

National Interest Analysis [2022] ATNIA 3

with attachments

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

(Adelaide, 17 December 2021 and London, 16 December 2021)

[2022] ATNIF 3

Attachments:

Attachment I Consultation

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NATIONAL INTEREST ANALYSIS: CATEGORY 1 TREATY

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

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Nature and timing of the proposed treaty action

1. The proposed treaty action is to bring into force the *Free Trade Agreement between Australia and the United Kingdom of Great Britain and Northern Ireland* (“A-UKFTA”, “the Agreement”) signed on 17 December 2021 at Adelaide, Australia and 16 December 2021 at London, United Kingdom.
2. Article 32.7 (Entry into Force) provides that the A-UKFTA will enter into force 30 days after the date of the latest note of an exchange of notes confirming that each Party has completed its respective domestic requirements for entry into force.
3. It is proposed that Australia provide such notification as soon as practicable following consideration by the Joint Standing Committee on Treaties (JSCOT), the passing of any legislative amendments and the enactment of any necessary regulations.

Overview and national interest summary

4. The A-UKFTA will bring both commercial and strategic benefits. The UK is the world’s fifth largest economy and our fifth largest two-way trading partner, with A\$31.8 billion in goods and services trade in 2020. The A-UKFTA will deliver preferential market access for Australia’s key exports, providing important diversification opportunities. It will also improve certainty for exporters and importers, service suppliers and investors across the whole economy.
5. The A-UKFTA will enhance cooperation and coordination with the UK to facilitate a strong and resilient economic recovery from COVID-19, while reducing the vulnerability of Australia’s trade and investment to future crises.
6. As a modern free trade agreement (FTA), the A-UKFTA will help stimulate growth and investment, providing increased opportunities for Australian business. It will enhance Australia’s economic engagement with the UK through strengthened trade rules that will help build upon our already healthy trading relationship.
7. An FTA with the UK will benefit Australian consumers by increasing access to competitively priced goods, and exposure to new technologies and innovative practices. As an open trading nation, our future prosperity depends upon our economy staying

internationally competitive and on Australian businesses continuing to innovate and succeed in new markets.

8. The A-UKFTA will also deliver important strategic outcomes, furthering the Foreign Policy White Paper objective of diversifying Australia's trade and guarding against the risk of discriminatory trade blocs that could damage Australia's economic and security interests. This comes at a time when many of Australia's trade competitors are negotiating preferential access with the UK, through bilateral FTAs and through the UK's accession to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP). Signing an FTA with the UK also sends a signal to the world of Australia's ongoing commitment to trade liberalisation, helping to counter protectionist sentiment during a period of geopolitical uncertainty and trade tensions.

Reasons for Australia to take the proposed treaty action

9. The purpose of signing the proposed A-UKFTA is to create new opportunities for goods and services trade and investment with the UK and to remove barriers that were impeding trade in goods, for example, while the UK was a member of the European Union (EU). Some of the barriers to goods trade include tariffs and quotas on Australia's exports. Reducing or eliminating these tariffs and quotas means that trade can flow more freely, stimulating the export potential for Australia's businesses and contributing to more competitively priced products for consumers in both countries thus improving standards of living.
10. The key outcomes and impacts of the A-UKFTA are set out in detail in Attachment II (Regulation Impact Statement) and Attachment III (Key Outcomes) to this National Interest Analysis (NIA). Sectoral outcomes are summarised below.

Goods

11. Under the proposed A-UKFTA, almost 99 per cent of Australian goods exports (valued at A\$9.2 billion on average over the period 2017 to 2019) will enter the UK duty free on entry into force. Barriers that have been in place for just under 50 years on Australian exports will be removed across a range of key products including wine, seafood, grains, fruit and vegetables, honey, nuts and olive oil. Under the A-UKFTA, tariff reductions would be locked in, providing certainty for Australian exporters.
12. These outcomes will result in a marked improvement to Australia's access to the UK market and allow Australia's agricultural producers to compete on an equal footing with competitors including the EU, which already enjoys duty free access to the UK market.
13. The A-UKFTA also contains liberal rules of origin that will facilitate market access. They reflect modern production processes and support existing global value chains. The rules of origin include explanation of efficient and low-cost processes to prove originating status of goods. These will contribute to reducing the amount of paperwork at the border for traders and Customs authorities.
14. Such improved procedures allow for Declarations of Origin (DOO) to be either self-declared by the producer or exporter or completed by an authorised issuing body.

Importers will also be able make a claim for preferential tariff treatment without the need for a DOO based on 'importers knowledge'.

Services, Investment and Mobility

15. The A-UKFTA will provide a strong platform to expand trade in services and to promote investment with the UK. The Agreement 'locks-in' non-discriminatory provisions, ensuring that neither the UK nor Australia can discriminate in favour of its own service suppliers and investors. The Agreement is also future proofing through the Most-Favoured Nation (MFN) and ratchet provisions that ensure that the benefits of the UK's future FTAs are automatically granted to Australian service suppliers and investors and that Australia and the UK cannot decrease liberalisation of existing regulation in particular services sectors.
16. The Agreement will also include a liberal approach to services and investment market access going beyond the UK and Australia's respective best precedent trade commitments. The A-UKFTA strikes the right balance in including commitments that reflect the high-quality regulatory approaches of both Governments.
17. The A-UKFTA will underpin further opportunities for services and investment. Commitments on access for service suppliers and investors will be substantially enhanced from existing positions under the General Agreement on Trade in Services (GATS) in the World Trade Organization (WTO), guaranteeing access for our service suppliers and investors to the UK market. Commitments will cover all investment, portfolio and foreign direct investment (FDI) and ambitious market access commitments matching the best the UK has made. Investors will have guarantees of market access, fair treatment and protection from expropriation of assets, while the Agreement preserves the right of states to regulate in the public interest, including Australia's right to screen investment in the national interest.
18. The mobility commitments confirm visa pathways available for the temporary movement of skilled workers in both directions and ensures that Australian businesses have access to skills and talent from the UK and that Australian nationals have an enhanced ability to pursue career opportunities in the UK.

Improving the Business Environment

19. The A-UKFTA helps to facilitate digital trade, enabling Australian businesses and consumers to take advantage of new opportunities in the growing global digital economy. The Agreement contains rules to enable the free flow of data across borders and prevent unjustified data localisation requirements, while ensuring appropriate protections for data privacy and legitimate public policy objectives. These data rules will assist Australian businesses by facilitating access to data and increasing their competitiveness in local and international markets.
20. Australia and the UK have agreed to establish a best practice framework to improve the two-way movement of professionals and professional services. This includes provisions to support mutual recognition of professional qualifications; and promote transparent qualifications recognition, licensing and registration processes, as well as a work

program for peak bodies to engage to further streamline and guarantee easier access for professionals between Australia and the UK.

21. The A-UKFTA also contains rules that capture recent advances in international trade rule making (including relating to intellectual property, competition, government procurement, and small and medium enterprises) and future-proof the ways in which Australian exporters can conduct business activities with UK businesses.

Obligations

22. The A-UKFTA consists of 32 Chapters with associated Annexes, Appendices and footnotes.

Goods

23. The provisions contained in the A-UKFTA's goods-related chapters (Chapter 2-7) reaffirm existing rights and obligations under the relevant WTO Agreements.
24. The Chapter on Trade in Goods (Chapter 2) establishes the basic rules governing trade in goods between Australia and the UK. The Chapter contains provisions covering Australia and the UK's tariff commitments and non-tariff measures, pursuant to the Agreement's objective to liberalise and facilitate trade in goods. This Chapter is a common element of FTAs and is consistent with Australia's obligations under the *General Agreement on Tariffs and Trade 1994* and other Multilateral Agreements on Trade in Goods in Annex 1A of the *Agreement Establishing the WTO* (WTO Agreement). Tariff commitments reduce or eliminate preferential tariffs on originating goods, without affecting excise equivalent duties.
25. The Chapter on Trade Remedies (Chapter 3) establishes transitional safeguard provisions based on those in the *WTO Agreement on Safeguards* that would support Australia and the UK's tariff liberalisation commitments. It also contains provisions which are compliant with Australia's domestic legislation and consistent with both Parties' WTO trade remedies rights and obligations.
26. The Chapter on Rules of Origin and Origin Procedures (Chapter 4) specifies the rules under which goods imported from a Party are considered eligible for preferential tariff treatment. It includes liberal rules of origin that will facilitate market access and reflect modern production processes and existing and future global value chains.
27. The Chapter on Customs Procedures and Trade Facilitation (Chapter 5) contains commitments for efficient and transparent customs procedures to facilitate increased bilateral trade. The Chapter builds on commitments under the *WTO Agreement on Trade Facilitation* and ensures transparency of rules and procedures. This Chapter is a common element of FTAs. It provides greater certainty, transparency and predictability for Australian traders with commitments for goods to be released within 48 hours from customs and within six hours for both perishable goods and expedited shipments.
28. The Chapter on Sanitary and Phytosanitary (SPS) Measures (Chapter 6) is designed to help facilitate trade. It reaffirms the Parties' commitments in the *WTO Agreement on the Application of Sanitary and Phytosanitary Measures*, in particular commitments on

regionalisation, equivalence and verification. It reaffirms Australia's right to continue to implement a robust, science-based biosecurity regime.

29. The Chapter on Technical Barriers to Trade (TBT) (Chapter 7) builds on the close institutional relationships between Australia and the UK by increasing cooperation and information exchange. It includes commitments on conformity assessment, international standards and technical regulations that build on the WTO *Agreement on Technical Barriers to Trade* to further facilitate trade and enhance transparency. The chapter includes a Cosmetics Annex, with information sharing requirements and commitments on animal testing.

Services

30. The Chapter on Cross-Border Trade in Services (Chapter 8) will establish rules for the cross-border supply of services between the Parties, including obligations to provide access to UK service suppliers (Market Access), to treat local and UK suppliers equally (National Treatment) and to treat service suppliers of the UK at least as well as suppliers of any non-Party (MFN). This Chapter includes local presence, transparency, payments and transfers, and recognition provisions broadly in line with our previous FTAs. Australia has also made commitments to ensure impartiality, transparency and responsiveness of its competent authorities so that their requirements, procedures, and technical standards do not constitute unnecessary barriers to trade across the whole economy, except on sensitive matters where Australia has scheduled limitations against the reservable disciplines (such as MFN, Market Access, National Treatment and Local Presence). These commitments are consistent with the high-quality regulatory practice that exists across all Australian jurisdictions. The Chapter incorporates two Annexes which will establish commitments by both Parties specific to express delivery services and international maritime transport services.
31. The Chapter on Financial Services (Chapter 9) contains specific rules on financial services that build on existing commitments in the CPTPP and Australia-Hong Kong FTA, giving financial service suppliers greater certainty and transparency regarding the rules that will apply to them when providing services to UK clients. As with the Cross-Border Trade in Services Chapter, it will also include Market Access and National Treatment provisions along with obligations regarding local presence, payment and clearing systems, data flows and localisation and back-office functions. It includes provisions to address behind the border barriers to financial services trade and expands opportunities for cross-border provision of such services. The Chapter recognises the importance of transparency and establishes a Financial Services Regulatory Cooperation Annex.
32. The Chapter on Professional Services and the Recognition of Professional Qualifications (Chapter 10) facilitates cooperation on recognition of professional qualifications, licensing and registration requirements. It provides a framework for professional bodies to expand their links with UK counterparts, encouraging dialogue on recognition of qualifications, licences and registration. The framework also encourages development of mutual recognition arrangements in professions of mutual interest, including through the

alignment of professional standards and accreditation criteria with international frameworks.

33. The Chapter on Temporary Entry for Business Persons (Chapter 11) facilitates the temporary entry and stay of skilled persons in support of business or investment opportunities. Australia and the UK are required to maintain visa pathways for businesspeople entering across a range of categories (for Australia, business visitors, intra-corporate transferees, independent executives and contractual service suppliers), provided all relevant application processes and eligibility requirements have been met. The Chapter waives requirements for economic needs tests with respect to committed categories. The Chapter does not create any obligations in relation to citizenship, nationality, residence or employment on a permanent basis. It recognises the right of a Party to regulate the entry of natural persons from another Party into its territory.
34. Alongside the Chapter, Australia has committed to introduce an Innovation and Early Career Skills Exchange pilot for UK citizens to access streamlined visa opportunities to Australia, capped at 1,000 in the first year of operation and rising to 2,000 in the second year. In the second year, the pilot will be reviewed and considered for future implementation by both sides. Australia also invites the UK to discuss participation in the Australian Agriculture Visa, while the UK identifies similar opportunities for Australians to work in agriculture in the UK. The Parties also agree to make changes to youth mobility arrangements on a reciprocal basis, with joint commitments to extend opportunities to participate up to the age of 35, the possibility of three-year stays, and no specified work requirements on participants.
35. The Telecommunications chapter (Chapter 12) contains a number of standard provisions that are similar to telecommunications chapters in Australia's previous FTAs. The Chapter will promote competition in Australia and the UK's telecommunications markets through adopting and maintaining safeguards and approaches to regulation that prevent anti-competitive practices and discrimination. The Chapter also includes provisions such as access for service suppliers to use public telecommunications networks or services, the independence of telecommunications regulatory authorities, transparent and reasonable roaming rates and alternatives to roaming and a commitment to a strategic dialogue and partnership on security and diversification in the telecommunications sector.

Investment

36. The Chapter on Investment (Chapter 13) provides market access and protections for investors from the UK and Australian investors in the UK. Australia has offered preferential Foreign Investment Review Board (FIRB) screening thresholds to the UK under the Agreement. The Chapter does not include Investor State Dispute Settlement (ISDS) provisions.
37. The key obligations in this Chapter include:
 - a. non-discrimination through national treatment and MFN provisions: national treatment obliges a Party to accord to investors of the other Party treatment no less favourable than that it accords its own investors, where there are like

circumstances, and MFN obliges a Party to afford no less favourable treatment to foreign investors of the other Party than investors from non-Parties in like circumstances;

- b. an obligation not to impose limitations on market access to investors from the other Party (market access);
 - c. fair and equitable treatment and full protection and security: the investor/investment from the other Party to be accorded fair and equitable treatment and full protection and security in accordance with the customary international law minimum standard of treatment of aliens;
 - d. expropriation and compensation: obligation not to expropriate or nationalise a covered investment (directly or indirectly) unless it is undertaken in a non-discriminatory manner, for a public purpose and upon payment of prompt, adequate, and effective compensation;
 - e. transfers: obligation to allow all transfers relating to a covered investment to be made freely and without delay into and out of its territory, with economic sanctions carved out from the obligations in this provision;
 - f. performance requirements: lists the types of requirements (for example to purchase, use or accord a preference to goods produced in a Party's own territory), which a Party agrees not to impose as a condition of establishment or operation of an investment in the other Party, including prohibitions on requirements to headquarter in Australia or to undertake particular levels of research and development, except as conditions of benefits provided to the investor, which are new to Australia's practice; and
 - g. senior management and board of directors: a prohibition on requiring new, discriminatory residency and nationality requirements for senior management and directors positions of covered investments.
38. While some of these obligations are not found in Australia's existing FTAs, they do not require changes to existing domestic laws or policy, with the exception that changes to the investment screening thresholds for some proposed actions by UK investors will require changes to the *Foreign Acquisitions and Takeovers Regulation 2015*.

Digital Trade

39. The Chapter on Digital Trade (Chapter 14) is aimed at facilitating digital trade across all sectors of the economy. It contains rules to facilitate trade, including through reducing barriers to paperless trading and increasing the interoperability of electronic contracts and electronic authentication. It contains commitments to enable cross-border data flows and avoid unjustified computing facility localisation requirements, subject to exceptions allowing Parties to take measures for security, privacy and other legitimate public policy reasons. It also contains commitments to ensure a safe trading environment for consumers and businesses, including rules in respect of online consumer protection,

personal information protection and spam. The Chapter also contains provisions for ongoing cooperation and collaboration, including on digital inclusion, cybersecurity and to support SMEs participating in the digital economy.

Intellectual Property

40. The Chapter on Intellectual Property (Chapter 15) affirms and complements the WTO *Agreement on Trade-Related Aspects of Intellectual Property* (TRIPS) provisions on copyright, trademarks, designs, geographical indications (GIs) and patents, including transparency, safeguards for and enforcement of intellectual property rights, cooperation and genetic resources and traditional knowledge. The Chapter is consistent with the *Patents Act 1990*, *Trade Marks Act 1995*, *Designs Act 2003*, *Copyright Act 1968*, *Resale Royalty for Visual Artists Act 2009* and associated regulations, but some legislative amendments to Australia's designs and artist resale right settings will be required after entry into force.
41. The Chapter commits Australia to make all reasonable efforts to accede to the *Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs* (Hague Agreement). This commitment does not require Australia to have acceded to the Hague Agreement upon entry into force of the Agreement. Accession to the Hague Agreement as an end-result of Australia's commitment to make reasonable efforts will be a separate treaty action and will ultimately require changes to the *Designs Act 2003* and associated regulations.
42. This Chapter also contains a commitment for the Parties to implement reciprocal arrangements for their artist resale royalty schemes following a consultation process. This will make Australian visual artists eligible to receive royalties when their works are resold in the UK, and UK artists will similarly be eligible under Australia's scheme. Amendments to the *Resale Royalty Right for Visual Artists Act 2009* or associated regulations will be required to implement this arrangement.
43. The A-UKFTA does not require Australia to make any changes to its GI settings or to protect any specific GIs under the agreement. However, there is a commitment to review the GI provisions in the Chapter if Australia implements a new standard of protection for GIs through an international agreement with a third party or allows for the protection of specific GIs under such an agreement with a third party. This is to ensure the UK may secure treatment no less favourable than the third party. There is also a commitment to review the GIs provisions if Australia has not entered into such an agreement with a third party by two years after entry into force of the A-UKFTA.

Government Procurement

44. The Chapter on Government Procurement (Chapter 16) contains rules and provides for market access in relation to government procurement. A Government Procurement Chapter is a common element of the majority of Australia's trade agreements and this Chapter contains standard provisions that are substantially consistent with those agreements, in particular the WTO Agreement on Government Procurement (GPA) and the CPTPP. The rules in the Chapter are based on the principles of national treatment and non-discrimination. Australia has gone beyond its market access commitments in the

GPA and CPTPP, covering additional procuring entities at the Commonwealth and State and Territory government levels, commensurate with additional market access committed by the UK. Australia has maintained its full, standard list of exceptions for particular categories of goods and services, and for policies such as those relating to SME and Indigenous procurement.

Competition Policy and Consumer Protection

45. The Chapter on Competition Policy and Consumer Protection (Chapter 17) contains obligations requiring Australia and the UK to maintain national competition laws that proscribe anti-competitive agreements, anti-competitive practices by entities that have substantial market power, address mergers with substantial anti-competitive effects, and maintain a national competition authority. It contains provisions on procedural fairness, as well as on consumer protection. The Chapter also recognises the importance of cooperation and coordination between Australia and the UK's respective competition and consumer protection authorities to foster effective enforcement. The provisions are largely similar to those in our previous FTAs and are consistent with the *Competition and Consumer Act 2010* and associated regulations.

State-Owned Enterprises and Designated Monopolies

46. The Chapter on State-Owned Enterprises and Designated Monopolies (Chapter 18) contains provisions providing for open and fair competition between commercially oriented SOEs and private businesses, including rules regarding commercial assistance and non-discrimination. It also includes provisions ensuring SOEs providing public services can continue to operate and provisions regarding information sharing and cooperation, including at the multilateral level. An SOEs Chapter has been included in other Australian FTAs and this Chapter contains similar provisions.

Small and Medium Enterprises

47. The Chapter on Small and Medium Enterprises (Chapter 19) provides a platform for Parties to facilitate cooperation that can enhance the capability of SMEs to take advantage and benefit from the opportunities created through the Agreement, and to assist SME participation in global markets. The Chapter contains provisions that are similar to our previous FTAs, in particular CPTPP.

Innovation

48. The Chapter on Innovation (Chapter 20) establishes a Strategic Innovation Dialogue mechanism for the UK and Australia to consider specific cooperation activities, including in development, and discuss the impact of innovation on trade, including regulatory approaches, commercialisation of new technologies and supply chain resilience.
49. This Chapter is the first time Australia has included commitments regarding innovation in an FTA, but involves no regulatory changes or changes to development policy or practice as commitments are focused on cooperation, consultation and information sharing.

Labour

50. The Chapter on Labour (Chapter 21) includes provisions committing the UK and Australia to maintain and effectively enforce their domestic labour laws and standards. It affirms the Parties' obligations as members of the International Labour Organization (ILO) and requires the Parties to have laws that enshrine the rights stated in the ILO *Declaration on Fundamental Principles and Rights at Work* and its *Follow-up* (1998). Chapter provisions substantively replicate those in the Labour Chapter of the CPTPP, but with additional provisions on recognising the right to regulate of each Party, non-discrimination and gender equality in the workplace, as well as a provision tackling modern slavery in supply chains, which require no changes to Australian law or practice.

Environment

51. The Chapter on Environment (Chapter 22) affirms the Parties' commitments under multilateral environmental agreements, including the Paris Agreement, the Convention on International Trade in Endangered Species (CITES), the Montreal Protocol and the International Convention for the Prevention of Pollution from Ships (MARPOL). Most provisions substantively replicate those in the Environment Chapter of the CPTPP and require no changes to Australian law or practice.

Development

52. The Chapter on Development (Chapter 23) contains provisions relating to bilateral cooperation, including the exchange of information on best practices, technical assistance and capacity building. This Chapter is the first time Australia has included commitments regarding development in an FTA with another developed country. It will not involve any regulatory changes or changes to development policy or practice as commitments are focused on cooperation, consultation and information sharing.

Trade and Gender Equality

53. The Chapter on Trade and Gender Equality (Chapter 24) contains provisions aimed at addressing barriers for women to access the benefits of trade and investment, focused on cooperative activities, the exchange of information and a dialogue mechanism to support implementation. This is the first Australian FTA including a chapter on trade and gender equality and does not require any changes to Australian law or practice.

Animal Welfare and Antimicrobial Resistance

54. The Chapter on Animal Welfare and Antimicrobial Resistance (Chapter 25) focuses on cooperation in areas of mutual interest in relation to animal welfare and combatting antimicrobial resistance, including in international fora. For animal welfare, it recognises that animals are sentient beings and affirms the Parties' right to regulate and to establish their own policies and priorities on animal welfare protection, while also containing appropriate provisions recognising the importance of high levels of animal welfare protections and that the Parties should not derogate or regress from such protections. The Chapter establishes a bilateral Animal Welfare Working Group. The A-UKFTA will be the first FTA in which Australia has included provisions regarding animal welfare and

combatting anti-microbial resistance. It does not require any legislative or regulatory changes.

Good Regulatory Practice

55. The Chapter on Good Regulatory Practice (Chapter 26) supports a transparent and predictable regulatory environment for business, including through providing transparency and accessibility of information about regulatory measures, and for public consultation in their development. The Chapter contains provisions that are similar to our previous FTAs, in particular CPTPP.

Cooperation

56. The Chapter on Cooperation (Chapter 27) provides for the effective implementation and utilisation of the Agreement by providing for technical cooperation activities across the Agreement as a whole to be undertaken through a bilateral Cooperation Committee.

Transparency and Anti-Corruption

57. The Chapter on Transparency and Anti-Corruption (Chapter 28) commits the UK and Australia to best-practice transparency and anti-corruption provisions, including the promotion of transparency in government decision-making and encouraging private sector and civil society participation. It also contains provisions relating to shared ambition to combat the distorting impact of bribery and corruption in trade and affirms the Parties' international obligations regarding bribery and corruption offences.

Administrative and Institutional Provisions

58. The Chapter on Administrative and Institutional Provisions (Chapter 29) establishes an FTA Joint Committee to oversee and ensure effective implementation of the Agreement. The Joint Committee would comprise representatives from both Parties and be the peak body responsible for overseeing the operation of the Agreement after its entry into force. This is standard practice in Australia's FTAs.

Dispute Settlement

59. The Chapter on Dispute Settlement (Chapter 30) contains rules and procedures to resolve disputes that may arise between the Parties in relation to their commitments under the Agreement. This Chapter is a common element of Australia's FTAs and is based on the rules and procedures for dispute resolution under the WTO. In keeping with Australia's FTA practice, some provisions are excluded from the scope of the dispute settlement mechanism, such as provisions in the Sanitary and Phytosanitary Chapter.

General Provisions and Exceptions

60. The Chapter on General Provisions and Exceptions (Chapter 31) contains general exceptions to the Agreement, and exceptions relating to matters such as essential security, taxation measures and balance of payments.

Final Provisions

61. The Chapter on Final Provisions (Chapter 32) contains provisions governing the administration of the Agreement. This includes the requirements for the Agreement to enter into force as well as the process for general review of the Agreement by the Parties. This Chapter also establishes the process for the Parties to agree in order to extend the Agreement to other territories, as well as the process for withdrawal by a Party.

Implementation

62. Australia would need to make the following legislative changes in order to implement the obligations in the A-UKFTA:
 - a. The *Customs Tariff Act 1995* will need to be amended to incorporate the preferential tariff rates that will apply to goods imported from the UK under the A-UKFTA; and the *Customs (International Obligations) Regulation 2015* and *Customs Tariff Regulations 2004* will be amended to allow for refunds of excess customs duty paid.
 - b. The *Customs Act 1901* will need to be amended and a Customs (A-UKFTA Rules of Origin) Regulation will need to be created establishing rules for determining the originating status of goods imported from the UK for the purpose of determining eligibility for preferential tariff treatment.
 - c. The *Foreign Acquisitions and Takeover Regulations 2015* will also require amendment to incorporate the new thresholds for screening investment proposals by investors from the UK; and
 - d. A legislative instrument under section 140 GBA of the *Migration Act 1958* will need to be created to give effect to Australia's labour market testing (LMT) waiver commitment in the Agreement. Amendments will also be required to the *Migration Regulations 1994* and associated legislative instruments to implement the shared understandings on mobility.

Costs

63. Estimated revenue and resourcing implications of the A-UKFTA come to approximately -\$175 million over the forward estimates (until year 2025-2026), with the main impact being the loss of tariff revenue associated with concessions in the agreement. Additional costs are associated with implementing a new mobility pathway for UK innovators and early career professionals to Australia, incentivising audio-visual co-productions, and implementing a Strategic Innovation Dialogue. We expect a reduction in fee revenue due to the decrease in FIRB applications as a result of raising the FIRB screening thresholds for UK investors to CPTPP levels (where the immediate acquirer is from the UK). These costs have been partially offset by taxation receipts from the expected increase in UK temporary migrants onshore. The FTA is expected to deliver a net resourcing benefit by 2025-26.

64. A Regulation Impact Statement (RIS), which has been certified by the Office of Best Practice Regulation as consistent with the *Australian Government Guide to Regulatory Impact Analysis* is attached to this NIA (Attachment II).

Future treaty Action

65. Article 32.2 (Amendments) allows for amendment of the Agreement, in writing, between the UK and Australia. Any amendments shall enter into force 30 days after the date on which the Parties exchange written notifications confirming that they have completed their respective domestic requirements necessary for the entry into force of the amendments, or on such other date as the Parties may agree. Any future amendments would be subject to Australia's domestic treaty-making requirements.

Termination

66. Article 32.8 (Termination) allows the UK or Australia to terminate the Agreement by giving the other Party notice in writing. Such termination shall take effect six months after the date of the notification, or on such date as the Parties may agree. Within 30 days of the date of the notification, either Party may request consultations regarding whether the termination of any provision of this Agreement should take effect on a later date. Any withdrawal by Australia would be subject to Australia's domestic treaty making requirements.

Contact details

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Attachments

Attachment I – Consultation

Attachment II – RIS

Attachment III – Key Outcomes

Attachment I

Consultation

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

(Adelaide, 17 December 2021 and London, 16 December 2021)

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Consultation

67. The public consultation and stakeholder engagement process for the Free Trade Agreement between Australia and the United Kingdom of Great Britain and Northern Ireland (“A-UKFTA”, “the Agreement”) commenced before the launch of negotiations on 17 June 2020. Stakeholders were engaged during the four years of preparatory discussions under the bilateral Trade Working Group (TWG), established in September 2016. Once negotiations formally commenced, DFAT, in conjunction with other government agencies, consulted widely with industry and other stakeholders in formulating positions. In the last 12 months alone, DFAT has communicated with over 140 organisations and participated in over 250 meetings regarding the A-UKFTA negotiations.
68. In addition to a call for public submissions in the lead-up to commencement of negotiations and throughout negotiations, negotiators regularly engaged with representatives of the business sector, academia and civil society organisations to provide them with an opportunity to share their views and expectations of the A-UKFTA negotiations. After every negotiating round, dedicated online stakeholder consultation events took place, hosted by the Australian British Chamber of Commerce (ABCC) and/or the Australia-UK Chamber of Commerce (AUKCC), including on the following dates:
 - a. 30 July 2020
 - b. 14 October 2020
 - c. 17 December 2020
 - d. 17 March 2021
 - e. 24 June 2021
 - f. 29 July 2021
 - g. 10 August 2021.

69. In addition, DFAT hosted a number of peak industry body events updating industry on the A-UKFTA negotiations, including biannual peak organisation meetings on trade and investment agreement negotiations and implementation as well as with peak bodies such as the Australian Services Roundtable.
70. The Government also convened meetings of the Ministerial Advisory Council to add to transparency around FTA negotiations. Participants in these meetings included representatives from peak industry bodies and civil society. The A-UKFTA has been discussed in this forum on 12 August 2020, 25 November 2020 and 26 March 2021.
71. Stakeholders participating in the public consultation process have noted the benefits that the A-UKFTA may bring, and the potential to build on the already strong trading relationship between Australia and the UK. Stakeholders underlined the importance of improved agricultural market access, modernised rules of origin, improved mobility settings and forward-leaning digital trade provisions. The majority of business sector stakeholders supported the government's efforts in the pursuit of this comprehensive Agreement.
72. Reducing barriers to agriculture market access to the UK was a particular focus for stakeholders. Businesses small and large and representatives from a range of major peak agricultural bodies, including Meat & Livestock Australia, Dairy Australia, and the National Farmers' Federation, were consulted throughout the A-UKFTA negotiations. Stakeholders sought the complete removal of tariffs, quotas and other barriers immediately on entry into force of the A-UKFTA. The announcement of the outcomes in the Agreement in Principle (AiP) on 17 June 2021, that formed core elements of the A-UKFTA, resulted in positive stakeholder reactions as many of the AiP outcomes directly responded to the requests of these stakeholders.
73. Enhancing opportunities for Australian service providers and investors in areas such as professional services, education, energy and health was also raised by stakeholders. One-on-one meetings between businesses and DFAT regularly took place in addition to broader consultations with services industry peak bodies such as the Australian Services Roundtable and sectoral professional bodies such as Engineers Australia. DFAT also engaged with the Indigenous Network for Investment, Trade & Export (IGNITE) organisation.
74. Civil society groups raised some targeted concerns in consultations and through public submissions, primarily on labour rights, environmental standards, animal welfare, ISDS, intellectual property and temporary entry. Notwithstanding the confidential nature of negotiations, negotiators, as requested, provided as much information as possible throughout the negotiations.
75. DFAT has also consulted with state and territory governments throughout the course of negotiations. Consultations took place with all states and territories through formal updates prior to negotiating rounds, as well as with individual jurisdictions. A substantial body of work involved the UK request that, for the first time, states and territories undertake a Market Access commitment in services and investment, scheduled on a negative list basis. An extensive technical consultation which commenced in June 2019

involved an assessment of each jurisdiction's measures and policy sensitivities. All jurisdictions agreed to a set of Market Access Non-Confirming Measures (Annex I and Annex II) by 20 September 2021.

76. A list of businesses and organisations that were consulted on the A-UKFTA is set out below, together with a list of submissions received.

DFAT-consulted stakeholder list

1. Accolade Wines	2. Accord
3. Animals Australia	4. ANZ
5. Apple and Pear Australia	6. Australia Chamber of Commerce and Industry (ACCI)
7. Architects Accreditation Council of Australia (AACA)	8. Australian Grape and Wine
9. Australian Automotive Aftermarket Association	10. Australian Council of Professions
11. Australian Health Practitioner Regulation Agency (AHPRA)	12. Australian Institute of Architects
13. Association of Consulting Architects Australia	14. Australian Aluminium Council
15. Australian Institute of Quantity Surveyors	16. Australian Banking Association
17. Association of International Seafood Professionals	18. Australian British Chamber of Commerce
19. Australian Beverages Council	20. Australian Digital Alliance
21. Australian Council of Wool Exporters	22. Australian Seafood Industry
23. Australian Fresh Produce Alliance	24. Australian Grape & Wine
25. Australian Fair Trade and Investment Network (AFTINET)	26. Australian Industry Group
27. Australian Honey Bee Industry Council	28. Association International Seafood Professionals
29. Australian Food and Grocery Council	30. Australian Horticultural Exporters' Association
31. Australian Livestock Exporters' Council	32. AUSVEG
33. Australian Pork	34. Australian Meat Industry Council
35. Australian Grain Exporters Association (AGEA)	36. Australian Nut Industry Council
37. Australian Mobile Telecommunications Association (AMTA)	38. Australian Pork Ltd, Australian Red Meat Industry / Meat & Livestock Australia
39. Australian Olive Association	40. Australasian Veterinary Boards Council
41. Australian Petroleum Production and Exploration Association	42. Australian Sugar Milling Council
43. Australian Services Roundtable	44. Australian Wool Innovation Limited

45. Australia-UK Contractor's Group	46. Bathurst Regional Council
47. Australia-United Kingdom Chamber of Commerce	48. British Pensions in Australia Inc
49. Boundary Bend Olives	50. Business Council for Sustainable Development
51. Business Council of Australia	52. CANZUK International
53. BSA, The Software Alliance	54. Canegrowers
55. Citrus Australia	56. Civil Liberties Australia
57. Chartered Accountants Australia & New Zealand (CAANZ)	58. Competere
59. Chemistry Australia	60. Complementary Medicines Australia
61. Communications Alliance	62. Consult Australia
63. Consumer's Federation of Australia	64. CPA Australia
65. Conference of Asia Pacific Express Carriers (CAPEC)	66. Dairy Australia
67. Customs Brokers and Forwarders Council of Australia	68. Distilled Spirits Industry of Australia
69. Design Institute of Australia	70. Electronic Frontiers Australia (EFA)
71. Direct Selling Australia	72. European Australian Business Council (EABC)
73. Engineers Australia	74. Femeconomy
75. Export Council of Australia	76. Food and Beverage Importer Association
77. Federal Chamber of Automotive Industries	78. Fintech Australia
79. Financial Services Council	80. Futurefund
81. Fisheries Research and Development Corporation (FRDC)	82. Freight & Trade Alliance
83. Food Frontier	84. GlaxoSmithKline (GSK)
85. Geraldton Fishermen's Co-operative	86. Grains Industry Market Access Forum
87. Global Trade Professionals Alliance	88. Grains Research and Development Corporation
89. Grain Growers Australia	90. Humane Society International
91. Indigenous Network for Investment, Trade & Export (IGNITE)	92. International Chamber of Commerce Australia
93. Herbalife Nutrition	94. IP Federation
95. Institute of Public Accountants (IPA)	96. Just Biodiesel
97. International Education Association of Australia	98. Macquarie Group
99. Joint Accounting Bodies	100. Medicines Australia
101. Law Council of Australia	102. Music Rights Australia
103. Meat and Livestock Australia	104. National Farmers Federation
105. Minerals Council of Australia	106. Nerada Tea
107. Mutual recognition of professional medical qualifications	108. Ports Australia
109. NAB	110. RSPCA

111. Optus	112. Sheep Producers Australia
113. RegTech Association	114. Standards Australia
115. Scotchmans Hill	116. Speech Pathology Australia
117. Seafood Industry Australia	118. Supply Nation
119. South Australian Wine Industry Association	120. Swisse Wellness
121. Steel Association	122. The Australasian Performing Right Association Limited / Australasian Mechanical Copyright Owners Society (APRA AMCOS)
123. SunRice Group	124. The Global Data Alliance
125. Tasmanian Salmon Growers Association	126. Treasury Wine Estates
127. The Australian Nut Industry Council	128. Universities Australia
129. TradeWindow	130. Vodafone TPG
131. Trisco Foods	132. Westpac
133. University of Melbourne	134. Wine Australia
135. Victorian Automotive Chamber of Commerce	136. World Animal Protection
137. Will Studd Cheeses	138. Telstra
139. Wool Producers Australia	140. Insurance Council of Australia
141. Council of Small Business Australia	142.
143. New South Wales Business Chamber	144.

List of submissions related to the A-UKFTA as on the [DFAT website](#)

- Accolade Wines (commercial-in-confidence)
- Accord
- Association of International Seafood Professionals
- Austral Fisheries
- Australian British Chamber of Commerce (commercial-in-confidence)
- Australian Fair Trade and Investment Network (AFTINET)
- Australian Grape & Wine (commercial-in-confidence)
- Australian Olive Association
- Australian Pork Ltd
- Australian Red Meat Industry / Meat & Livestock Australia (commercial-in-confidence)
- Australia-UK Contractor's Group
- Australia-United Kingdom Chamber of Commerce
- Bathurst Regional Council
- Boundary Bend Olives (commercial-in-confidence)
- British Pensions in Australia Inc
- BSA | The Software Alliance
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- Competere
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- Direct Selling Australia
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- Fisheries Research and Development Corporation (FRDC) (commercial-in-confidence)
- Food Frontier
- Geraldton Fishermen's Co-operative
- GlaxoSmithKline (GSK)
- Herbalife Nutrition
- IGNITE
- IP Federation
- Joint Accounting Bodies
- Just Biodiesel
- Just Biodiesel – submission update
- Law Council of Australia
- Music Rights Australia
- Mutual recognition of professional medical qualifications
- National Farmers Federation (commercial-in-confidence)
- Nerada Tea
- RSCPA
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- Sheep Producers Australia (commercial-in-confidence)
- South Australian Wine Industry Association
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- The Australasian Performing Right Association Limited / Australasian Mechanical Copyright Owners Society (APRA AMCOS)
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- The Global Data Alliance
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