



HL Bill 4 of 2023–24

Trade (Comprehensive and Progressive Agreement for Trans-Pacific Partnership) Bill [HL]

Author: Sarah Tudor

Date published: 16 November 2023

On 16 July 2023, the UK government signed an accession protocol to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP). The CPTPP is a free trade agreement between 11 countries from the Asia-Pacific region and the Americas. On accession, the UK would become its 12th member: the first new member since the agreement was finalised in 2018 and the trading bloc's first European member.

The government has stated that primary legislation is required for the UK to be compliant with the CPTPP when it enters into force. The purpose of the [Trade \(Comprehensive and Progressive Agreement for Trans-Pacific Partnership\) Bill \[HL\]](#) is to implement the necessary legislation. The bill would make changes to domestic law in three areas:

- technical barriers to trade
- government procurement
- intellectual property

The bill's second reading debate is scheduled to take place in the House of Lords on 21 November 2023.



Table of Contents

1. What is the Comprehensive and Progressive Agreement for Trans-Pacific Partnership?	3
2. Why did the UK want to join the CPTPP trading bloc?	4
2.1 Measures in the UK's accession agreement to the CPTPP	6
2.2 Benefits of the agreement identified by the government ...	8
2.3 Stakeholders' and commentators' views on the UK joining the CPTPP	12
3. Why is legislation needed to implement the CPTPP?	18
3.1 Technical barriers to trade	19
3.2 Government procurement	20
3.3 Intellectual property	21
4. What are the details of the Trade (CPTPP) Bill?	22
4.1 Meaning of the CPTPP	23
4.2 Technical barriers to trade	23
4.3 Government procurement	23
4.4 Geographical indications.....	25
4.5 Performers' rights	26
4.6 Territorial extent	27

I. What is the Comprehensive and Progressive Agreement for Trans-Pacific Partnership?

The [Comprehensive and Progressive Agreement for Trans-Pacific Partnership \(CPTPP\)](#) is a free trade agreement (FTA) between Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore and Vietnam. The 11 countries signed the treaty in March 2018.¹ It entered into force for six of the countries in December 2018, and entered into force for the final nation Brunei, on 12 July 2023.

The areas covered by the treaty fall under two categories:

- **Market access:** The treaty covers both trade in goods and services. It includes provisions on preferential tariff and quota arrangements; customs, sanitary and phytosanitary measures; technical barriers to trade; financial services; and mobility and telecoms. It also liberalises visa conditions for business travellers. Each member has its own schedule of commitments. It provides for almost complete liberalisation of tariffs. However, there are some protections retained in sensitive areas, such as rice from Japan and Canada's dairy industry.²
- **Rules:** It covers rules on international investments, government procurement, intellectual property, the environment, small and medium-sized enterprises, and development.

¹ Australian Department for Foreign Affairs and Trade, '[Comprehensive and Progressive Agreement for Trans-Pacific Partnership \(CPTPP\)](#)', accessed 13 September 2023.

² Institute for Government, '[Comprehensive and Progressive Agreement for Trans-Pacific Partnership \(CPTPP\)](#)', 18 April 2023.

The treaty provides a single set of rules of origin and product-specific rules that define whether a good is ‘originating’.³ It also allows content from all CPTPP countries to be ‘cumulated’. For example, if a good must have at least 70% CPTPP content to qualify for preferential tariffs, that 70% can come from any combination of CPTPP countries.⁴

The UK formally signed its accession protocol to accede to the CPTPP (accession protocol) on 16 July 2023.⁵ On completion of the ratification and entry into force process, the UK will become the 12th party to the CPTPP. It will be the first new member since the trading bloc was established in 2018, and it will be the first European member. China, Taiwan, Costa Rica, Ecuador, Uruguay and Ukraine have formally applied to join the CPTPP.⁶ Others, including Thailand, the Republic of Korea and the Philippines, have expressed an interest in joining.

2. Why did the UK want to join the CPTPP trading bloc?

The UK government committed to acceding to the CPTPP as part of its ‘Indo-Pacific tilt policy’, as set out in its 2021 integrated review of

³ Department for Business and Trade, ‘[The accession of the United Kingdom of Great Britain and Northern Ireland to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership: Agreement summary](#)’, 17 July 2023, p 2.

⁴ Institute for Government, ‘[Comprehensive and Progressive Agreement for Trans-Pacific Partnership \(CPTPP\)](#)’, 18 April 2023.

⁵ Department for Business and Trade, ‘[The accession of the United Kingdom of Great Britain and Northern Ireland to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership: Agreement summary](#)’, 17 July 2023.

⁶ Department for Business and Trade, ‘[CPTPP: Draft explanatory memorandum](#)’, 17 July 2023, p 3.

security, defence, development and foreign policy. The 2021 review discussed the importance of the Indo-Pacific area for the UK economy, security and its “global ambition to support open societies”.⁷ This commitment was reiterated in the government’s March 2023 integrated review refresh, which stated that accession to the CPTPP was a government priority.⁸

In June 2021, the UK government published its negotiation objectives and formally launched CPTPP accession negotiations.⁹ In March 2023, the UK government announced that it had “substantially concluded negotiations”, and on 16 July 2023 it signed the final agreement in Auckland.¹⁰ The government states the agreement supports its strategy of continuing to develop the UK’s status as an independent trading nation.

The [‘Accession protocol of the United Kingdom of Great Britain and Northern Ireland to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership’](#) is the core legal text that brings the UK into the CPTPP.¹¹ It outlines the terms and conditions on which the UK is acceding to the CPTPP. Certain provisions of the CPTPP are modified for the UK. This means that the UK’s accession protocol should be read together with the full text of the CPTPP.

⁷ HM Government, [‘Global Britain in a competitive age: The integrated review of security, defence, development and foreign policy’](#), updated 2 July 2021.

⁸ HM Government, [‘Integrated review refresh 2023: Responding to a more contested and volatile world’](#), 13 March 2023, p 9.

⁹ Department for Business and Trade, [‘UK accession to CPTPP: The UK’s strategic approach’](#), 22 June 2021.

¹⁰ House of Commons; [‘Written statement: UK signs accession protocol to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership \(HCWS953\)’](#), 17 July 2023.

¹¹ Department for Business and Trade, [‘The accession of the United Kingdom of Great Britain and Northern Ireland to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership: Agreement summary’](#), 17 July 2023.

2.1 Measures in the UK's accession agreement to the CPTPP

In the impact assessment of the UK's accession to the CPTPP and the agreement summary, the government highlighted several key areas contained in the accession protocol, including:

- **Goods trade:** Reduced tariff barriers for exporters and reduced import prices. It also contains commitments on transparent and efficient customs procedures, and agreements on technical barriers to trade (TBT), such as treatment for conformity assessment bodies (CABs).
- **Services, investment and temporary entry for business persons:** Opportunities for UK service industries to expand their trading relationships with CPTPP markets. The agreement prohibits discrimination against other members' service suppliers and bans the need for UK companies to establish a regional or local office or be resident to supply services to CPTPP countries. It will also facilitate travel for UK business persons to CPTPP countries.
- **Digital trade:** Reduced digital trade barriers for remotely delivered services. Such measures include preventing the imposition of customs duties on electronic transmissions and the content within them, commitments to boost cooperation with members on digital trade issues like cybersecurity, and guarantees on paperless trading.
- **Government procurement:** Fair and non-discriminatory treatment of UK businesses when competing for government contracts of CPTPP members. The government has stated that the procurement of healthcare services by the NHS is not within scope of the UK's market access coverage.

- **Supporting free trade:** The agreement contains intellectual property protections, including provisions on copyright, trademarks, designs, enforcement, patents and geographical indications (GIs). The agreement also contains provisions to “support free and trusted cross-border data flows” and to enable “enhanced engagement” between members on other trade-related issues such as labour standards.¹²

The government states the agreement “maintains high standards” on food and drink products and the environment.¹³ It explains that all food and drink products imported into the UK would have to continue to comply with the UK’s import requirements. The government also says that on the environment, the agreement “seeks to promote high levels of environmental protection”.

On the issue of how the agreement will interact with the Windsor Framework, the government states:

We have agreed a provision which sets out how interactions between CPTPP and the Windsor Framework are governed. Its purpose is to ensure the smooth operation of the framework, the UK’s ability to function as a single customs territory, and that both the arrangements to protect the peace process and to avoid

¹² Department for Business and Trade, [‘Impact assessment of the accession of the United Kingdom of Great Britain and Northern Ireland to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership’](#), 17 July 2023, pp 3–6; and Department for Business and Trade, [‘The accession of the United Kingdom of Great Britain and Northern Ireland to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership: Agreement summary’](#), 17 July 2023.

¹³ Department for Business and Trade, [‘Impact assessment of the accession of the United Kingdom of Great Britain and Northern Ireland to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership’](#), 17 July 2023, p 5.

a hard border in Northern Ireland are recognised by CPTPP partners.¹⁴

The CPTPP also includes a series of general exceptions that allow for CPTPP parties to take measures inconsistent with the treaty.¹⁵ For example, measures can be justified on the grounds of the protection of human, plant and animal life or health or public morals, on the grounds of national security or in situations of economic difficulty.

2.2 Benefits of the agreement identified by the government

The government has said the trade deal contains some of the world's "largest and most dynamic economies". It argues the agreement will act as a "gateway" to the Indo-Pacific and Americas region and will bring new opportunities for the UK to "shap[e] the future of international trading rules".¹⁶ In the impact assessment and the agreement summary the government sets out the potential economic and strategic benefits of acceding to the CPTPP. The benefits identified include:

- **Geopolitical:** The government argues CPTPP is a "strategically important group of countries" and joining it will be a "stepping stone to integration and influence" across the entire Indo-Pacific region: joining it will help the UK "engage

¹⁴ Department for Business and Trade, '[The accession of the United Kingdom of Great Britain and Northern Ireland to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership: Agreement summary](#)', 17 July 2023, p 7.

¹⁵ Department for Business and Trade, '[CPTPP: Draft explanatory memorandum](#)', 17 July 2023, p 6.

¹⁶ House of Commons, '[Written statement: UK signs accession protocol to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership \(HCWS953\)](#)', 17 July 2023.

more deeply” with the region from both a trade and a wider foreign policy perspective.¹⁷ The government highlights that the trading bloc is expected to expand, with numerous countries seeking to join. The government argues that as the CPTPP grows, it will give more possibilities for UK businesses to benefit and will give the UK the opportunity to shape the bloc’s future development.

- **‘Gateway to growth’:** According to the impact assessment, the combined gross domestic product (GDP) of the 11 CPTPP members and the UK was around £12tn in 2022.¹⁸ It states that the wider Indo-Pacific region is expected to account for the majority (54%) of global growth between 2021 and 2050.¹⁹ Estimates calculated by the Department for Business and Trade indicate accession to the bloc could increase total trade (exports and imports) with CPTPP countries by £4.9bn (3.9%) in the long run when compared to 2040 projected levels of trade.²⁰ This increase is compared to projected levels of trade in 2040 (in 2021 prices) without the agreement.²¹ Government estimates also suggest that UK GDP could increase by the equivalent of

¹⁷ Department for Business and Trade, [‘Impact assessment of the accession of the United Kingdom of Great Britain and Northern Ireland to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership’](#), 17 July 2023, p 17.

¹⁸ As above, p 3.

¹⁹ As above, p 17.

²⁰ As above, p 6.

²¹ 2040 projections for UK total exports and imports were calculated using the methodology described in the UK government’s [‘Global trade outlook’](#) (February 2023). For bilateral trade between the UK and CPTPP in 2040, it is further assumed that both the UK and CPTPP lose market shares of partner import demand in line with their relative loss of global market shares (as projected in the ‘Global trade outlook’) (Department for Business and Trade, [‘Impact assessment of the accession of the United Kingdom of Great Britain and Northern Ireland to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership’](#), 17 July 2023, p 6).

£2.0bn in the long run.²² The impact assessment notes that estimates are subject to a high degree of uncertainty.

- **New markets for UK service providers:** The government argues that CPTPP puts the services and digital sectors at the “forefront” of its trading relationship with countries in the Asia-Pacific region.²³ It states the agreement will allow UK businesses to operate more on a par with local firms, and it will reduce red tape.
- **Data flows:** The government states that joining the CPTPP will help remove digital trade barriers. It says UK businesses will have increased certainty when operating in these markets, because they will be “safe in the knowledge that they can gather, process, and move data between the UK and other CPTPP jurisdictions without being subject to needless red tape”.²⁴ These commitments include facilitating the free flow of data between the UK and CPTPP parties, preventing data localisation requirements in CPTPP parties, and safeguarding personal information.
- **Cutting tariffs on goods exports:** The government states that over 99% of current UK goods exports to CPTPP members will be eligible for tariff-free trade.²⁵ This includes staged removals of tariffs on whisky and cars. It states that the UK also has guaranteed access to various CPTPP tariff rate quotas which will provide improved access to CPTPP

²² Department for Business and Trade, ‘[Impact assessment of the accession of the United Kingdom of Great Britain and Northern Ireland to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership](#)’, 17 July 2023, p 7.

²³ Department for Business and Trade, ‘[The accession of the United Kingdom of Great Britain and Northern Ireland to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership: Agreement summary](#)’, 17 July 2023, p 4.

²⁴ Department for Business and Trade, ‘[Impact assessment of the accession of the United Kingdom of Great Britain and Northern Ireland to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership](#)’, 17 July 2023, p 28.

²⁵ As above, p 4.

markets for UK exporters, including dairy, to Canada, Japan and Mexico.²⁶

- **Modern rules of origin:** The government argues the CPTPP rules of origin will allow UK businesses to access preferential tariffs and will offer new opportunities to diversify supply chains. The impact assessment explains that where the UK also has a bilateral FTA in place with a CPTPP partner, traders could choose which agreement they wish to trade under. It states that in some cases, exporters may find it easier to qualify for preferential tariff treatment under CPTPP compared to a bilateral FTA.²⁷ The government argues this could help support UK exporters to diversify supply chains and increase economic resilience. The government also states that CPTPP cumulation rules may encourage more trading of finished and intermediary goods across the Asia-Pacific.
- **Trade deals with new partners:** The UK currently has bilateral trade deals with nine CPTPP members. It does not have FTAs with Brunei or Malaysia. The government highlights that as part of the agreement, tariffs on UK exports of whisky and cars to Malaysia will be removed over time.
- **Improved access to imported goods:** The government states that lower tariffs on imports from CPTPP countries to the UK could mean cheaper prices for products like fruit juices from Chile and Peru, honey and chocolate from

²⁶ Department for Business and Trade, '[Impact assessment of the accession of the United Kingdom of Great Britain and Northern Ireland to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership](#)', 17 July 2023, p 25.

²⁷ As above, p 26.

Mexico and vacuum cleaners from Malaysia.²⁸ The government says that it could also lead to cheaper import prices for inputs to manufacturing, with tariffs removed on goods such as machinery and chemicals.

- **Encouraging investment:** The government states that CPTPP rules help protect UK investors from unfair or discriminatory treatment. They will also have access to a transparent dispute settlement mechanism in case the rules are broken.²⁹

2.3 Stakeholders' and commentators' views on the UK joining the CPTPP

2.3.1 Business groups' support and concerns

Business groups have generally been in favour of joining the CPTPP. Reacting to the signing of the accession protocol, the British Chambers of Commerce welcomed the new investment opportunities and said there would be particular interest in the new trading terms with Malaysia and Brunei.³⁰ It highlighted the advantages of the provisions that would reduce export and import costs and the “generous terms for data flows”. Tech UK, the digital technology trade association, also noted the CPTPP’s provisions on services and digital trade.³¹ While it acknowledged that the benefits would be “more strategic than material”, it argued that membership of the

²⁸ Department for Business and Trade, [‘The accession of the United Kingdom of Great Britain and Northern Ireland to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership: Agreement summary’](#), 17 July 2023, p 6.

²⁹ As above, p 7.

³⁰ British Chambers of Commerce, [‘Asia-Pacific trade bloc deal a boost for export prospects’](#), 16 July 2023.

³¹ Tech UK, [‘UK joins CPTPP: What’s in it for tech?’](#), 31 March 2023.

trading bloc would put the UK in the “club of middle power nations with a tradition of pushing the boundaries of what is possible in digital trade policy”. The Institute of Directors argued the long term strategic benefits of CPTPP membership would depend on the “extent to which emerging markets and future members will contribute to rising demand for UK products and services”.³² It argued that while businesses consider FTAs as “good optics for the UK”, their exporting decisions are driven by demand for their product in those markets “more than whether or not there is a trade deal in place”. However, it concluded that “anything that makes it easier for British businesses to export is good news”.

The National Farmers’ Union (NFU) said membership would provide opportunities to get “more fantastic British food on plates overseas”.³³ It argued the agreement was more “considered and balanced” than the UK’s deals with Australia and New Zealand. However, some UK businesses from the food sector have highlighted that they cannot wait for the CPTPP ratification, and that bilateral deals on certain products needed to be agreed sooner.³⁴ For example, British cheese exporters to Canada have called for urgent action. Reportedly the negotiations for a bilateral deal with Canada have reached a stalemate because of the access row over beef and cheese products. Canadian beef farmer organisations, such as the Canadian Cattle Association, are lobbying the Canadian Parliament to reject the UK’s accession deal. The association argues the deal does not liberalise beef exports to Britain as Canadian beef is not made to

³² Institute of Directors, [‘CPTPP is a win for the UK but may not shift the dial’](#), 31 March 2023.

³³ National Farmers’ Union, [‘NFU responds to CPTPP trade agreement’](#), 31 March 2023.

³⁴ Graham Lanktree, [‘UK moves to ratify CPTPP as farmers row over cheese and beef’](#), Politico (£), 7 November 2023; and Peter Foster and Madeleine Speed, [‘British cheese exporters warn of losses unless new Canada deal is reached’](#), Financial Times (£), 3 November 2023.

standards accepted in the UK. Trade experts say Canada may be unwilling to keep importing British cheese if the UK is not prepared to reciprocate on other goods such as meat.

The current deal on British cheese exports is scheduled to expire at the end of December 2023.³⁵ UK cheese exporters have warned that failure to agree a new deal would lead to tariff-free export quotas being significantly cut for UK cheese exporters to Canada. Darren Larvin, managing director of Coombe Castle, which represents more than a dozen cheese producers, has said that even if Canada ratifies the deal, British cheesemakers would not expect it to provide enhanced access to the Canadian market until 2025 at the earliest.

2.3.2 Environmental, animal welfare and food standards issues

Concerns have also been voiced about the implications of the CPTPP on environmental, animal welfare and farming standards. For example, Anna Sands, senior policy advisor on trade at WWF-UK, has noted that the UK has not developed a set of core environmental standards.³⁶ Ms Sands called for a minimum environmental threshold for all imports into the UK, comparable to the standards required of UK farmers. However, the government has stressed that food imports would continue to comply with UK import standards.³⁷ It also

³⁵ Graham Lanktree, '[UK moves to ratify CPTPP as farmers row over cheese and beef](#)', Politico (£), 7 November 2023; and Peter Foster and Madeleine Speed, '[British cheese exporters warn of losses unless new Canada deal is reached](#)', Financial Times (£), 3 November 2023..

³⁶ Anna Sands, '[The Pacific trade deal: Yet another lesson in how not to do trade deals](#)', LinkedIn, 31 March 2023.

³⁷ Department for Business and Trade, '[The accession of the United Kingdom of Great Britain and Northern Ireland to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership: Agreement summary](#)', 17 July 2023.

said that its right to regulate in the public interest would be preserved.

In March 2023, after the government announced it had finalised negotiations on the deal, nine civil society groups wrote to the business and trade secretary calling for a halt to the UK's accession process.³⁸ The letter urged the government to “rethink its approach to trade to align with action on the environment, human rights and sustainable development”. Signatories to the letter were: Trade Justice Movement, ActionAid UK, RSPCA, Fair Trade Wales, PAN UK, Sustain, Global Justice Now, Just Treatment and Compassion in World Farming UK.

In the letter, the groups raised a range of issues with the deal, including increasing climate emissions, risks to UK farmers and food standards, and environmental consequences. For example, they expressed concerns about the reduction on tariffs on palm oil from Malaysia, which they said could have “serious consequences” for rainforests and animals like orangutangs. Palm oil production has been linked to deforestation and loss of animal habitat. The government has said that the UK and Malaysia have published a joint statement on sustainable agricultural commodity trade and cooperation to conserve forests.³⁹

2.3.3 Parliamentary scrutiny

The House of Lords International Agreements Committee launched

³⁸ Trade Justice Movement, [‘Letter to Kemi Badenoch MP, secretary of state for the Department for Business and Trade, on UK accession to CPTPP’](#), 31 March 2023.

³⁹ Department for Business and Trade, [‘Joint statement on sustainable agricultural commodity trade and cooperation to conserve forests’](#), accessed 9 November 2023.

an inquiry into the UK's accession to the CPTPP on 25 July 2023.⁴⁰ It has begun hearing evidence but has not yet reported. The committee previously considered UK CPTPP membership in November 2021, to consider the government's published objectives for negotiations.⁴¹ The committee heard evidence that while the deal was not expected to bring large-scale economic benefits in the short term, it would enable the UK to "influence" the trading bloc's future.⁴² The committee noted that China's accession would "carry benefits and risks" as well as "raise wider geopolitical issues". It cautioned the government to have careful consideration as to how regulatory divergences with other members would be managed.

Announcing the launch of its current inquiry into the CPTPP, the committee chair, Lord Goldsmith, said it would:

[...] like to know more about the economic benefits and disadvantages of the agreement, its agricultural and services provisions, its effect on manufacturers, and the impact on environmental protection, among other issues. We hope the evidence we receive will allow us to draw conclusions on the real benefits and pitfalls of the treaty.⁴³

⁴⁰ House of Lords International Agreements Committee, '[Inquiry into the UK's accession to CPTPP launched by Lords Committee](#)', 25 July 2023.

⁴¹ House of Lords International Agreements Committee, '[UK accession to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership \(CPTPP\): Scrutiny of the government's negotiating objectives](#)', 16 November 2021, HL paper 94 of session 2021–22

⁴² As above, p 3.

⁴³ House of Lords International Agreements Committee, '[Inquiry into the UK's accession to CPTPP launched by Lords Committee](#)', 25 July 2023.

Further information on the committee's 2021 report can be found in the House of Lords Library briefing '[UK membership of the trans-Pacific trade agreement](#)' (26 January 2022).

In April 2023, the House of Commons International Trade Committee published a report in anticipation of the UK finalising an agreement to join the CPTPP. The committee noted that there were important areas of the CPTPP that went further than some existing FTAs; for example, the “generous” rules of origin and a ban on the requirement to have a local presence to deliver services.⁴⁴ However, the committee argued that the agreement needed to deliver tangible opportunities for business that went beyond those available through existing bilateral agreements.

The committee stressed that it was key that provisions in the agreement, such as those on investment protections, intellectual property requirements, and food standards and animal welfare, were aligned with current practices in the UK. It cautioned that misalignment “could jeopardise important public policy aims and damage business confidence”.

The committee concluded that the agreement would give the government opportunities to show “leadership and expertise” on issues such as digital trade and environmental policy.⁴⁵ However, it said the government needed to have a “clear understanding” of what it wanted to achieve through its membership of the CPTPP.⁴⁶ It said that before the government could assess the merits of new applicants, particularly China, the government needed to produce a

⁴⁴ House of Commons International Trade Committee, '[CPTPP: Opportunities and challenges for the UK](#)', 25 April 2023, HC 13 of session 2022–23, p 3.

⁴⁵ As above.

⁴⁶ As above, p 21.

“single, comprehensive trade strategy”. The committee said that as part of its strategy, the government needed to outline how it intended to use its “trade policy to achieve its broader strategic goals”.

3. Why is legislation needed to implement the CPTPP?

The negotiation and signature of international treaties is conducted by government under the royal prerogative. While procedures under the Constitutional Reform and Governance Act 2010 (CRA 2010) allow Parliament to delay ratification, no vote or debate is required under the act prior to a treaty being ratified.⁴⁷ However, the UK is a dualist state, which means that international treaties do not automatically become part of its domestic law. In instances where treaty provisions need to be implemented into UK law, Parliament needs to pass legislation.

Foreign, Commonwealth and Development Office (FCDO) guidance on treaties says that if domestic legislation is needed to give effect to the UK’s obligations under a treaty, the legislation should be in place before the treaty comes into force so that the two can come into operation at the same time.⁴⁸ The FCDO therefore normally insists that any necessary UK legislation is in place before any treaty is ratified or acceded to.

⁴⁷ House of Commons Library, ‘[How Parliament treats treaties](#)’, 1 June 2021.

⁴⁸ Foreign, Commonwealth and Development Office, ‘[Treaties and MOUs: Guidance on practice and procedures](#)’, 15 March 2022 (downloadable document revised September 2022), para 11.

The government has identified three areas where primary legislation will be needed for the UK to be compliant with the CPTPP when it enters into force:⁴⁹

- technical barriers to trade
- government procurement
- intellectual property

Why legislation is required in these areas is discussed in the following sections of this briefing. Further information about Parliament's role in ratifying international treaties, including provisions under the Agriculture Act 2020 and the Trade Act 2021 about reporting to Parliament on FTAs, can be found in:

- House of Lords Library, '[King's Speech 2023: Economic affairs, business and trade](#)', 1 November 2023
- House of Commons Library, '[How Parliament treats treaties](#)', 1 June 2021

3.1 Technical barriers to trade

Conformity assessment procedures provide assurance that products meet necessary regulatory requirements. Examples of these procedures include testing, certification and inspection. These checks often need to be carried out by third-party organisations called conformity assessment bodies (CABs). Some of the UK's legislation requires these CABs to be based in the UK, Great Britain or in a

⁴⁹ Department for Business and Trade, '[CPTPP: Draft explanatory memorandum](#)', 17 July 2023, p 20.

country with which the UK has a mutual recognition agreement.

However, article 8.6 of the CPTPP requires that CABs established in the territories of CPTPP parties are treated no less favourably than CABs located domestically.⁵⁰ The government has said that to comply with the CPTPP, the UK must amend its legislation to allow CABs established in CPTPP parties to apply for approval and accreditation for the Great British market.⁵¹

3.2 Government procurement

The CPTPP's government procurement chapter sets out government procurement obligations under the agreement. The schedules to the chapter detail the procurement market access coverage of each of the parties. The chapter prescribes the rules on fair, transparent and non-discriminatory conditions of competition in government procurement. However, the rules do not automatically apply to all procurement activities of each party. Instead, the schedules determine which entities and procurements are covered by the scope of the chapter.

To implement the chapter, the UK government needs to amend the existing domestic procurement legislative framework in two ways:

- To give effect to the UK's market access commitments to

⁵⁰ [Comprehensive and Progressive Agreement for Trans-Pacific Partnership, Chapter 8: Technical barriers to trade, article 8.6.](#)

⁵¹ [Explanatory notes](#), pp 3–4.

CPTPP parties.⁵²

- Where applicable, to bring the domestic procurement framework in line with two technical rules in the government procurement chapter of the CPTPP. Those rules concern: conditions that need to be met for contracts awarded under procedures adopted by international organisations to be exempted from CPTPP rules for procurements; and the information to be published following the award of a contract.

3.3 Intellectual property

The CPTPP's intellectual property chapter covers several forms of intellectual property, including patents, GIs, copyright and related rights, trademarks and designs. The chapter sets minimum standards of protections in CPTPP parties' domestic regimes. The government has said that primary legislation would be needed to make changes to domestic law in two areas:

- **Geographical indications:** These protect the names of products which have a special relationship with their geographical origin. A UK example is Melton Mowbray pork pies. The CPTPP's intellectual property chapter sets out procedures that must be in place to allow parties to oppose an application for the protection of a GI, and to seek the cancellation of a registered GI. The government has stated that legislation will be needed to amend the domestic legislative framework that regulates Great Britain's

⁵² The '[Accession protocol of the United Kingdom of Great Britain and Northern Ireland to the Comprehensive and Progressive Agreement for Trans-Atlantic Partnership](#)' sets out the UK's market access commitments.

GI scheme for certain agricultural products and foodstuffs ('agri-foods') GIs.

- **Performers' rights:** Each CPTPP party is required to provide certain rights to eligible performers and producers. The intellectual property chapter states that parties are required to afford rights to performers and producers that are nationals of another CPTPP party and to performances or phonograms first published or fixed in the territory of another CPTPP party.⁵³ The government has said that domestic law would need to be amended to expand the "eligibility criteria by which performers can qualify for rights in their performances in the UK".

4. What are the details of the Trade (CPTPP) Bill?

The bill contains eight clauses and one schedule. The bill extends to the whole of the UK subject to a few exceptions where Scotland has separate procurement regulations to those of England, Wales and Northern Ireland. In addition, certain provisions will extend to but not apply in Northern Ireland (see section 4.6 of this briefing for further details).

The government has said it would seek legislative consent from the devolved legislatures on areas that fall within their devolved competence. It has also said the accession protocol to the CPTPP

⁵³ The CPTPP defines a phonogram as "the fixation of the sounds of a performance or of other sounds, or of a representation of sounds, other than in the form of a fixation incorporated in a cinematographic or other audio-visual work" ([Comprehensive and Progressive Agreement for Trans-Pacific Partnership, Chapter 18: Intellectual property, article 18.57](#)).

ensures the UK can fulfil its obligations under the Windsor Framework.⁵⁴

The bill was introduced in the House of Lords on 8 November 2023. It is scheduled to receive its second reading on 21 November 2023.

4.1 Meaning of the CPTPP

Clause 1 defines the meaning of the CPTPP and the UK accession protocol for the purposes of the bill.

4.2 Technical barriers to trade

Clause 2 would give the secretary of state power to amend relevant legislation to implement the UK's obligations under article 8.6 of the CPTPP. Article 8.6 requires the UK to ensure that CABs located in CPTPP parties' territories are "afforded treatment no less favourable" than CABs located in the UK.⁵⁵

Clause 2 states that statutory instruments made under this clause would be subject to the [made negative parliamentary procedure](#).

4.3 Government procurement

Clause 3 would amend the domestic legislative framework that regulates government procurement, namely the Procurement Act

⁵⁴ [Explanatory notes](#), p 10.

⁵⁵ As above, p 7.

2023 and several sets of procurement regulations.

Schedule 2 to the Procurement Act 2023 concerns contracts that are exempted from the framework as established under the act. As the schedule stands, a contract is exempt if it is awarded under a procedure adopted by an international organisation of which the UK is a member. However, to comply with the CPTPP agreement, the contract must also be wholly or mainly funded by an international organisation of which the UK is a member for it to be exempt from the framework. Clause 3(2) would amend schedule 2 to affect this change.

Clause 3(3) would amend the Procurement Act 2023 to implement the market access commitments of the UK to other CPTPP parties.⁵⁶ Schedule 9 to the Procurement Act 2023 lists international agreements to which the UK is a signatory. Where a supplier is entitled to the benefits of an international agreement specified in that schedule, they are treated as a “treaty state supplier”. Clause 3(3) adds CPTPP to the list of specified international agreements.

At introduction of the bill, the UK’s procurement framework is still set out in regulations. However, for England, Wales and Northern Ireland, those regulations will be replaced by the Procurement Act 2023 after substantive commencement of the act, expected in October 2024.⁵⁷ For Scotland, the relevant regulations will continue. Therefore, the bill would amend both the regulations and the Procurement Act 2023. Clause 3(4) gives effect to the schedule which

⁵⁶ [Explanatory notes](#), p 4.

⁵⁷ As above.

provides as follows:

- Part 1 makes amendments to the procurement regulations for England, Wales and Northern Ireland.
- Part 2 makes amendments to the procurement regulations for Scotland.

4.4 Geographical indications

Clause 4 would amend specified pieces of retained EU law (known as assimilated law after 31 December 2023), so that an application to register a GI can be opposed on the grounds it is likely to cause confusion with a pre-existing trademark or application for a trademark. This is in relation to agri-food only. At present, an application for a GI must be rejected if “broadly it would be liable to mislead the consumer in the light of a pre-existing trademark”.⁵⁸

Clause 4 would also expand the grounds on which the secretary of state may cancel the registration of an agri-food GI on the grounds that, at the time of application, it was likely to cause confusion with a pre-existing trademark or an application for a trademark, or because it was a generic term.

These new grounds would also apply at other stages related to applications to register an agri-food GI.

⁵⁸ [Explanatory notes](#), p 8.

4.5 Performers' rights

Clause 5 would amend the Copyright, Designs and Patents Act 1988 to extend the eligibility criteria by which performers can qualify for rights in their performances in the UK.

Clause 5(2) sets out what a qualifying performance is for the purposes of qualifying for rights under UK law. It provides that a performance qualifies if it meets any of the four specified conditions. The first two conditions replicate the bases for protection in pre-existing UK law. The final two expand the bases on which a performance can qualify. They are listed as conditions A to D in the bill. The four conditions are:

- Condition A: The performance is given by a qualifying individual.
- Condition B: The performance takes place in a qualifying country.
- Condition C: The performance is included in a sound recording and: the producer of that sound recording is a qualifying individual or a body incorporated under the law of a qualifying country; or that sound recording is either first published in a qualifying country, or published in a qualifying country within 30 days of the original publication. However, this condition is not met if the sound recording in question is a copy taken from a previous sound recording.
- Condition D: The performance has not been included in a sound recording, the performance has been broadcast and the broadcast is made from a qualifying country, or the headquarters of the broadcaster are situated in a qualifying country.

Clause 5(3) would allow for the making of an order in council to provide for specific restrictions to be applied to rights given under conditions C or D.

4.6 Territorial extent

Clause 6 provides that the bill would extend to England, Wales, Scotland and Northern Ireland subject to the exceptions found in clause 3(4) and the schedule which relate to Scotland having a different set of regulations controlling its government procurement framework to that of England, Wales and Northern Ireland.

The GI and TBT provisions in the bill would extend to but would not apply in Northern Ireland.⁵⁹ This is because under the terms of the Windsor Framework, EU legislation on GIs and CABs as listed in the framework continues to apply in Northern Ireland. The government states that article 15 of the UK's accession protocol to the CPTTP "ensures that the UK can fulfil its obligations under the Windsor Framework".

⁵⁹ [Explanatory notes](#), p 10.

About the Library

A full list of Lords Library briefings is available on the Library's website.

The Library publishes briefings for all major items of business debated in the House of Lords. The Library also publishes briefings on the House of Lords itself and other subjects that may be of interest to members.

Library briefings are produced for the benefit of Members of the House of Lords. They provide impartial, authoritative, politically balanced information in support of members' parliamentary duties. They are intended as a general briefing only and should not be relied on as a substitute for specific advice.

Every effort is made to ensure that the information contained in Lords Library briefings is correct at the time of publication. Readers should be aware however that briefings are not necessarily updated or otherwise amended to reflect subsequent changes.

Disclaimer

The House of Lords or the authors(s) shall not be liable for any errors or omissions, or for any loss or damage of any kind arising from its use, and may remove, vary or amend any information at any time without prior notice. The House of Lords accepts no responsibility for any references or links to, or the content of, information maintained by third parties.

This information is provided subject to the conditions of the Open Parliament Licence.

Authors are available to discuss the contents of the briefings with Members of the House of Lords and their staff but cannot advise members of the general public.

Any comments on Library briefings should be sent to the Head of Research Services, House of Lords Library, London SW1A 0PW or emailed to hlresearchservices@parliament.uk.