

[Submission by Transform Trade to the House of Lords International Agreements Committee on UK accession to the Comprehensive and Progressive Trans-Pacific Partnership Agreement, September 2023](#)

Summary

Transform Trade is not confident that the alleged economic benefits of the UK choosing to accede to the Comprehensive and Progressive Trans-Pacific Partnership Agreement (CPTPP) outweigh the negative impacts on the UK's policy space. We are also concerned that it will undermine the UK's realisation of its international social and environmental commitments including Sustainable Development Goals (SDGs) and Paris Climate Agreement (PCA). Lack of a comprehensive trade strategy combined with inadequate assessment of possible impacts of this agreement have led the UK to acceding to this agreement blind in relation to its effects or what role it could play in relation to other international trade agreements the UK might want to make.

About us

Transform Trade is a trade justice charity working in partnership with networks of workers, farmers and social entrepreneurs to fight for trade that values people over profit. Its roots are in the fair trade movement in the north east of England. The charity's focus areas are fashion, tea and farming. In the UK we campaign and advocate for improvements in the practices of the UK Government and UK businesses relating to trade. Transform Trade is a registered charity (no 1048752) and was previously called Traidcraft Exchange.

Introductory question

What is your view of the overall likely economic benefit of CPTPP for the UK? What are your reasons for this view? Are Government projections realistic?

1. The UK scoping assessment for accession to CPTPP focuses heavily on projected economic benefits – the assessment of environmental and labour impacts is allocated a mere 6 out of 66 pages of the document. This is inadequate given the broad spectrum of issues that will be impacted by the deal, from climate change to healthcare and food standards. The Government has had every opportunity to produce much more detailed analysis of its social and environmental impacts given the length of time that CPTPP texts have been available.
2. Projected GDP gains of CPTPP accession are marginal, at £1.8 billion, or 0.08% - the equivalent of £27.73 per person per year.¹ The UK already has trade agreements with nine of the eleven member countries, which is one of the factors limiting the likely impact.² Government estimates predict UK trade with CPTPP members will increase by around 3%, whereas trade with non-CPTPP countries is expected to decrease by 0.26%. Given that CPTPP members make up only 8% of UK trade, the benefits of accession are very finely balanced. Further countries are likely to join the deal, but even if Costa Rica, Ecuador, Uruguay, Thailand, the Philippines and South Korea all join, that would still only cover 10% of UK exports.³

¹ https://www.tjm.org.uk/documents/reports/CPTPP_TJM-Briefing_April-2023.pdf

² <https://www.chathamhouse.org/2023/03/real-value-uk-joining-cptpp-strategic>

³ <https://www.gov.uk/government/publications/comprehensive-and-progressive-agreement-for-trans-pacific-partnership-cptpp-conclusion-of-negotiations/conclusion-of-negotiations-on-the-accession-of-the-united-kingdom-of-great-britain-and-northern-ireland-to-the-comprehensive-and-progressive-trans-pac>

3. The UK's scoping assessments have come under significant criticism in the context of previous trade agreements. The Regulatory Policy Committee (RPC) ranked the Department for International Trade's (DIT) assessment for the UK-Australia FTA as "not fit for purpose" because it "disproportionately emphasised the beneficial impacts with very limited discussion of the risks, disadvantageous impacts, and potential mitigations".⁴ The now-defunct Commons International Trade Committee (ITC) also separately warned the Government against over-selling the benefits of trade agreements.⁵ Given Government projections may be overly optimistic, the actual gains may be even more limited. This makes the need for robust ex-post assessment particularly acute.

4. There is currently no overarching strategy for UK trade, making it difficult to assess the likely impact of CPTPP membership. This is particularly concerning given the deal will reach into so many different policy areas whilst bringing only limited economic gains. There is nothing that sets out in detail the cumulative impact of the UK's trade deals; this is particularly pertinent in the case of CPTPP given the overlap with existing bilateral deals. Finally, there is nothing to show how UK trade policy is contributing to other social and environmental goals, including the Paris Climate Agreement (PCA) and the Sustainable Development Goals (SDGs). Despite calls from civil society, trade unions and business, the Environment, Food and Rural Affairs committee, the former International Trade Committee and the IAC, the UK Government has consistently refused to publish such a strategy. This puts it at odds with key partners including the US and EU, who routinely publish a strategy and use it as a negotiating tool with partner countries.

Agriculture

What is your view of the agricultural market access schedules that have been negotiated as part of CPTPP?

5. Trade rules govern not only the movement of agricultural produce across borders but also the policy space that countries have to shape their agriculture industries, including to shift them to more sustainable models and to respond to the priorities of women and smallholder farmers.

6. Despite promises that trade liberalisation would ensure efficient distribution of food, one in nine people today have an insufficient calorie intake, one in five suffer from micronutrient deficiencies, and yet more than 672 million adults are obese.⁶ In recent years, failures in the global agriculture system have led to price shocks as major exporters of staples such as wheat close their borders.⁷ In addition, the global agri-food system is responsible for an estimated 31% of greenhouse gas emissions.⁸

⁴Regulatory Policy Committee (2021) 'The UK-Australia Free Trade Agreement'. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1042706/RPC-DIT-5109_2_-_UK-Australia_FTA_opinion_final_20211216_002.pdf

⁵ <https://committees.parliament.uk/committee/367/international-trade-committee/news/171894/mps-warn-government-against-overselling-benefits-of-australia-trade-deal/>

⁶ FAO, IFAD, UNICEF, WFP and WHO (2018), The State of Food Security and Nutrition in the World 2018. Building climate resilience for food security and nutrition

⁷ [Tracking progress on food and agriculture-related SDG indicators 2023 \(fao.org\)](https://www.fao.org/tracking-progress-on-food-and-agriculture-related-sdg-indicators-2023/)

⁸ [New FAO analysis reveals carbon footprint of agri-food supply chain | UN News](https://www.un.org/news/story/2022/02/new-fao-analysis-reveals-carbon-footprint-of-agri-food-supply-chain)

7. Developing countries remain highly dependent on agriculture as a source of income and livelihoods, in some cases the sector employs nearly two-thirds of all workers. In addition, small scale farmers feed between 35%-70% of the global population, producing around a third of the world's food.⁹

8. The Government's Integrated Review Refresh 2023 commits to "leading a campaign to improve global food security and nutrition, including by... driving the shift to sustainable agriculture." This is an important commitment, but the Government currently lacks a coherent strategy as to how its trade policy will align with this commitment.

9. As a result, in the CPTPP, it has signed up to several provisions that are at odds with this commitment. For example, CPTPP contains provisions which lower income countries have long resisted, such as a requirement to sign up to extensive seed patenting rules under the Union for the Protection of New Plant Varieties 1991 (UPOV '91). The convention affords plant breeders a 20–25-year monopoly over seeds. Farmers are not allowed to produce, reproduce, sell, or exchange seeds of these varieties without the breeder's permission. This system can lock farmers into reliance on monopoly seed companies, and sometimes the use of associated agrochemicals, often driving up costs.¹⁰ This is likely to have a particularly damaging effect on small-scale farmers in poorer CPTPP member states.

10. Although there are efficiency gains to some digital provisions in CPTPP, there is a risk that they could further disadvantage developing countries. For example, whilst digitisation of paperwork can ensure faster border processes, producers in developing countries often lack the capacity (know-how, technology or access to the internet) to benefit from this. As a result, they may find themselves excluded from certain value chains.

11. Developing country producers might once more find themselves exporters of raw materials, this time of the data used to develop high value software in the Global North. Restrictions on requirements to disclose source code and algorithms could limit countries' ability to complete adequate safety checks or introduce innovations to respond to their local contexts. This is likely to impact on the agricultural sector in a number of ways, for example as new technologies are developed to improve the efficiency of irrigation, or data is collected from farmers using mobile phones to access markets.¹¹ The UK has so far not addressed any of these risks.

12. It is unclear whether the Government has considered the cumulative impacts of current and future FTAs, including the CPTPP, on food supply chains. There is a risk that the UK could become a net importer of commodities that are linked with human rights violations and environmental degradation without a comprehensive trade strategy which details how Government intends to mitigate and avoid this.

Non-agricultural market access

How might UK manufacturers gain or lose from the CPTPP provisions on cumulation of origin?

How, if at all, are UK consumers likely to benefit?

⁹ FAO: small farmers produce 35% of the world's food:

<https://www.fao.org/news/story/en/item/1395127/icode/#:~:text=Five%20of%20every%20six%20farms%20in%20the%20world,according%20to%20a%20study%20published%20in%20World%20Development>.

¹⁰ CAFOD 'Sowing the Seeds of Poverty' (2023): [Sowing-the-seeds-of-poverty-2023.pdf \(ctfassets.net\)](#)

¹¹ Kamperman Sanders, A. 'Intellectual Property in Digital Agriculture' (2022). Law, Innovation and Technology, Vol.14, no.1, pp.113-117 <https://doi.org/10.1080/17579961.2022.2047522>

13. Transform Trade are concerned about the overall impact of UK trade agreements on developing countries, both those that are members of the CPTPP and those that are not but could be impacted by shifts in trade resulting from implementation of the deal. Impacts are likely to come from preference erosion (where benefits given to partners in new trade agreements including the CPTPP reduce the potential benefits for countries in the Developing Countries Trading Scheme or Economic Partnership Agreements) or trade diversion (where trade shifts from one country or region to another).

14. One way to mitigate for these impacts is to ensure beneficial rules on cumulation. Cumulation enables the development of regional supply chains and value-added industries using inputs from other countries, with agro-processing having particular relevance for many Least Developed Countries (LDCs). The Government should ensure that rules of origin in UK FTAs include diagonal cumulation with developing countries as far as possible, and outside of this, that the threshold for maximum content of non-originating materials from developing countries is set as high as possible. Further, rules of origin requirements should not be overly complex, to enable compliance by developing country exporters. Special provision should be made for countries that will likely graduate from LDC status within the next decade, including Angola, Nepal, Bangladesh and Laos.

15. The Government does not appear to have taken steps to secure such benefits for non-member developing countries in CPTPP.

Intellectual property

The Government states that it “ensured our accession to CPTPP is consistent with our existing international obligations, such as the European Patent Convention (EPC)”.^[1] Are you satisfied with this outcome? Does it solve the issue of conflicting obligations between the EPC and CPTPP regimes?

16. Intellectual property rights (IPRs) are a contested area, with some arguing that they are critical for the development of new technologies. Others point to the fact that a significant proportion of knowledge development is publicly funded in its early stages, whilst the profits often go to private companies, and that companies often claim rights over knowledge that has been available to communities for centuries. It is also recognised, both in the PCA and the SDGs, that the transfer of intellectual property, in the form of know-how and technology, is critical to addressing the climate crisis and achieving sustainable agricultural production. The lengthy IPRs in CPTPP are likely to pose a barrier to this kind of technology transfer.

17. CPTPP contains a requirement for countries to sign up to UPOV91, which prohibits the saving and trading of seeds that are patented, largely by agribusinesses. Notably, Malaysia and Brunei-two of CPTPP’s newer members- are not yet members. For those low and middle income countries in CPTPP who are already signatories of UPOV91, the FTA further entrenches prohibitive seed laws in those countries. This will create barriers, particularly for small-scale farmers, as they seek to save and preserve seeds that might, for example, be more resilient to climate change.

18. Signatory countries that do not comply with the terms of the FTA provisions on the UPOV91 are subject to the arbitration and sanctions systems that are built into the trade agreements, such as fines or retaliatory tariffs. This practice pushes countries to change their domestic laws to comply with UPOV91. If a country decides to leave UPOV91, it cannot do so without breaching the terms of

the FTA or getting agreement from partner countries to change the text, significantly increasing the cost of such a policy change.¹²

The precautionary principle and food standards

How might accession change the UK's precautionary approach to sanitary and phytosanitary measures and risk assessments, and its approach to food standards regulations more generally?

19. CPTPP preferences the 'science-based' approach to regulation over the 'precautionary principle'. The former requires parties to demonstrate a scientific basis for regulation, which can be problematic if there is no such basis, no means to develop it or scientific papers have been published by an industry with a vested interest in a particular outcome. The precautionary principle allows for greater flexibility so that countries can regulate if there is a reasonable concern of detrimental outcomes. UK accession to CPTPP without any effort to seek an exception to this provision will make it significantly more difficult to preserve the precautionary principle (which is enshrined in UK law) in UK practice or future FTAs, and could create barriers for developing countries, who may find it relatively more difficult to secure scientific 'proof'.¹³

ISDS

The UK has agreed to exclude ISDS provisions with Australia and New Zealand, but they are included for the other member states. What is your view on this approach?

20. ISDS poses a significant threat to climate and environmental regulation but has also been used to challenge important regulation in areas as diverse as health and equalities regulations, labour law and taxation, including bans on fracking, the introduction of plain packaging for cigarettes and water pollution controls. Developing countries are at particular risk of challenge under the system. It is therefore disappointing that the UK has not sought exclusions with remaining CPTPP partner countries. It sends a signal to developing countries that the UK is not willing to rethink its international investment policy and continues to support a system that can undermine sovereign policymaking and divert precious financial resources to compensation that goes far beyond what is generally available in domestic systems.¹⁴

21. In the absence of a strategy, the UK Government's approach to ISDS has been unclear and at times contradictory. The Government continues to be publicly supportive, yet has also accepted the risks posed by the system. For example, the DIT's strategic approach to bilateral FTA negotiations with Canada set an objective to, "Ensure the agreement does not contain an investor state dispute mechanism (ISDS)."¹⁵ There are specific UK sectors which may be at immediate risk. One is in the UK's water utilities, given the sector's ongoing difficulties and potential need for regulatory intervention by the government. London's Thames Water, for example, is partially owned by Canadian pension funds.

22. The UK should seek ISDS exemptions with all remaining CPTPP member states and cancel existing Bilateral Investment Treaties. Transform Trade has joined the call for the Government to urgently seek

¹² https://www.bothends.org/uploaded_files/document/1LR_UPOV91_brochure_A4.pdf

¹³ [Environmental principles policy statement - GOV.UK \(www.gov.uk\) and Environment Act 2021 \(legislation.gov.uk\)](#)

¹⁴ Transform Trade 'Foreign Investment, Human Right and the Climate in the UK: Asymmetrical Legal Protection' (2022)

¹⁵ Department for International Trade (2022) 'UK approach to negotiating a free trade agreement with Canada' Available at: <https://www.gov.uk/government/publications/uk-approach-to-negotiating-a-free-trade-agreement-with-canada>

a side letter with Canada to disapply provisions between the two, given the UK does not presently have an ISDS agreement with Canada, and there is a particular risk that ISDS provisions with Canada bring.

Environmental standards

What is your view on the implications of CPTPP for the UK's domestic environmental policies and regulations, and for UK policy on greenhouse gas intensive practices among other member countries?

What effect might the joint statement on climate change, the environment and sustainable trade have in this regard?

23. The Prime Minister has recognised that tackling climate change is central to UK economic success and resilience.¹⁶ The Government has committed to net-zero greenhouse gas emissions by 2050. However, there is a mismatch between these ambitions and the UK's trade policy. The Department for Business and Trade is given free rein to negotiate trade deals with no requirement for deals to include environmental provisions. The Government opposed amendments to the Trade Act which would have maintained high standards and has maintained its opposition to such measures.¹⁷

24. The UK's own assessment predicts that greenhouse gas emissions will increase as a result of accession to CPTPP. Whilst the increase is very small, at 0.025%, it is far from the significant reductions that are required to achieve our climate commitments.¹⁸ The UK has also acceded to Malaysia's demand to lower tariffs on palm oil to zero, which could increase deforestation, further undermine indigenous and local community land rights and threaten natural habitats for species like orangutans.¹⁹

25. The CPTPP risks encouraging a race to the bottom on standards, which severely hampers environmental regulation. The UK currently has higher standards in areas such as pesticides, animal welfare and the use of hormones and antibiotics in livestock farming. CPTPP provisions could drive downward pressure in these areas. This is likely to be unhelpful in the context of relations with developing countries, making it more difficult for them to work towards higher standards.

26. The regulatory cooperation chapter in CPTPP allows for dialogue between countries to reduce regulatory barriers to trade. Since this cooperation is geared towards increasing trade rather than tackling issues like climate change, there is a risk that it leads to a reduction in standards rather than a shared raising of standards. Furthermore, these forums lack transparency and scrutiny mechanisms so that civil society can participate.

27. Although the CPTPP contains an Environment Chapter, its provisions are non-binding and require proof that weakening of environmental measures was done in order to gain a trade advantage, something that is notoriously difficult to prove. The joint statement is also non-binding and therefore does little to improve the overall environmental impact of CPTPP.

Concluding questions

¹⁶ <https://www.telegraph.co.uk/politics/2022/11/05/rishi-sunak-fighting-climate-change-just-moral-good/>

¹⁷ Guardian, UK ministers gain power to allow lower-standard food imports, 19 January 2021

¹⁸

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1027860/dit-cptpp-uk-accession-strategic-approach.pdf

¹⁹ <https://www.gov.uk/government/publications/cptpp-agreement-summary>

Are there any other aspects of the CPTPP which you think are of concern for UK manufacturers, producers and consumers, and for UK interests in general?

It is unlikely that the agreement will be subject to proper parliamentary scrutiny. A clear precedent for poor scrutiny was set during the passage of the Australia FTA: despite assurances that agreements were unlikely to pass without a debate in parliament no debate was given during the time allotted under the Constitutional Reform and Governance (CRaG).²⁰

Recommendations

The Government must:

1. Commit to develop a strategy that aligns trade policy with its commitments under the PCA, SDGs and human rights commitments, and considers the cumulative impact of its agreements.
2. Develop transparent processes for the development of trade policy and agreements, and a robust process for scrutiny, starting with CPTPP.
3. Make support for the shift to sustainable agriculture a major driver of its approach to trade and seek exemptions and revisions to CPTPP accordingly. It must seek to suspend provisions relating to UPOV and work with developing countries to develop a better approach.
4. Revise its approach to IPRs to align with PCA and the SDGs.
5. Undertake a thorough assessment of the social, environmental and development impacts of digital provisions, including a robust public debate.
6. Take steps to mitigate against preference erosion and trade diversion for LDCs, including by improving cumulation provisions in all UK FTAs.
7. Seek exemptions from ISDS provisions with all remaining CPTPP countries and cancel bilateral deals containing the mechanism.
8. Formally align its FTAs with climate commitments so that no agreement can proceed unless it contributes to meeting PCA targets. This will require collaboration and financial support to developing countries.

²⁰ <https://hansard.parliament.uk/lords/2021-02-23/debates/8F92FB28-D51A-4996-8471-7CCAB472F224/TradeBill>