

Draft explanatory memorandum on the Free Trade Agreement between the United Kingdom of Great Britain and Northern Ireland and Australia

Title: Free Trade Agreement between the United Kingdom of Great Britain and Northern Ireland and Australia

1. Introduction

1.1 This draft explanatory memorandum has been prepared by the Department for International Trade. Separately, an independently scrutinised impact assessment of the Treaty has been deposited in the House Libraries. This explanatory memorandum has not been prepared for the purpose of fulfilling the statutory obligations under Part 2 of the Constitutional Reform and Governance Act 2010 (CRaG); an explanatory memorandum will be provided subsequently for that purpose. The procedure under Part 2 of the CRaG will not be commenced until the obligations set out in the Agriculture Act 2020 and the Trade Act 2021 have been fulfilled.

2. Subject matter and purpose of the Treaty

2.1. The Treaty between the UK and Australia is a comprehensive agreement which establishes a deeper trading relationship between the UK and Australia. Trade agreements aim to reduce barriers to trade and investment between countries. Barriers can be taxes charged on goods as they cross borders (tariffs), or different rules and regulations that can add to trade costs (non-tariff measures). Barriers make it more difficult and costly to trade or invest overseas. Reducing these barriers can improve the flow of trade between countries and help businesses to access new markets.

2.2. The Free Trade Agreement between the UK and Australia will from now on be referred to as the Treaty in this document. The government has a manifesto commitment to secure a free trade agreement with Australia.

2.3. The Treaty establishes a free trade area between the parties consistent with Article XXIV of the General Agreement on Tariffs and Trade 1994 and Article V of the General Agreement on Trade in Services.

2.4. It covers both trade in goods – creating preferential tariff and quota arrangements and including provisions on rules of origin, customs and technical barriers to trade - and trade in services – including Financial Services and Mobility - as well as investment and digital trade. It contains commitments in chapters usually included in trade agreements such as intellectual property, government procurement, and the environment, as well as new or less common chapters such as on Innovation, Development and Animal Welfare.

3. Background

3.1. Before this Treaty, the UK and Australia traded with one another on Most Favoured Nation (MFN) terms (treating all other World Trade Organization members equally). For UK goods exporters, this meant tariffs of up to 20% on specified products and of 5% for the majority of goods which faced a tariff. As a member of the European Union, the UK did not have a free trade agreement with Australia.

3.2. Total trade between the UK and Australia was worth £14.0 billion in 2020. Last year, the UK's largest goods exports to Australia were medicinal and pharmaceutical products (£552 million),

cars (£343 million) and clothing (£330 million). The UK was the third largest direct investor in Australia and the second largest recipient of Australian Foreign Direct Investment (FDI) in 2020. UK individuals and companies had over £39 billion directly invested in Australia in 2019.

3.3. This Treaty builds on existing agreements with Australia which help facilitate trade. For example, at the end of the Transition Period, we transitioned the Agreement on mutual recognition in relation to conformity assessment, certificates and markings between the European Community and Australia and the Agreement between the European Community and Australia on Trade in Wine into UK agreements, to ensure continuity for businesses when the UK left the EU. The UK and Australia signed a new “Space Bridge” partnership in February 2021, increasing knowledge exchange and investment and in July 2021 the Clean Technology Partnership which will support the Treaty by providing the opportunity to collaborate on innovative, low-carbon technologies. In September 2021, the UK, the United States and Australia agreed a defence and security partnership (AUKUS) which will protect and defend our shared interest in the Indo-Pacific. AUKUS will foster deeper integration of security and defence-related science, technology, industrial basis and supply chains.

3.4. The Treaty is also an important step towards the UK joining the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP). Accession to CPTPP will provide greater opportunities for business through increased and more secure access to a diverse range of markets. Accession could also see 99.9% of UK exports being eligible for tariff-free trade with CPTPP members.

4. Framework of the Treaty

Entry into force, termination and amendment

- 4.1.** The Treaty will enter into force 30 days after the date on which the Parties exchange written notifications indicating that they have completed their domestic requirements, or on such other date as the Parties may agree.
- 4.2.** The Treaty may be terminated by either Party giving notice in writing. The termination takes effect six months after the date of notification or on such date as the Parties may agree.
- 4.3.** The Treaty may be amended if the Parties so agree in writing. Such amendments take effect 30 days after the Parties have exchanged written notifications confirming that they have completed their domestic requirements necessary for the entry into force of those amendments, or on such other date as the Parties may agree. This amendment process would engage the parliamentary scrutiny process set out in the Constitutional Reform and Governance Act 2010.
- 4.4.** The Joint Committee also has the power to agree modifications to selected provisions of the Treaty.

Committees

4.5. The Treaty establishes a Joint Committee, which is responsible for supervising the implementation and operation of the Treaty. This Treaty establishes six sub-committees in the following areas:

- Cooperation (including Environment, Trade and Gender Equality, Development, Labour, Anti-Corruption, Anti-Microbial Resistance - AMR);
- Intellectual Property;

- Services and Investment (including Cross-Border Trade in Services, Financial Services, Professional Business Services, Temporary Entry for Business Persons, Telecommunications, Investment and Digital Trade Chapters);
- Sanitary and phytosanitary measures (SPS);
- Technical Barriers to Trade (TBT); and
- Trade in Goods.

In addition to the committees a further four working groups and two Dialogues have been established:

- Animal welfare (reporting to the Cooperation committee)
- Customs and Rules of Origin (RoO) (reporting to the Goods committee)
- Environment (reporting to the Cooperation committee)
- Professional Business Services (reporting to the Services and Investment committee)
- Dialogue on Trade and Gender Equality (reporting to the Cooperation committee)
- Strategic Innovation Dialogue

Dispute Resolution

4.6. The Treaty includes a state-to-state dispute settlement mechanism. This mechanism applies to all chapters of the Treaty, aside as noted in paragraphs 4.7 – 4.9 below.

4.7. The chapters to which this mechanism applies in part are:

- Trade Remedies

4.8. The chapters which modify aspects of this mechanism are:

- Environment, Financial Services, Labour, Transparency and Anti-Corruption.

4.9. The chapters to which this mechanism does not apply are:

- Sanitary and Phytosanitary Measures, Animal Welfare and Antimicrobial Resistance, Technical Barriers to Trade, Competition Policy and Consumer Protection, Small and Medium-Sized Enterprises, Good Regulatory Practice, Development, Trade and Gender Equality, Innovation and Cooperation.

General Exceptions

4.10. The Treaty includes a series of exceptions that provide circumstances that allow for the Parties to justify taking non-conforming measures, as long they meet the conditions of the exception. These exceptions allow the UK to protect domestic policy space and regulate in the public interest. Measures can be justified on grounds such as the protection of human, plant and animal life or health or public morals (GATT XX and GATS XIV, as incorporated), on the grounds of national security, or in situations of economic difficulty.

4.11. Protecting the NHS is a fundamental principle of the Government's trade policy. In this Treaty, there are no measures which undermine this commitment. The General Provisions and Exceptions chapter recalls specific protections throughout the agreement for the NHS.

Protocol on Ireland/Northern Ireland

- 4.12.** The 'Relation to Other Agreements' article in the Initial Provisions and General Definitions chapter provides for the relationship between the FTA and the Protocol on Ireland/Northern Ireland. The article sets out that nothing in the Treaty shall preclude the United Kingdom from adopting or maintaining measures related to the Protocol on Ireland/Northern Ireland, as long as those measures are not used as a means of arbitrary or unjustified discrimination against the other Party or as a disguised restriction on trade.

Review Clauses

The Treaty contains a general review provision as well as chapter-specific review clauses in the State Owned Enterprises and Designated Monopolies and Intellectual Property chapters.

4.13. General Review

The General Review clause sets out that the Parties will undertake a review of the Treaty in the 7th year following the date of entry into force of the Treaty. The review will be undertaken with a view to updating and enhancing the Treaty, and ensuring the Treaty remains relevant to trade and investment issues facing the parties

Key parts of the Treaty and its impacts

Goods

Market Access

- 4.14.** Removing or reducing tariffs makes it easier and less expensive to trade physical products between our countries. After staging, the Treaty will provide tariff-free access for all UK-originating exports to Australia, saving businesses more than £116m in reducing tariff costs per year on existing trade. For example, tariffs on whisky, gin, biscuits, cars (5%), apparel and ceramics (up to 5%) will be cut to zero upon entry into force.
- 4.15.** The Treaty features mechanisms to protect the UK's farming industry from threat of injury – including through quotas, product specific safeguards and gradual tariff reductions over time for a range of goods imported from Australia.
- 4.16.** In particular, the Treaty provides for 15 years of capped tariff free imports of beef and sheepmeat from Australia. In further detail, this includes: Quotas on duty-free imports of beef and sheepmeat from Australia for 10 years after entry into force. Tariffs outside of the quota will remain at MFN rates. Product-specific safeguards for beef and sheepmeat which will apply during years 11 to 15 after entry into force of the Treaty. If imports from Australia exceed a certain volume, a tariff will apply for the rest of the calendar year. Sheepmeat quota volumes will be reduced by 25% for a year if the quota volumes are filled for two consecutive years in years 1 to 10. If the product specific safeguard volume trigger for sheepmeat is hit in any of years 11 to 15, all subsequent trigger volumes are reduced by 25%.

Trade Remedies

- 4.17.** This chapter ensures that UK businesses will be protected from unfair trading practices such as dumping, subsidising, and any unforeseen surges in imports. It will allow for trade remedy measures to be applied in a proportionate manner, and investigations into these matters to be conducted transparently.
- 4.18.** The chapter also includes a general bilateral safeguard mechanism which will apply to all goods, including beef, sheepmeat, meat, rice, sugar and dairy products. This will provide a temporary safety net for domestic industries where there is evidence that an increase in imports is causing, or threatens to cause, serious injury to a particular industry as a result of tariff liberalisation through the Treaty.

Animal Welfare

- 4.19.** The Treaty provides a non-regression clause on animal welfare with Australia - a first in a free trade agreement. A non-regression clause on animal welfare contains commitments for both countries to not lower their animal welfare standards for the purposes of encouraging trade.
- 4.20.** The Treaty provides cooperation provisions with Australia to improve animal welfare standards through sharing information and expertise, agreement to work together in international fora to promote increased recognition of animal welfare in trade, and a strong statement that animals are recognised as sentient beings.
- 4.21.** This Treaty does not change the current import requirements or domestic legislation in place in the UK on environmental protection, animal welfare and plant health and food safety including that beef produced using growth hormones will continue to be banned from entering UK. The European Union (Withdrawal) Act 2018 and other legislation retains these regulatory standards.

Technical Barriers to Trade (TBT)

- 4.22.** This Chapter facilitates closer cooperation between our governments to help unblock trade barriers and reduce the likelihood of new barriers forming.
- 4.23.** This Chapter will make it easier to establish when the UK and Australia's product laws are equivalent to each other, paving the way to reduce the number of products which need to meet two different sets of regulations.
- 4.24.** The Cosmetics annex and Medicines and medical devices side letter to the Treaty will increase regulatory cooperation in these industries in particular, helping reduce trade barriers specific to cosmetics, medical devices and human and veterinary medicines.

Services and Investment

Cross-border trade in services

- 4.25.** The UK and Australia have agreed a services package with world-leading elements including on professional services (where for the first time we have a dedicated chapter), commitments to prohibit unnecessary bureaucracy getting in the way of services trade, and market access commitments exceeding either side's best precedent, providing certainty for Australian and UK business and supporting the overall trade and investment relationship.
- 4.26.** The Treaty provides commitments for cross-border trade in services that ensures certainty for services suppliers in their continuing access of each other's market and prohibits discrimination against each other's service suppliers. It includes rules on administration of domestic measures, in particular those that relate to authorisations and rules on transparency. The Treaty also provides market access for service suppliers at the central and regional level, except for specific reservations that are made using a negative listing approach, with Australia providing market access at the Federal and Sub-Federal for the first time in an FTA. These benefits have also been extended to vessels flying the UK flag in the context of international maritime transport services.
- 4.27.** The Treaty includes additional sector-specific rules via an international maritime transport services annex and an express delivery services annex. The International Maritime Transport Services annex includes provisions that ensure UK and Australian vessels have non-discriminatory access to ports and maritime auxiliary services, are permitted to move empty containers and provide feeder services between ports, subject to the reservations. The Express Delivery Services annex includes provisions that create a level playing field for UK and Australian express delivery providers, including by preventing postal monopoly providers cross-subsidising their competitive express delivery services. The annex reaffirms the UK's and Australia's right to define the kind of universal service obligations they wish to adopt or maintain.
- 4.28.** The UK and Australia have agreed a Professional Services and Recognition of Professional Qualifications Chapter, with commitments taken across all professional service sectors, reflecting their importance to both parties. The Treaty includes provisions designed to deliver long term benefits for UK and Australian professionals who want to work in each other's territory and have their qualifications recognised, primarily through collaboration between UK and Australian accreditation and regulatory bodies. This will be supported by a Government-led Professional Services Working Group. The Chapter includes legal-services provisions which guarantee that UK and Australian lawyers can practise foreign and international law, including in connection with arbitration, mediation and conciliation proceedings, in the other country's territory using their existing qualifications and "home" title. Provisions also establish a bespoke legal services regulatory dialogue with the aim of addressing remaining barriers such as those relating to requalification.

Financial Services

- 4.29.** The Financial Services chapter includes commitments on non-discrimination and market access which will provide greater legal certainty for UK and Australian firms. This is reinforced by high standard cross border (mode 1) commitments including a new precedent on non-life insurance and improvements to UK and Australian precedents on portfolio management services. The chapter also includes provisions which enable financial services

suppliers to operate without unjustifiable data localisation requirements. Additionally, the Financial Services Regulatory Cooperation Annex sets out a new framework to facilitate greater regulatory cooperation between financial services authorities.

Temporary Entry for Business Persons

4.30. The Temporary Entry for Business Persons Chapter commits that UK service suppliers in sectors such as legal services, architecture, research and manufacturing, can enter and temporarily stay in Australia for the purposes of supplying a service, without their visas being dependent on the changing list of eligible occupations in Australia's skilled occupation list. This brings newfound certainty and clarity for business persons to be able to enter and deliver services in each other's countries. Businesses in Australia will also no longer have to prove that they cannot find an Australian locally to temporarily supply a service, before they sponsor a visa for a UK professional.

4.31. The chapter also commits entry to all sectors for UK independent executives to establish in Australia and for UK executives and managers to transfer to their company locations in Australia. These business people can also now stay for up to four years, double the previous limit. Transferred executives and managers working at their company locations in Australia, and independent executives establishing their company location in Australia, will also be able to bring their spouses and dependent children with them, who will also have the right to work in Australia during their stay for a period equal to the related executive or manager. The commitments also allow businesses in the UK to contract service suppliers from Australia across a substantial range of sectors, including in legal services, engineering, architecture, and research services. The commitments in this chapter apply to UK permanent residents as well as British citizens.

4.32. A separate side letter has been signed which builds on existing bilateral mobility programmes such as the Youth Mobility and Working Holiday Maker schemes. The two programmes will now be available to 18 to 35 year olds for a total stay of up to 3 years. The requirement in Australia for UK nationals using the Working Holiday Maker programme to undertake specific types of work, including farm work, will also be removed. The side letter also includes a dedicated Australian visa pilot scheme to facilitate mobility for UK early career professionals and experienced professionals involved in innovation. Lastly, a joint declaration provides clarification and transparency on the entry routes to the United Kingdom and Australia for agriculture and agribusiness workers.

Investment

4.33. This Chapter encourages further investment into UK nations and regions and creates opportunities for British companies to invest and grow their businesses in Australia – supporting the existing £51.6bn direct investment relationship we currently have.

4.34. The Treaty includes provisions on market access for investors, providing greater certainty and transparency for investors across all sectors of the economy, and ambitious commitments to not impose further residency or nationality requirements on board members and senior managers, subject to specific reservations taken by each Party using a negative listing approach.

- 4.35.** This treaty ensures that only investments over AUD \$1216m, other than those in certain sensitive sectors, have to be reviewed by Australia's Foreign Investment Review Board. Previously, all investments over AUD \$281m had to be reviewed by this board.
- 4.36.** The Treaty provides non-discriminatory treatment for UK investors and investment protections to guarantee fair treatment and protection from expropriation of assets without compensation. In light of the UK-Australia investment relationship this Treaty does not include an Investor-State Dispute Settlement (ISDS) mechanism.

Additional important parts of the agreement

Digital and Innovation

- 4.37.** The Treaty supports areas like e-commerce, electronic signatures, free flows of data and tackling spam. It maintains personal data protections standards for UK consumers whilst facilitating the free flow of data and saving UK businesses from the unnecessary cost of setting up servers in Australia.
- 4.38.** The Treaty includes the world's first dedicated Innovation Chapter in a free trade agreement. The Chapter aims to help innovative businesses take full advantage of the trade deal and establishes a Strategic Innovation Dialogue to support innovation in the UK and Australian economies through bilateral collaboration. The Innovation Chapter also provides for specific co-operation with Australia on emerging technologies, including artificial intelligence.

Intellectual Property

- 4.39.** The Intellectual Property chapter builds on existing shared international standards that support our economies through adequate, effective and balanced protection and enforcement of IP rights.
- 4.40.** The Treaty requires Australia to make all reasonable efforts to join the UK as a member of the multilateral Hague Agreement on Industrial Designs, to provide new benefits for designers in both countries.
- 4.41.** It includes a commitment to begin a process which will result in reciprocal arrangements for artist resale royalties, to provide new income streams for our visual artists. Additionally, both parties have committed to continue discussions on a public performance right for performers and producers of phonograms.
- 4.42.** The chapter includes a commitment that if Australia introduces bespoke Geographic Indication (GI) schemes for spirits and agri-foods, the UK will be able to put forward GIs for potential protection subject to Australia's legal procedures. If such schemes are not introduced no later than two years after entry into force of the FTA, the GI provisions in the FTA will be reviewed by Australia and the UK. GIs that the UK intends to propose for protection are listed in a side letter, although the UK may amend this list to reflect GIs protected in the UK at that point.

Procurement

- 4.43.** The Procurement Chapter builds on the commitments made by the UK and Australia in the World Trade Organization (WTO) Agreement on Government Procurement (GPA) and includes new commitments that are stronger than those made by Australia in CPTPP. It includes stronger rules for procurement covered by the Treaty that ensure procurement is fair, transparent and non-discriminatory, and provides new legally guaranteed access to government procurement contracts tendered by both central government and the wider public sector for suppliers from both Parties.
- 4.44.** Procurement covered by the Treaty must be advertised and conducted electronically, ensuring that UK suppliers have the same immediate access to Australian procurement opportunities as Australian suppliers.
- 4.45.** UK businesses will receive legally guaranteed access to fair, transparent and non-discriminatory procurement for contracts from key federal and state level government departments in Australia that are covered under the Agreement.

Competition Policy and Consumer Protection

- 4.46.** Through a Competition Policy and Consumer Protection Chapter (including consumer protection provisions) and a State-Owned Enterprises (SOEs) and Designated Monopolies Chapter, this Treaty commits Australia and the UK to maintain our existing rules and practices that provide for open and fair competition. The Chapters require Australia and the UK to uphold strong competition regimes, maintain consumer protection laws, and follow rules with respect to SOEs that ensure private enterprises do not face unfair competition and therefore gain the most benefit from the market access provided for by the Agreement.
- 4.47.** The UK and Australia committed to further negotiations within five years after Entry into Force. Further negotiations will cover: the possibility of extending the application of rules to SOEs owned or controlled by sub-central levels of government; and extending non-commercial assistance rules to protect the Parties from potential negative effects of services supplied by SOEs in non-party markets.

Environment

- 4.48.** We have agreed a comprehensive Environment Chapter which sets out our shared commitment to mutually supportive trade and environmental policies.
- 4.49.** The Chapter ensures neither Party can waive or fail to domestically enforce environmental laws to create an unfair competitive advantage and that both Parties have recourse to dispute settlement if any obligations in the Chapter are not upheld by the other Party. The Treaty also preserves both the UK's and Australia's right to regulate, including to combat climate change. This means both Parties can establish their own levels of environmental protection, including for the UK to pursue net zero.
- 4.50.** The Chapter affirms commitments under multilateral environmental agreements, including all element of the Paris Agreement, and strengthens cooperation on areas including emissions reduction, sustainable forest management and the circular economy such as waste reduction, recycling, and sustainability.

Labour

- 4.51.** This Treaty helps ensure high domestic protections for our workers and encourages good business practices and corporate responsibility whilst protecting the UK's right to regulate on domestic labour protections.
- 4.52.** This Treaty also delivers world leading modern slavery provisions that go beyond existing precedent.

Small and Medium Sized Enterprises

- 4.53.** The UK and Australia have agreed to a dedicated SME Chapter, reflecting the importance both countries place on smaller businesses, agreeing to establish a dedicated website & database with key information to support and encourage SMEs in both countries as they trade. The UK and Australia have agreed to a framework outlining the ways that both countries might cooperate on issues related to SME Trade in the future.
- 4.54.** There were over 230,000 British SMEs exporting goods and services in 2018, making up 98% of all exporters – and after agreeing a dedicated SME Chapter & reducing trade barriers across the board, we see huge scope for the number of SMEs exporting to Australia to increase.

Trade and Gender Equality

- 4.55.** In this Treaty, the UK and Australia agree to cooperate to support women as workers, business owners and entrepreneurs to access the full benefits of the Treaty.
- 4.56.** Cooperation activities may include exchanging experiences and evidence relating to: promoting equal opportunities in the workplace; improving women's access to markets, technology and financing; and the integration of gender in approaches to data collection, analysis and monitoring.
- 4.57.** A standalone Trade and Gender Equality Chapter complements several gender provisions across this Treaty, including in areas such as services, small and medium sized enterprises, financial services, procurement, labour and digital trade.

Development

- 4.58.** This Treaty includes the first ever dedicated development chapter within a bilateral free trade agreement between two advanced economies. It underlines the importance of trade as a tool for economic development and is critical for the monitoring of any impacts of the Treaty on developing countries outside the Treaty.
- 4.59.** Through the Development Chapter, the UK and Australia recognise the value in carrying out joint development activities. These may include sharing best practice and experience on delivering technical assistance and capacity building, or working together on trade and investment issues that matter to developing countries.

5. Implementation

Primary Legislation

5.1. A need for primary legislation has been identified in order to implement the Procurement Chapter of the Treaty. For this Chapter, we need to introduce new primary legislation in order to implement the Treaty.

5.2. Primary legislation will be required to implement the procurement obligations under the Treaty. This comprises:

- for procurement covered by the Treaty:
 - extending the duty owed to suppliers by UK procuring authorities under domestic legislation to suppliers from Australia, which has the effect of providing Australian suppliers with access to the additional procurement markets provided under the Treaty that are over and above those covered by the GPA;
 - extending the rights enjoyed by suppliers under domestic legislation to challenge procuring authorities for a breach of domestic procurement legislation and seek redress in UK courts to suppliers from Australia; and
 - amending domestic procurement rules to reflect new rules set out in the Treaty.

5.3. With respect to amending the domestic procurement rules, this is in respect of four areas:

- how procuring authorities determine whether a procurement is above the financial threshold such that it is covered by the Treaty;
- the means by which sub-central procuring authorities may advertise a procurement in certain circumstances;
- how procuring authorities conduct a design contest; and
- prohibiting procuring authorities from terminating an awarded contract in order to circumvent the procurement obligations in the Treaty.

5.4. Primary legislation will also be needed to implement changes over the lifetime of the Treaty, including:

- any updates to financial thresholds in the Treaty above which procurement obligations apply;
- implementing any modifications or rectifications of coverage e.g. when there are Machinery of Government changes and departmental mergers, or removal of entities that are privatised;
- progressive changes to coverage over time; and
- any relevant institutional decisions under the Treaty that require further implementation.

Secondary Legislation

5.5. The Government is working to implement the tariffs in regulations to be made under the Taxation (Cross-border Trade) Act 2018.

5.6. Secondary legislation will also be required to extend UK copyright protection to Australian wired broadcasts to comply with the provisions of the Intellectual Property chapter.

Immigration Rules

5.7. Changes to the Immigration Rules will be required to implement commitments in Annex IV to the Treaty relating to the temporary entry of contractual service suppliers and independent professionals.

5.8. Separate from the Treaty, the Immigration Rules will also be changed further to implement commitments on Youth Mobility Scheme (YMS) programmes in the mobility side letter.

6. Territorial Application

6.1. The Treaty will apply to the United Kingdom of Great Britain and Northern Ireland.

The territorial application of the following Chapters of the Treaty extends to the Crown Dependencies:

- (A) Chapter 2 (Trade in Goods);
- (B) Chapter 4 (Rules of Origin and Origin Procedures); and
- (C) Chapter 5 (Customs Procedures and Trade Facilitation); and
- (D) Chapter 6 (Sanitary and Phytosanitary Measures); and
- (E) Chapter 25 (Animal Welfare and Antimicrobial Resistance);

This will take effect immediately upon entry into force of this Treaty.

6.2. The Treaty includes a mechanism which will allow for further extension to the Crown Dependencies and Overseas Territories. It is intended that parts of this Treaty will be extended to the Crown Dependencies and Gibraltar once extension negotiations with Australia have taken place and the necessary implementing measures, e.g. legislation, are in place for the territories. Side letters setting out this intent have been signed with Australia. DIT will work with the Crown Dependencies and Gibraltar in this regard, as well as any Overseas Territory that wishes this Treaty to be extended to it in future.

7. Financial

7.1. There will be no significant financial implications. In the Cooperation Chapter the Parties agreed to bear the costs of cooperation activities in an equitable manner.

8. Impact Assessment

8.1. The Impact Assessment has been published and deposited in the House libraries. It has been independently scrutinised.

9. Human Rights

9.1. There are no human rights implications. Implementation will not require legislation in this regard.

10. Reservations and Declarations

10.1. No reservations or declarations have been made in relation to the Treaty.

11. Consultation

- 11.1.** Our negotiating strategy was based on the results of one of the largest public consultations in UK history, and we spoke to businesses and interest groups in every part of the UK. In July 2019, the Department of International Trade published a summary of over 146,000 responses on a potential agreement with Australia.
- 11.2.** We published the UK's approach to negotiating a free trade agreement with Australia in June 2020 a part of which responded to the consultation as well as an initial economic scoping assessment.

Devolved Administrations (DAs)

- 11.3.** The UK Government is responsible for negotiating international trade agreements on behalf of all parts of the UK. However, DIT recognises that modern trade agreements interact with areas of devolved competence and that the DAs have an interest across a range of areas.
- 11.4.** DIT has created engagement structures at all levels to ensure a constructive approach to working with the DAs. These include the quarterly Ministerial Forum for Trade, regular bilateral ministerial meetings, the six-weekly Senior Officials Group, Chief Negotiator calls running parallel to negotiation rounds, six-weekly chapter-specific policy roundtables and weekly working level engagement.
- 11.5.** The DAs were consulted regularly after each negotiation round. Through this process DA priorities were registered and the engagement was focused, though not limited, to areas of devolved competence including: Sanitary and Phytosanitary Standards; Public Procurement that is not wholly or mainly reserved; certain Technical Barriers to Trade; Good Regulatory Practice; Gender and Equality Services, and Environment and Sustainability. Other key areas of DA interest included the staging mechanisms for implementing new Tariff Rate Quotas and safeguards for industries that the UK Government has sought protections for.
- 11.6.** During the negotiation sprint before, and after, the agreement in principle, senior officials from DIT increased their frequency of meetings with DA counterparts. The Minister for Trade Policy also discussed the negotiation with DA Ministers and will continue to do so, both bilaterally and at the Ministerial Forum for Trade.
- 11.7.** The Treaty text and the impact assessment were shared with the DAs before signature. An embargoed copy of the final Treaty text was also shared.

Crown Dependencies (CDs) and Overseas Territories (OTs)

- 11.8.** The UK is committed to seeking to represent the interests of the Crown Dependencies (CDs) and Overseas Territories (OTs) in all international free trade agreements, acknowledging that they have varied and specific interests which differ from agreement to agreement.
- 11.9.** DIT has shared relevant written information and text with the CDs and OTs, where relevant, and held policy specific discussions through a contact group established to support engagement on all issues related to international trade.
- 11.10.** We consult regularly with the CDs and the OTs at official and ministerial level and have highlighted to Australia our role in representing their interests throughout all stages of the negotiation.

Other stakeholders

- 11.11.** DIT engages extensively with a wide variety of stakeholders including businesses, civil society, professional services regulators, academics and consumer groups through the Strategic Advisory Group and Trade Advisory Groups and other stakeholder forums.
- 11.12.** We are committed to an open and transparent approach to trade negotiations, as well as regular engagement and discussion relating to ongoing negotiations. This involves sharing the Treaty Chapter text with stakeholders who have been most closely involved with negotiations through our Trade Advisory Groups.
- 11.13.** All-TAG members have been consulted throughout the Treaty negotiations and are key forums for sharing sensitive information. We are able to share with those stakeholders who have signed Confidentiality Agreement which facilitate sensitive discussions by creating a secure framework for the sharing of confidential information with external stakeholders.
- 11.14.** Our post-round reporting ensured stakeholders were kept up-to-date. This involved briefing to chambers of commerce, a joint UK-Australia stakeholder briefing, our sector Trade Advisory Groups, Strategic Trade Advisory Group, Parliament and through a statement published on Gov.uk. DIT also uses several other mechanisms for consulting stakeholders and informing policy development including: ‘town hall’ style briefings, roundtables, webinars and bilateral and group engagements.

Trade Union Advisory Group (TUAG)

- 11.15.** Chaired by the Minister for International Trade, Ranil Jayawardena MP, this group provides a dedicated forum for representatives from some of the UK’s leading trade unions to advise the Government on how to protect and advance the interests of workers as part of its trade policy.

Civil Society Roundtables

- 11.16.** Chaired by the Minister for International Trade, Ranil Jayawardena MP, the department holds a series of roundtables dedicated to engagement with key civil society organisations and think-tanks. These roundtables enable a broad cross-section of organisations to engage with Ministers on key issues including the environment, animal welfare, gender equality and international development.
- 11.17.** The meetings complement DIT’s engagement with civil society organisations through other fora, including the Strategic Trade Advisory Group, which has been expanded to incorporate greater civil society representation, including an Environment and Climate seat.

12. Ministerial Responsibility

- 12.1.** The Secretary of State for the Department for International Trade has overall responsibility for the trading relationship with Australia and for this treaty
- 12.2.** The Secretary of State for Foreign, Commonwealth and Development Affairs has overall responsibility for UK policy relating to the UK’s relations with Australia.

Both Secretaries of State approve this draft explanatory memorandum.