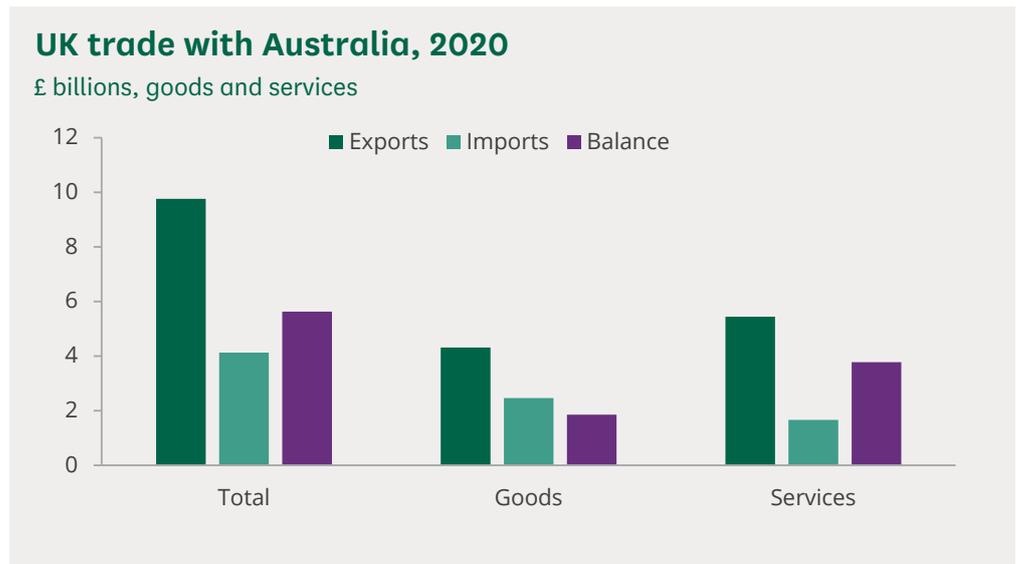
² DIT, [Joint Statement on UK-Australia trade talks](#), 23 April 2021

³ Prime Minister’s Office, [UK agrees historic trade deal with Australia](#), 15 June 2021

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

£3.8 billion. This was the UK's fourth largest trade surplus (after the US, Ireland and Switzerland).

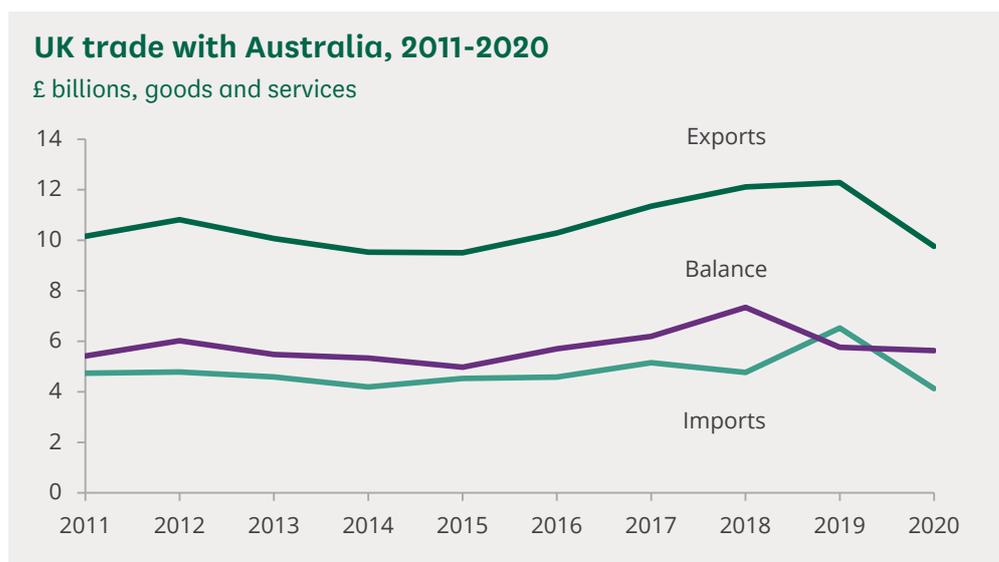
- Australia was the UK's 14th largest export market, accounting for 1.7% of UK exports of goods and services and 27th largest source of imports, accounting for 0.7% of the UK's imported goods and services.
- Australia was the UK's 7th largest non-EU export market and 14th largest source of imports from outside the EU, accounting for 2.9% of the UK's non-EU exports and 1.4% of non-EU imports.



Source: [ONS](#)

UK trade with Australia fell dramatically in 2020, owing to disruption in international trade caused by the coronavirus pandemic - in cash terms, the value of UK exports to Australia fell by 21% between 2019 and 2020, while imports from Australia fell by 37%. Over the same period, the value of all UK exports fell by 16%, while imports fell by 18%.

The UK has recorded a trade surplus with Australia in each of the last ten years, the largest being £6.2 billion in in 2017.



Source: [ONS](#)

Trade in goods

Medicinal and pharmaceutical products was the UK's largest category of goods exported to Australia in 2020, with exports of £526 million, followed by road vehicles with exports of £495 million – combined these two categories of goods made up a quarter of UK goods exports to Australia in 2020.

Top 10 UK goods exports to Australia, 2020

	£ millions	% total
Medicinal & pharmaceutical products	525.7	12.9%
Road vehicles	495.3	12.2%
Miscellaneous manufactured articles n.e.s.	376.2	9.3%
Articles of apparel & clothing accessories	330.4	8.1%
General industrial machinery & eqp.	324.8	8.0%
Machinery specialized for particular industries	207.3	5.1%
Beverages	198.5	4.9%
Electrical machinery, apparatus & appliances	163.2	4.0%
Professional, scientific & controlling ins & app n.e.s.	152.9	3.8%
Essential oils & perfume materials; toilet preps etc	105.9	2.6%

Source: HMRC, [UK Trade Info](#)

Beverages were the UK's largest category of goods imported from Australia, with imports of £296 million. This was primarily made up of imports of wine; Australia accounted for 9% of the UK's wine imports in 2020 and 23% of UK wine imports from outside the EU.

Top 10 UK goods imports from Australia, 2020

	£ millions	% total
Beverages	296.5	17.2%
Non-ferrous metals	284.6	16.5%
Miscellaneous manufactured articles n.e.s.	205.8	11.9%
Metalliferous ores & metal scrap	102.8	5.9%
Postal packages not classified according to kind	100.6	5.8%
Power generating machinery & equipment	77.1	4.5%
Medicinal & pharmaceutical products	73.0	4.2%
Coal, coke & briquettes	67.3	3.9%
Electrical machinery, apparatus & appliances	51.8	3.0%
Meat & meat preparations	50.5	2.9%

Source: HMRC, [UK Trade Info](#)

1.3 The Government's consultation

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 [UK-Australia free trade agreement: the UK's strategic approach](#) (July 2020).

1.4 The Government's objectives

The Government's detailed negotiating objectives are set out on pages 9 to 13 of [UK-Australia free trade agreement: the UK's strategic approach](#)

The overall objectives are:

- Agree an ambitious and comprehensive Free Trade Agreement (FTA) with Australia that strengthens our economic relationship with a key 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.⁵

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.”⁶
- **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 “provisions that facilitate 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.”⁷
- A range of other areas including intellectual property, investment, government procurement, sustainability, trade and development,

⁵ DIT, [UK-Australia free trade agreement: the UK’s strategic approach](#), July 2020, p9

⁶ DIT, [UK-Australia free trade agreement: the UK’s strategic approach](#), July 2020, p9

⁷ DIT, [UK-Australia free trade agreement: the UK’s strategic approach](#), July 2020, p10

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:

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.⁸

The Government has said that the FTA with Australia will boost the UK's bid to join the CPTPP.⁹

1.5 Economic impact

The Government's scoping assessment for the deal indicates that the impact on GDP is likely to be very small. The Government estimated that it could increase UK GDP in the long run by 0.01 to 0.02%.¹⁰

The scoping assessment considers two scenarios with different degrees of liberalisation. In the first, UK exports to Australia increase by 3.6% and UK imports from Australia increase by 7.4%. In the second scenario, UK exports to Australia increase by 7.3% while imports from Australia increase by 83.2%.¹¹

While the aggregate impact may be small, the effect on individual sectors may be greater. The Government's assessment suggests that UK output in the agriculture and semi-processed food sectors could fall in the more liberalised scenario.¹²

The UK Trade Policy Observatory argues that the small aggregate effect of the agreement is due to:

- The relative size of the Australian economy
- The distance between the UK and Australia

⁸ DIT, [UK-Australia free trade agreement: the UK's strategic approach](#), July 2020, p6

⁹ Prime Minister's Office, [UK agrees historic trade deal with Australia](#), 15 June 2021

¹⁰ DIT, [UK-Australia free trade agreement: the UK's strategic approach](#), July 2020, pp32-33

¹¹ DIT, [UK-Australia free trade agreement: the UK's strategic approach](#), July 2020, p32

¹² DIT, [UK-Australia free trade agreement: the UK's strategic approach](#), July 2020, pp59-60

- Existing low tariff levels for most products.¹³

It has been suggested that these low estimates of the impact on GDP could be optimistic. Trade expert David Henig has said that even the lower estimate of a 0.01% increase in GDP “is based on a reduction of barriers to trade never previously achieved in such a deal by any country.”¹⁴

The Government will publish a full impact assessment once the deal is finalised.

1.6 The progress of the negotiations

The first round of negotiations took place between 29 June and 10 July 2020.¹⁵ There were several further rounds of negotiations in 2020 and 2021. On 23 April 2021, the UK Government announced that agreement had been reached with Australia on the vast majority of issues and that the parties were aiming for an AIP by June.¹⁶ On 15 June 2021, the Government announced that AIP had been reached with Australia.¹⁷

1.7 When will the text of the agreement be published?

Liz Truss, the then Secretary of State for International Trade, said that the process of finalising the legal text of the agreement would take several months. The aim is to sign and publish the full legal text by the end of 2021, along with an impact assessment and explanatory memorandum.¹⁸

¹³ Michael Gasiorek and Guillermo Larbalestier, [UK-Australia FTA – Elbow bumps and all](#), UK Trade Policy Observatory, 16 June 2021

¹⁴ David Henig, [Australia will set the precedent for UK trade deals](#), Prospect, 21 May 2021

¹⁵ [HCWS361, 14 July 2020](#).

¹⁶ DIT, [Joint Statement on UK-Australia trade talks](#), 23 April 2021

¹⁷ Prime Minister’s Office, [UK agrees historic trade deal with Australia](#), 15 June 2021

¹⁸ [Letter from Liz Truss to Angus Brendan MacNeil, Chair of the International Trade Committee](#), 6 July 2021

2 Details of the Agreement

2.1 Outline

On 17 July 2021, the Government published two documents setting out details of the AIP:

- [UK-Australia FTA negotiations: agreement in principle](#)
- [UK-Australia FTA: agreement in principle explainer](#)

The Secretary of State also made a [statement in the House of Commons](#).

The AIP covers the following areas:

- Trade in goods
- Goods market access
- Trade remedies
- Rules of origin
- Customs procedures and trade facilitation
- Sanitary and phytosanitary (SPS) measures (animal and plant life and health; food safety)
- Animal welfare and antimicrobial resistance
- Technical barriers to trade
- Services
- Financial services
- Telecommunications
- Mobility
- Investment
- Digital trade
- Intellectual property
- Government procurement
- Competition
- State-owned enterprises and designated monopolies
- Labour
- Environment
- Small and medium-sized enterprises
- Good regulatory practices
- Trade and gender equality
- Development

- Cross-cutting issues (General Provisions and Exceptions, Initial Provisions and General Definitions, Final Provisions)
- Transparency and Anti-corruption provisions
- Dispute settlement
- Innovation

Some of the main provisions of the agreement are summarised in the sections below.

2.2 Areas covered by the Agreement in Principle

Tariffs

All tariffs on UK exports to Australia will be removed, provided rules of origin are met.¹⁹ The Secretary of State told the House of Commons that this would mean that “£4.3 billion-worth of goods exports will no longer have to pay tariffs to enter the Australian market.”²⁰

The UK will remove tariffs on the vast majority of imports from Australia, subject to rules of origin.

According to the AIP, tariffs will be removed “in accordance with the tariff elimination schedules [to be finalised]”.

Neither side will seek additional access or faster tariff reduction through the UK’s accession to CPTPP.

There will be a general safeguard mechanism for all goods to provide a safety net if industry faces serious injury from increased imports as a direct result of the agreement.

Agriculture

Introduction

The provisions of the AIP on agriculture have attracted considerable attention. As noted above, the Government’s negotiating objectives included “broad liberalisation of tariffs on a mutually beneficial basis, taking into account UK product sensitivities, in particular for UK agriculture” and “not compromising on our high environmental protection, animal welfare and food safety standards.”

¹⁹ Rules of origin effectively determine the ‘economic nationality’ of a good. They prevent goods manufactured in third countries being rerouted through either the UK or Australia to take advantage of zero tariffs.

²⁰ [HC Deb 17 June 2021 \[Free Trade Agreement Negotiations: Australia\],c452](#)

Phased removal of tariffs

Under the terms of the agreement, full tariff-free access for Australian agricultural products is phased in over a number of years. For beef and sheepmeat, some restrictions on Australian imports will be in place for 15 years while for sugar and dairy the restrictions remain for eight and five years respectively.

The Government has argued that the UK agriculture sector should use this period to increase its exports. Liz Truss told the House of Commons:

We should use this time to expand our beef and lamb exports to the CPTPP markets, which are expected to account for a quarter of global meat demand by 2030. I do not buy this defeatist narrative that British agriculture cannot compete. We have a high-quality, high-value product that people want to buy, particularly in the growing middle classes of Asia.²¹

Beef

In the first year of the agreement coming into force, Australia will have access to a tariff-free quota of 35,000 tonnes, rising to 110,000 tonnes by year 10. In years 11 to 15 after the agreement comes into force, a safeguard will be applied to beef imports exceeding a threshold rising in equal instalments to 170,000 tonnes.

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 Agricultural and Horticultural 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.”²² 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.

The UK imports around 270,000 tonnes of beef a year, mostly from the EU (and Ireland in particular). Liz Truss has pointed out that EU agricultural producers already enjoy tariff-free access to the UK market. Under the terms of the agreement, Australian farmers will have less access to the UK market than EU producers for 15 years. At International Trade Questions on 17 June 2021, Liz Truss said:

in year one, the cap on Australian beef exports to the UK will be 35,000 tonnes. We currently import 230,000 tonnes from the EU, so the cap is 15% of what we currently import from the EU. That is not the same access that the EU has; it is only 15% of the access. In fact,

²¹ [HC Deb 17 June 2021, c452](#)

²² AHDB, [Australian beef in the UK](#), 17 June 2021

Australian farmers will only have the same access as the EU in 2036.²³

Sheepmeat

In the first year of the agreement coming into force, Australia will have a duty free quota of 25,000 tonnes rising in equal instalments to 75,000 tonnes in year 10. In years 11-15 of the agreement, a product-specific safeguard will be applied on sheepmeat imports exceeding a further volume threshold rising in equal instalments to 125,000 tonnes.

Australia currently has a tariff-free quota of 15,349 tonnes for sheepmeat. The AHDB describe recent trends in UK imports of sheepmeat as follows:

Not including 2020's unusual volumes, over the past 10 years the UK has imported around 875,000 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.²⁴

Sugar

Tariffs on sugar will be removed over eight years. There will be a duty-free quota of 80,000 tonnes in year one rising in equal instalments to 220,000 tonnes in year eight.

Dairy

Tariffs on dairy will be removed in equal instalments over five years. There will be a duty-free transitional quota for cheese of 24,000 tonnes rising in equal instalments to 48,000 tonnes in year five. There will be a duty-free transitional quota for non-cheese dairy of 20,000 tonnes. There will be a further duty-free transitional quota for butter of 5,500 tonnes rising to 11,500 tonnes in year five.

Rice

There will be a permanent duty-free quota of 1,000 tonnes per year for long-grain milled rice. Tariffs will be removed when the agreement comes into force for short and medium-grain milled rice.

Other agricultural products

The UK tariff treatment of imports of pigs, poultry and eggs has not yet been decided.

²³ [HC Deb 17 June 2021 c455](#)

²⁴ AHDB, [Australian sheep meat in the UK](#), 21 June 201

Sanitary and phytosanitary (SPS) measures

Sanitary and phytosanitary (SPS) measures relate to human, animal and plant life and health.

Imports will have to comply with respective UK and Australian food safety standards as before. Imports of hormone-treated beef will still be banned in the UK. Both parties agree on their right to operate independent SPS regimes.

The AIP also refers to “recognition of the principle of equivalence of SPS measures where they achieve the other country’s appropriate level of protection” and “the importance of ensuring that respective SPS measures are based on scientific principles”.

Animal welfare and antimicrobial resistance

There will be a separate chapter in the agreement covering these issues. This will be the first time a trade agreement involving Australia has had a separate animal welfare chapter.

This chapter will include:

- measures affirming the parties’ right to regulate on animal welfare and the right of each country to set its own policies and priorities for animal welfare
- provisions committing both parties “to co-operate in relevant international fora on areas of mutual interest, including to promote development of the best possible animal welfare practices.”
- an Animal Welfare Working Group to allow ongoing cooperation and to promote high animal welfare practices
- “appropriate provisions recognising the importance of high levels of animal welfare protection and non-regression”
- provisions relating to cooperation on combatting antimicrobial resistance.

See also comments on animal welfare by the RSPCA in section 3.1 below.

Technical barriers to trade

Technical barriers to trade are regulations, standards, testing and certification procedures which could obstruct trade.

The AIP says:

Australia and the UK commit to provisions that will be aimed at ensuring that technical barriers to trade are non-discriminatory and do not create unnecessary obstacles to trade, while preserving each country’s ability to take measures to fulfil legitimate objectives, including for the protection of health, safety and the environment.

The commitments in the agreement will result in increased cooperation regarding technical regulations, standards and conformity assessments.

Services

The AIP says that the agreement will take a “highly liberal approach to trade in services”. This will include “full market access for service suppliers from the other country at central and regional level, except where specific reservations ... are noted in a schedule”. This is the negative list approach where all services are liberalised unless they are specifically excluded.

The services chapter will contain ‘MFN’ (Most Favoured Nation) provisions meaning that if either party provides more generous access to their service markets to another country, this will also be provided to the other party to this agreement.

A Government [press release](#) set out its view on how the agreement would benefit the legal profession.

There will be separate chapters on financial services and telecommunications.

Mobility

According to the Government’s Explainer, the parties “commit to new mobility arrangements, including for business travel and to work in each other’s territory, as well as for young people”.

UK and Australian nationals under 35 will be allowed to travel and work in the other country for up to three years. The requirement for UK nationals to work on Australian farms will be removed.

Investment

According to the AIP:

Investors will get fair treatment and protection from expropriation of assets, while the right of states to regulate in the public interest will be preserved. The agreement will not include an Investor-State Dispute Settlement mechanism. The deal also includes higher investment screening thresholds for UK investors in Australia, meaning fewer UK investments are subject to review by the Foreign Investment Review Board.

Digital trade

The AIP includes provisions to facilitate cross-border flows of data and avoid unjustified data localisation requirements (requirements that data must be stored or processed in a certain territory). High standards of data protection

will be maintained. There will be a commitment not to impose customs duties on electronic transactions.

Intellectual property

The agreement will cover copyright, design rights, patents, trade marks, artists' resale rights, trade secrets and test data.

On geographical indications (GIs), there will be a commitment that if Australia introduces bespoke GI schemes for spirits and agri-foods, the UK will be able to propose GIs for protection, subject to Australia's legal procedures. 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. Examples include Cornish clotted cream and Welsh lamb.²⁵

The Government says that the price paid by the NHS for medicines will not be affected by the agreement.

Labour

The Labour chapter aims to lock in "high domestic protections" for workers. The chapter will include provisions committing the parties to maintain and enforce their domestic labour standards. The agreement will recognise each country's right to regulate and establish its own standards of labour protection. All substantive commitments in the Labour chapter will replicate CPTPP provisions as far as possible, unless otherwise agreed.

Environment

This chapter will affirm commitments made under multilateral environmental agreements. It will affirm the parties' commitments to address climate change, including under the Paris Agreement.

According to the AIP, the agreement will include:

provision recognising the right to regulate of each country, based on the language used in the CPTPP environment text with the addition of a reference to climate change, that confirms the right of each country to establish its own levels of domestic environmental protection and its own priorities relating to the environment, and the right to establish, adopt or modify its environmental laws and policies accordingly

All substantive commitments in this chapter will replicate those of the CPTPP as far as possible, unless agreed otherwise by the parties.

²⁵ DEFRA, [Protect a geographical food or drink name](#), 6 January 2021

Small and medium-sized enterprises

The agreement will include a chapter on SMEs. A website will be created to help SMEs trade, invest and do business in the other party.

Trade and gender equality

The agreement will include a chapter on trade and gender equality, including measures aimed at tackling barriers faced by women in accessing the benefits of trade and investment.

Development

The agreement will include a chapter on development. According to the Government, this is the first time a bilateral trade agreement between two developed countries has included a development chapter.

Dispute settlement

The parties “commit to an effective and timely dispute settlement mechanism, that will provide a clear avenue and prompt progress to arbitration if required, boosting certainty and flexibility for Australian and UK traders.”

Innovation

This chapter is described as a “world-first” by the Government. It “will provide a mechanism for the UK and Australia to discuss the impact of innovation on trade, including regulatory approaches, commercialisation of new technologies, and supply chain resilience, and ensure that our FTA remains fit for purpose as our economies grow.”

3 Reaction

3.1 Food, farming and animal welfare groups

National Farmers' Union

The National Farmers' Union (NFU) has expressed concerns about the impact of the agreement with Australia on UK farmers. It fears that a large increase in imports from Australia, which can be produced on a much larger scale and using products banned in the UK, could undercut UK farmers.

The NFU has called on the Government to 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.²⁶

The NFU said that the agreement could have a "significant" impact on UK farming, with livestock and sugar particularly affected. The NFU noted that the trade agreement with Australia was likely to set a precedent for the UK's future trade agreements.²⁷

The NFU has raised concerns about the reductions of tariffs on imports of agricultural goods from Australia and the effectiveness of the proposed safeguards:

Looking at the recently announced UK-Australia deal, the tariff-free access being granted to Australian farmers from the outset is incredibly significant. We have repeatedly raised our concerns about this level of tariff liberalisation on sensitive sectors, such as beef, lamb and sugar, and the subsequent impact this could have on domestic producers if they are undercut by imports.

These are enormous volumes and it's not clear at all that the safeguards that have been announced will have any effect. For

²⁶ NFU, [NFU urges government to provide strategy on trade and exports](#), 21 June 2021

²⁷ NFU, [NFU responds to UK-Australia trade agreement in principle](#), 15 June 2021

example, the fifth year of the tariff safeguard on lamb would only kick in if Australian producers have already shipped over 150% of the UK's current import requirement. It's hard to know if it is British lamb producers or the carrying capacity of our docks that are really being safeguarded here.²⁸

The NFU is also 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." 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. Minette Batters, NFU President, said:

We will need to know more about any provisions on animal welfare and the environment to ensure our high standards of production are not undermined by the terms of this deal.²⁹

RSPCA

The RSPCA were also critical of the AIP, saying that it risked "imports produced to lower animal welfare standards than those permitted here". It warned that the agreement "could set a damaging precedent for agreements with other countries and threatens a race to the bottom."³⁰

The RSPCA said:

Despite the government promising in its manifesto that it would not undermine animal welfare standards post-Brexit, the 15 year phase out on tariffs on beef and lamb - seemingly without animal welfare conditions - hints it has gone back on its commitment and let down animals, the British public and farmers in its desperation to sign a major trade deal.

It called on the Government to take steps to safeguard animal welfare when the details of the agreement were finalised.

The issue of animal welfare has been raised in a number of Parliamentary Questions, for example:

Dame Diana Johnson:

To ask the Secretary of State for International Trade, what steps her Department plans to take to ensure that the UK's (a) farming standards are upheld and (b) farmers are not undercut by imports of

²⁸ NFU, [NFU urges government to provide strategy on trade and exports](#), 21 June 2021

²⁹ NFU, [NFU responds to UK-Australia trade agreement in principle](#), 15 June 2021

³⁰ RSPCA, [RSPCA warns that Australia trade deal could set a dangerous precedent on animal welfare](#), 16 June 2021

animal products produced with lower standards in Australia as part of the free trade agreement with that country.

Greg Hands:

The Department for International Trade has always been clear that this deal will not compromise the UK's high standards. Imports will still have to meet the same UK food safety and biosecurity import standards as they did before.

This deal will also not unfairly undercut UK farmers. The Government has agreed a ground-breaking non-regression clause on animal welfare, which means that neither country can lower their animal welfare standards to undercut the other. The Government has also agreed a general safeguard mechanism which will provide a safety net for industry if they face serious injury from increased imports as a direct consequence of the Free Trade Agreement.³¹

Also, in response to a series of questions from the Shadow Secretary of State for International Trade, Emily Thornberry, about whether tariff reductions would apply to Australian products using a number of practices (such as the branding of cattle with hot irons and the dehorning of cattle without pain relief), the then trade minister Greg Hands replied:

Maintaining the UK's high domestic standards and including protections for the agriculture industry is a red line in trade negotiations. The manifesto states that in trade negotiations the Government will not compromise on high environmental protection, animal welfare and food standards. Imports will continue to meet the same UK food safety and biosecurity import standards as they did before.

More than 75% of Australian beef exports, and more than 70% sheep meat in 2020 were imported to Asia-Pacific markets, where the costs of beef production can be twice as high than the UK in some markets. It is unrealistic to think large volumes of beef and sheep will be diverted to the UK from those lucrative nearby markets.

The tariff reductions secured by the UK will benefit exporters across the country. By reducing tariffs, the Government are helping our farmers and food producers capitalise on the enormous global demand for British food and drink.³²

In a debate in Westminster Hall, the Minister, Greg Hands, commented on animal welfare standards in Australia:

It is not my job to defend Australian agricultural practices, but it can put up a reasonable case. It is rated five out of five by the OIE—the

³¹ [PQ 16807 \[Trade Agreements: Australia\], 21 June 2021.](#)

³² [PQ 16813 \[Beef: Australia\], 21 June 2021.](#) See also PQs 16811, 16812, 16814-21, 21 June 2021

World Organisation for Animal Health—in terms of performance in veterinary inspections. [...] For example, the production of foie gras is allowed in the EU; Australia bans it. Australia bans the castration of meat chickens and so on, so Australia can put up a halfway reasonable case that it has good standards of animal welfare.³³

National Food Strategy (Dimbleby) Report

The National Food Strategy is 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. The report said:

In Part One of this strategy, published in July of last year, we proposed a mechanism that would allow the government to keep this promise without falling foul of the WTO’s anti-protectionism rules. We suggested that the independent Trade and Agriculture Commission should be asked to define a set of core UK standards. In any future trade deals, the UK would then agree to remove import tariffs only on those products that meet these standards.

Our report was followed by a report from the Trade and Agriculture Commission (TAC), which made the same recommendation. It 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”.

[...]

The Government is now facing the first significant test of its manifesto promise, in the form of the recently concluded trade deal with Australia. Australian farmers – although heavily regulated – are permitted to use practices that most reasonable observers would not deem to be in line with UK standards. For example, battery cages for laying hens are still legal in Australia, and cattle are held in greater densities than in the UK.

Perhaps most distressingly, the practise of “mulesing” is commonplace in Australia. This is when the skin is cut off a lamb’s rump, in two crescent-shaped flaps, to encourage large scabs to form.

[...]

³³ [HC Deb 21 July 2021 \[Trade and Agriculture Commission: Role in International Trade Deals\]](#).

When it announced the Australian deal, the Government said it would include measures to protect our standards. The deal does contain a chapter on animal welfare, which is in itself a world first, and we look forward to seeing the detail. Until we do, however, it is unclear how the government plans to maintain its commitments.³⁴

The report commented further on the UK-Australia agreement:

... the Government has still not said what standards it proposes to protect, or what mechanism it will use to defend them in trade negotiations. It has now agreed in principle a trade deal with Australia which contains no such mechanism. As things stand, this will eventually allow Australia to export unlimited quantities of meat to the UK, regardless of how it was produced. Australian standards are closer to the UK's than those of other countries, such as Brazil, and the volume of imports from Australia may not be large enough to seriously compromise the UK's attempts to protect the environment and animal welfare. But this deal sets a dangerous precedent.³⁵

The report contained a table comparing food standards with potential trade partners in 11 areas. For Australia, standards were assessed to be equal or better than the UK in one area. In four areas, standards were assessed as lower than the UK but relatively unlikely to distort competition. Australian standards were assessed as lower than the UK's and likely to be trade distorting in six areas.³⁶ These six areas were broiler chickens, beef cattle, sheep, welfare in transport, carbon emissions from beef and tree cover loss due to shifting agriculture.

The report called on the Government to draw up a set of "core standards" to be used for all trade agreements, and explain how these would be enforced.³⁷

3.2 Business groups

The CBI said that the AIP "is shaping up to support UK economic strengths at a time when free and fair trade is needed to drive the recovery." It called for "meaningful safeguards" to be put in place for industry, including agriculture and for high environmental standards.³⁸

British Chambers of Commerce said that businesses would welcome the AIP but noted that while it would bring benefits these would not offset the impact of Brexit on trade with the EU. The BCC said that business wanted more

³⁴ [National Food Strategy Independent Review: The Plan](#), July 2021, pp137-38

³⁵ [National Food Strategy Independent Review: The Plan](#), July 2021, p239

³⁶ [National Food Strategy Independent Review: The Plan](#), July 2021, p139

³⁷ [National Food Strategy Independent Review: The Plan](#), July 2021, p138

³⁸ CBI, [CBI responds to the UK-Australia trade deal](#), 15 June 2021

chance to scrutinise trade agreements and called on the Government to engage more with business.³⁹

TechUK said that the AIP had “the most advanced digital trade provisions of all the deals the UK has signed so far, opening up opportunities for our innovative businesses operating in emerging technologies, such as AI and cleantech” and welcomed the provisions on the free flow of data and the ban on data localisation.⁴⁰

3.3 Devolved administrations

While FTAs are negotiated by the UK Government, their implementation is likely to involve some devolved policy areas, such as agriculture.

Scotland’s Cabinet Secretary for Rural Affairs, Mairi Gougeon MSP, and Northern Ireland’s Agriculture Minister, Edwin Poots MLA, wrote a joint letter to Liz Truss raising concerns about the agreement.⁴¹

The Scottish Government’s concerns were set out in a May 2021 letter to Liz Truss:

... an FTA with Australia must not undercut Scotland’s world leading food standards or lead to a zero tariff / quota agreement. At a time when UK agri-food producers are facing significantly greater barriers to trade with Europe – the sector’s largest export market – it would be incomprehensible for the UK Government to sign up to a trade deal that would facilitate mass imports of Australian agri-food produced to a lesser standard. A trade deal that liberalises tariffs for Australian farmers, to put it bluntly, will put UK farmers out of business.

The Scottish Government called for tariff rate quotas to control imports from Australia in sensitive sectors, such as beef and sheepmeat, and for these quotas to be determined in consultation with the devolved administrations.⁴²

A written statement by the Welsh Government Minister for the Economy, Vaughan Gething MS, said they were yet to see the “exact details” of the agreement:

However, the Welsh Government have been clear throughout the negotiations that any trade deal must not disadvantage Welsh producers or compromise the high quality standards that are so important to us in Wales. We have also raised some concerns with UK Government, particularly around the need to ensure that our

³⁹ BCC, [BCC responds to UK-Australia announcement of Agreement in Principle on Trade](#), 15 June 2021

⁴⁰ Prime Minister’s Office, [UK agrees historic trade deal with Australia](#), 15 June 2021

⁴¹ STV, [Ministers raise concerns over post-Brexit Australia trade deal](#), 27 June 2021

⁴² Scottish Government, [UK-Australia Free Trade Agreement: letter to UK Government](#), 21 May 2021

producers are able to continue to compete on a level playing field. My officials will be seeking further information on exactly what has been agreed in these areas.⁴³

The Welsh Government will scrutinise the AIP and publish a report on its potential impact on Wales.

The House of Commons Welsh Affairs Committee published a report on the Agreement in Principle (see section 4.2 below).

Northern Ireland Agriculture Minister Edwin Poots said:

I have been clear in my discussions with UK Ministers that tariff free access to the UK market for Australian farm produce is a very serious threat to our farmers even if that access is phased in over a number of years. It is absolutely vital that Northern Ireland's agriculture sector is protected and the integrity of our food standards are maintained.

Consumers rightly expect high welfare standards and high quality food - that means that all imports must meet our standards. That is what they will get with locally produced and reared food.⁴⁴

⁴³ Welsh Government, Written Statement, [UK-Australia Free Trade Agreement](#), 16 June 2021

⁴⁴ Northern Ireland Department of Agriculture, Environment and Rural Affairs, [Poots concerned at Free Trade Agreement](#), 16 June 2021

4 Scrutiny by UK Parliament

4.1 Introduction

Parliament's statutory role in approving trade agreements is limited. There is no statutory provision for a vote on the agreement. Various attempts to give Parliament a greater say in trade agreements were made during the passage of the Trade Act 2021 but these were unsuccessful. Calls continue for Parliament to be given a greater role. In June 2021, a group of MPs wrote to the Secretary of State to ask "that any trade deal agreed with Australia must receive proper scrutiny and approval by parliament to assuage our concerns and the concerns of the public."⁴⁵

Parliament's formal role in ratifying treaties is governed by the Constitutional Reform and Governance Act 2010. This requires the Government to lay the text of the trade agreement before Parliament. It does not guarantee a vote or debate on the agreement. The Act gives the House of Commons a (theoretical) power to delay ratification indefinitely. There is no guarantee of a debate but the Government has said it will seek to accommodate any request for a debate from the House of Commons International Trade Committee or the House of Lords International Agreements Committee.

The Agriculture Act 2020 and the Trade Act 2021 place extra requirements on the Government in relation to provisions of trade agreements on agricultural goods. The Government is required to publish a report explaining whether the trade agreement is consistent with maintaining UK levels of statutory protection relating to human/animal/plant life or health, animal welfare and the environment.

The Government is also required by statute to ask the Trade and Agriculture Commission (TAC) for advice.⁴⁶

4.2 Scrutiny by select committees

Much of the scrutiny of trade agreements is carried out parliamentary committees. The House of Lords International Agreements Committee is

⁴⁵ Best for Britain, [MPs from all four UK nations demand Parliamentary scrutiny of Australia trade deal](#), 15 June 2021. See also, [MPs demand power to scrutinise UK's post-Brexit trade deals](#), Financial Times, 15 June 2021

⁴⁶ While this requirement, in the Trade Act 2021, is not yet in force, the Government [has said](#) that the TAC will scrutinise new free trade agreements.

currently undertaking an [inquiry on the UK's trade negotiations with Australia](#).

The House of Commons International Trade Committee also scrutinises trade agreements. This Committee [questioned Liz Truss and Vivien Life](#), the chief negotiator of the Australia FTA, on 7 July 2021.

Welsh Affairs Committee report

The Welsh Affairs Committee published a report, [Implications of the UK-Australia FTA for Wales](#), in August 2021. 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.

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 that 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 that 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 (see section 4.5 below).
- 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.

4.3

Ratification: The Constitutional Reform and Governance Act 2010

Parliament's formal role on treaties, including trade agreements, is governed by part 2 of the [Constitutional Reform and Governance Act 2010](#).

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 may not ratify the treaty for 21 'sitting days' (ie days when both Houses were sitting) after it was laid before Parliament
- 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 the instrument – 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
- 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 has said that it anticipates that there will be 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 will allow time for scrutiny by, for example, the International Trade Committee and the Trade and Agriculture Commission.⁴⁷

⁴⁷ [Letter from Liz Truss to Angus Brendan MacNeil, Chair of the International Trade Committee](#), 6 July 2021

- 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.⁴⁸ In a debate on the Trade Bill, the Minister, Lord Grimstone, said: “I would like to state from the Dispatch Box that I cannot 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 committee.”⁴⁹
- the Government will publish an “independently verified impact assessment” covering economic and environmental aspects of the agreement when the text of the agreement is laid before Parliament.⁵⁰
- DIT will provide the International Trade Committee and the International Agreements Committee with the text of the agreement before it is published.⁵¹

In its report, [Working practices: one year on](#)⁵², the IAC noted that these commitments had been “subject to frequent and iterative change”. It recommended that the various commitments the Government had made to Parliament be consolidated into a formal concordat “to demonstrate that these are requirements which are serious, certain, and concrete and should be respected by future administrations.” The IAC recommended that it and the ITC should negotiate the concordat with the Government. The IAC report contains a draft concordat. [The Chair of the ITC wrote to Anne-Marie Trevelyan](#), the Secretary of State for International Trade, to support this proposal.⁵³

Parliament cannot amend a signed agreement, it can only object to ratification of an entire treaty.

Parliament also has a role in relation to any legislation required to implement a trade agreement. Implementation may require changes to legislation. These must be passed in the usual way.

The Library briefing [How Parliament treats treaties](#) has more information.

⁴⁸ [HCWS 623 7 December 2020](#)

⁴⁹ [HL Deb 23 February 2021 c724](#)

⁵⁰ [HCWS 623 7 December 2020](#)

⁵¹ International Trade Committee [Oral evidence: UK trade negotiations](#), HC 127 Wednesday 7 July 2021, Q152. [Letter from Lord Grimstone to Lord Goldsmith](#), Chair of the International Agreements Committee, 22 July 2021

⁵² HL Paper 75, 17 September 2021

⁵³ Letter from Angus Brendan MacNeil MP to Rt Hon Anne-Marie Trevelyan MP, 28 September 2021

4.4

The Agriculture Act 2020

The Agriculture Act 2020 requires the Government to lay a report before Parliament.

[Section 42 of the Act](#) requires the Secretary of State to lay a report before Parliament explaining whether the 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 CRAG.

In preparing the report, the Secretary of State may seek advice from any person they consider to be independent and to have relevant experience. When the report is laid before Parliament, a copy must also be provided to the devolved administrations and any relevant Parliamentary Committee.

Subsection (6) says that section 42 does not apply in certain cases. These are when the trade agreement is with the EU or an EU Member State. Neither does section 42 apply when:

- The country with which the UK has negotiated the trade agreement had a trade agreement with the EU immediately before exit day, and
- Negotiations for the trade agreement are concluded by 31 December 2022.

This means that the UK’s rolled over trade agreements (with countries which had a trade agreement with the EU) are not subject to the requirements of section 42. Nor would any new trade agreements with these countries be covered by section 42, provided negotiations were concluded by the end of 2022.

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 (see section below).

The Government has confirmed, in response to a written question, that a report under section 42 on the agreement with Australia will be laid before Parliament.⁵⁴

⁵⁴ [PQ 179164 \[Trade Agreements: Australia\]. 19 April 2021.](#)

4.5

The Trade Act 2021 and the Trade and Agriculture Commission

The Trade and Agriculture Commission

The Trade and Agriculture Commission (TAC) is a new body which will help 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 will be 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. The Commission will scrutinise FTAs after they have been signed rather than during their negotiation.

An October 2021 Written Statement explained the purpose of the TAC as follows:

The new Commission will fulfil a different purpose to that of the original TAC, in line with the provisions debated and agreed by Parliament during the passage of the Trade Act 2021. The new TAC will bring together experts in a number of relevant fields such as animal and plant health, animal welfare, the environment and trade policy. It will scrutinise the UK's new Free Trade Agreements and assess whether they are consistent with the maintenance of UK levels of statutory protection in relation to: animal and plant health; animal welfare; and the environment. Its reports will be published and will make a vital contribution to Parliament's understanding of the UK's new trade agreements, helping to ensure effective scrutiny and demonstrating the Government's commitment to transparency.⁵⁵

On 7 June 2021, the Government invited expressions of interest from people interested in serving on the TAC.⁵⁶ The new TAC was [launched on 21 October 2021](#) with [Professor Lorand Bartels](#) as its chair.⁵⁷ During the summer of 2021,

⁵⁵ [HCWS338 21 October 2021](#)

⁵⁶ DIT, [TAC information pack](#), 7 June 2021

⁵⁷ In July 2021, the then Secretary of State, [Liz Truss wrote to the International Trade Committee](#) to say that an interim non-statutory body would be established in the short term to replicate the functions of the TAC. This was because DIT was considering whether it was necessary to amend the Trade Act 2021 to allow members of the TAC to be compensated for their time, as opposed to being paid expenses only. Liz Truss stressed that "the establishment of the interim body on a non-statutory basis will not undermine or change the role of the body." Penny Mordaunt, Minister of State for Trade Policy [told the ITC](#) (Q245) on 27 October 2021 that the [TAC announced on 21 October 2021](#) was the interim non-statutory body. The Minister also confirmed the Government's intention to put the body on a statutory footing as soon as possible (Q246).

the Government had been criticised for the delay in establishing the new TAC.⁵⁸

The Government has confirmed that the TAC will be in place to scrutinise the Australia free trade agreement. At International Trade questions on 10 June 2021, Liz Truss said “the Trade and Agriculture Commission will be up and running to fully scrutinise the Australia trade deal.”⁵⁹

The Trade Act: establishment of the TAC

[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 (reports relating to free trade agreements – see section 4.4 of this briefing). 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.

At the time of writing this section of the Trade Act is not yet in force (see footnote 57 above).

The Trade Act: TAC’s role in advising Secretary of State

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.

Section 42 is also amended to require the Secretary of State to review the arrangements relating to the TAC’s advice and to decide whether they should continue. This review must take place by December 2023 and at least once every three years thereafter. The Secretary of State may repeal the provisions requiring them to ask for advice from the TAC. This can be done by regulations using the affirmative resolution procedure and may not be done

⁵⁸ [Letter from Neil Parish MP, Chair of the EFRA Committee to Liz Truss, Secretary of State for International Trade](#), 15 June 2021

⁵⁹ [HC Deb 10 June 2021 c1101](#)

before the end of 2023. [Section 11 of the Trade Act](#) contains provisions on repeal of the TAC.

At the time of writing, these amendments to section 42 are not yet in force.

Previous Trade and Agriculture Commission (July 2020 to March 2021)

A previous, separate, [Trade and Agriculture Commission](#) had been set up by the Government to advise on the Government's trade policies. This body, whose remit came to an end in March 2021, published a [report setting out a number of recommendations](#). The [Government's response to the report](#) was published in October 2021. The Government had been criticised for the length of time taken to respond.^{60 61}

Westminster Hall debate, 21 July 2021

Issues relating to the TAC were raised in a [Westminster Hall debate on 21 July 2021](#) called by Neil Parish MP, Chair of the Environment, Food and Rural Affairs Committee. Mr Parish said that he was concerned about the lack of urgency from the Government in responding to the TAC's report and in establishing the new TAC.

⁶⁰ [Letter from Neil Parish MP, Chair of the EFRA Committee to Liz Truss, Secretary of State for International Trade](#), 15 June 2021

⁶¹ [UK ministers accused of 'dodging' tough trade-offs in post-Brexit trade deals](#), Financial Times, 22 July 2021

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