



House of Commons  
International Trade Committee

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**UK trade policy  
transparency and  
scrutiny: Government  
Response to the  
Committee's Sixth  
Report**

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**Sixth Special Report of Session  
2017–19**

*Ordered by the House of Commons  
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## International Trade Committee

The International Trade Committee is appointed by the House of Commons to examine the expenditure, administration and policy of the Department for International Trade and its associated public bodies.

### Current membership

[Angus Brendan MacNeil MP](#) (*Scottish National Party, Na h-Eileanan an Iar*) (Chair)

[Mr Nigel Evans MP](#) (*Conservative, Ribble Valley*)

[Mr Marcus Fysh MP](#) (*Conservative, Yeovil*)

[Sir Mark Hendrick MP](#) (*Labour (Co-op), Preston*)

[Mr Ranil Jayawardena MP](#) (*Conservative, North East Hampshire*)

[Mr Chris Leslie MP](#) (*Independent, Nottingham East*)

[Emma Little Pengelly MP](#) (*Democratic Unionist Party, Belfast South*)

[Julia Lopez MP](#) (*Conservative, Hornchurch and Upminster*)

[Faisal Rashid MP](#) (*Labour, Warrington South*)

[Catherine West MP](#) (*Labour, Hornsey and Wood Green*)

[Matt Western MP](#) (*Labour, Warwick and Leamington*)

### Powers

The Committee is one of the departmental select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No. 152. These are available on the internet via [www.parliament.uk](http://www.parliament.uk).

### Publications

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Committee reports are published on the [Committee's website](#) and in print by Order of the House. Evidence relating to this Report is published on the [inquiry publications page](#) of the Committee's website.

### Committee staff

The current staff of the Committee are Jake Barker (Committee Specialist), Hannah Barlow (Committee Assistant), Matthew Chappell (Committee Assistant), Nina Foster (Media Officer), Sean Kinsey (Second Clerk), Ben Shave (Media Officer), Dr Gabriel Siles-Brügge (ESRC IAA/POST Parliamentary Academic Fellow), Anna Sydorak-Tomczyk (Committee Specialist), David Turner (Committee Specialist), Andrew Wallace (Senior Committee Assistant) and Joanna Welham (Clerk).

### Contacts

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You can follow the Committee on Twitter using [@CommonsIntTrade](#).

## Sixth Special Report

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The International Trade Committee published its Sixth Report of Session 2017–19, [UK trade policy transparency and scrutiny](#), on 28 December 2018 (HC 1043). The response from the Government, and an accompanying letter from the Secretary of State for International Trade, were received on 28 February 2019 and are appended below.

### Appendix 1: Letter from the Secretary of State for International Trade to the Chair

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I would like to thank the Committee for its report published 28th December 2018 on ‘*UK trade policy transparency and scrutiny*’. There is significant public and parliamentary interest in this issue and I warmly welcome your report as an important contribution to the debate.

I was pleased to see that we are aligned in many areas; in particular in our shared belief that the UK’s independent trade policy must be a transparent and inclusive one that delivers for the whole of the UK.

The Government has listened carefully to the views put forward, including those of your committee. This Thursday I published a Command Paper setting out further detail on the Government’s approach to transparency and scrutiny of free trade agreements, including the role of Parliament and the devolved administrations. Where relevant these are summarised in the enclosed formal response to each of the committee’s conclusions and recommendations. I hope you will be able to support these proposals given the high degree of alignment between us on some of the key issues.

I look forward to appearing before you in the near future to continue your important work in scrutinising the work of my department.

28 February 2019

## Appendix 2: Government Response

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The Committee's report made 19 recommendations and conclusions in total. The Government response to each of these is set out below. The numbering is based on that used on pages 41–44 of the Committee's report. Conclusions and recommendations made by the Committee are indicated by bold italicised text.

1. *The following are clear, binding principles that have emerged from the evidence to our inquiry. The Government must accept these principles as central tenets of how it should develop UK trade policy.*

- *Conducting trade negotiations is the prerogative of the executive, but there must be a meaningful role for Parliament in the trade policy process*
- *Trade policy must be open and inclusive, and maximise benefit throughout the UK*
- *Government must operate from a presumption of transparency*
- *Consultative processes must be formalised* (Paragraph 6)

The Government welcomes these principles and the Committee's recognition that conducting trade negotiations is the prerogative of the executive. We have already set out our commitment to developing a transparent and inclusive independent trade policy that delivers for all part of the United Kingdom. As part of this we agree that Parliament must play a meaningful role and should have the opportunity to shape and inform our approach to trade policy. We are strongly committed to ensuring that trade agreements benefit from wide and comprehensive consultation with Parliament, the devolved administrations, the public and other stakeholders. More detail is set out below.

2. *If the Government wishes to increase public trust in UK trade policy, it should operate with a presumption of transparency. All documentation relating to trade negotiations should be made available unless there is a genuine and reasonable justification for keeping specific documents confidential, such as the risk of undermining the UK's negotiating position. The Government must, as a minimum, publish trade policy documentation equivalent to that which is published at the EU level.* (Paragraph 20)

The Government is committed to transparency, but this must be balanced against the need to ensure that the Government is able to protect sensitive negotiations positions in order to secure the best outcome for the UK.

There is a high level of public interest in trade negotiations and we will ensure that the public are provided with information throughout the process:

- **Prior to negotiations commencing:** We have committed to publishing an Outline Approach for each proposed negotiation prior to negotiations commencing. This will set out our negotiating objectives and will be accompanied by a scoping assessment setting out our initial economic analysis of the proposed trade agreement.

- **During negotiations:** we will publish a report of each negotiating round and we will also publish an annual trade report setting out progress across all live trade negotiations.
- **At the end of the process:** the Government will lay the treaty text before Parliament and publish an Explanatory Memorandum. We will also publish an impact assessment at the appropriate time.

**3. We welcome the Government's commitment to publishing an Outline Approach for each negotiation—but note that it has provided limited information about what will be included in this document. This Outline Approach should be equivalent to EU trade negotiating mandates, setting out clear instructions for UK negotiators. The Government should ensure that such a mandate includes no less information than the EU provides—notably, for instance, in the recently approved mandates for negotiations with Australia and New Zealand.** (Paragraph 21)

The Government will publish an Outline Approach for each of the negotiations and, as is the case for other international partners, this will set out the scope of the negotiation and our negotiating objectives.

The Government will take the recommendations in this report, the views of Parliament more broadly and those of other stakeholders into account when developing the Outline Approaches.

Outline Approaches will be accompanied by scoping assessments which will provide initial analysis on potential impacts of different FTA scenarios.

**4. All information published by the Government relating to each trade negotiation should be available on a single page on the gov.uk website. It should be presented in a clear and easily navigable way, and jargon should be avoided where possible. The Government should also publish accessible summaries or factsheets in relation to negotiating documents.** (Paragraph 22)

The Government has committed to publishing a variety of documents before beginning negotiations, namely Outline Approaches, Scoping Assessments, and the Government's response to each public consultation. Any information that is published will be made easily accessible to the public.

The Government has committed to providing regular updates to Parliament during negotiations. Any information that is published will be made easily accessible to the public.

**5. Parliament should be given an opportunity to debate the Government's Outline Approach on a substantive motion before the mandate is set and negotiations commence. We welcome the indications to us that it is the Government's aim to provide for a debate on the Outline Approach, but the Government should confirm that such a debate would be on an amendable, substantive motion. The motion, and debate, will provide an opportunity for Parliament to express any concerns and objections regarding the proposed mandate, and allow the Government to modify it if necessary.** (Paragraph 54)

We agree with the committee that Parliament should be given the opportunity to debate the Outline Approach to a proposed trade negotiation. At the start of negotiations, the Government will publish its Outline Approach which will include our negotiating

objectives and be accompanied by a scoping assessment which will be informed by economic modelling and set out the potential economic impacts of any agreement. We will ensure that Parliament has a role in scrutinising these documents so that we can take its views into account before commencing negotiations. We do not believe that a substantive debate on an amendable motion would be appropriate.

Brexit does not change the fundamental constitutional principles that underpin the negotiation of international treaties. As this Committee has itself recognised in recommendation one, the making of treaties is a function of the executive carried out in the exercise of the Royal Prerogative.

At the same time, it has long been held – and this Government continues to hold – that Parliament should have the opportunity to effectively scrutinise treaties that are subject to ratification. The Government believes that a General Debate is the most appropriate way to deliver effective parliamentary scrutiny of the Outline Approaches.

**6. *Current processes for treaty ratification under the Constitutional Reform and Governance Act 2010 are insufficient. While Parliament can theoretically block indefinitely the ratification of a treaty, or decline to legislate its provisions into domestic law, doing so in practice would be a difficult and unsatisfactory means of rejecting a trade agreement which does not have the support of Parliament. The House of Commons should have a final yes / no vote on the ratification of trade agreements.*** (Paragraph 55)

As discussed above, it is for the Government to negotiate and enter into international treaties. This serves an important function: it enables the UK to speak clearly, with a single voice, as a unitary actor under international law. However, the Government is committed to ensuring that parliament is able to shape and inform negotiations throughout the process and not just at the end.

The Constitutional Reform and Governance Act (CRaG) provides a sound framework within which to scrutinise a wide range of treaties. It is less than a decade old and was the subject of wide consultation prior to Parliament agreeing it. CRaG was chosen as the appropriate mechanism for Parliament to take a role in ratification in 2010 and we consider that it remains so today. Therefore the Government will continue to support and facilitate parliamentary scrutiny of treaties under CRaG.

As the committee is aware, treaties cannot change domestic law. Any changes to UK law that are required to implement a treaty will have to pass through Parliament in the usual way.

**7. *A parliamentary committee should be charged with the detailed scrutiny that will be required for future trade negotiations. At present, the most suitable committee to take this responsibility is ours. We could draw on the experience of other Committees, such as the European Scrutiny Committee, in carrying out this task. We should have full access to all negotiating documents, on a confidential basis when required, and should receive regular updates, in private, from ministers and civil servants who are involved in ongoing trade negotiations. We must be provided with the power to scrutinise negotiating mandates, and the final text of agreements, before they are presented to Parliament for debate. The International Trade Committee would expect to make a report to the House on the final text of agreements before a vote on ratification takes***

***place, and the Government should ensure that, where possible, there is sufficient time between a final text being agreed and it being presented to Parliament to allow us to do this.*** (Paragraph 56)

The Government welcomes the Committee's recommendation that a parliamentary Committee should undertake detailed scrutiny of FTA negotiations. We [recently announced] our intention to take forward discussions with the House Authorities to identify the most appropriate committee or committees to undertake this role. We are committed to ensuring that the appropriate committee is able to follow negotiations closely and will provide it with appropriate access to negotiating documents and negotiating teams, in confidence where appropriate. We have also committed to ensuring that the committee is given an appropriate period of time at the end of the negotiation to produce a detailed report on the proposed agreement, prior to the Government laying it for ratification under the Constitutional Reform and Governance Act (CRaG).

**8. *In addition to private updates to this Committee, the House should be provided with updates on negotiations, through general statements to the whole House.*** (Paragraph 57)

The Government welcomes this recommendation and restates its commitments (made in July 2018) to provide regular updates to the both Houses.

**9. *It is crucial that the Government take account of the views of each nation and region within the United Kingdom in formulating an independent trade policy. Current structures are not sufficiently robust to provide for structured engagement and extensive consultation.*** (Paragraph 83)

**10. *The Government should form a statutory UK intergovernmental international trade committee. The UK Government should have a duty to: consult the committee on the mandate for future trade negotiations; regularly update the committee on progress with negotiations; and consult the committee on the final text of an agreement prior to ratification.*** (Paragraph 84)

Through DIT's White Paper on Trade and future trade arrangements we committed to "work closely with [Devolved Administrations] to deliver an approach that works for the whole of the UK, reflecting the needs and individual circumstances of England, Scotland, Wales and Northern Ireland, and drawing on their essential knowledge and expertise."

To facilitate this and provide a formal mechanism for Ministerial discussion, we recently announced that we would form a new inter-governmental Ministerial Forum for future trade agreements. This will ensure there is a formal structure to support discussion and engagement between the UK Government the Devolved Governments on trade negotiations.

The detail of the Forum, along with other aspects of the UK Government's engagement with the Devolved Administrations, is the subject of ongoing discussion between DIT and Devolved Administration officials. These discussions, and the arrangements that follow from them, will support and strengthen the existing Memorandum of Understanding between the UK Government and the Devolved Administrations.

**11. A representative from each of the devolved administrations and the Local Government Association should be included on the Strategic Trade Advisory Group (STAG), to allow Government to consult with them in detail throughout the negotiation process—in addition to the intergovernmental committee.** (Paragraph 85)

Membership of the STAG has been chosen to ensure Government can draw on the expertise and experience of a wide range of businesses representing the major sectors and interests of the UK economy. There are three seats reserved for representatives of businesses from across the devolved nations, and one for a representative of business from the English regions.

**12. To provide appropriate business and civil society engagement in trade policy, the Government should adopt similar mechanisms to those used at EU level, where they are seen to be effective, and either dispense with or refine EU mechanisms where they are ineffective. It should not ignore the valuable lessons regarding consultations that have been learnt by the EU in negotiations such as those over TTIP. It is crucial that systems for engagement are open, accessible and understandable, to ensure that the Government receives a wide range of contributions.** (Paragraph 128)

The Government agrees with the International Trade Committee's recommendation that systems of engagement must be open, accessible and understandable. That is why, in July 2018, we set out our commitment to a transparent and inclusive trade policy and detailed our approach to public, business and civil society engagement.

In July 2018 we launched four public consultations, giving the public the opportunity to have their say on potential future trade agreements with the US, Australia, New Zealand and CPTPP. These consultations were open for 14 weeks, 2 weeks longer than the EU consults for, affording a greater opportunity for the public, businesses, NGOs, civil society groups and other stakeholders to respond. This longer timeframe allowed for a greater range and quality of response. In addition, the Department ran consultation events in each devolved nation and English region as well as hosting an online webinar. The Government received over 600,000 responses, making this one of the largest consultation exercises undertaken by responses received, clearly demonstrating our commitment to open and thorough consultation.

Alongside the public consultations we announced a number of other engagement mechanisms building on and learning from other models and a range of views and suggestions submitted to us by stakeholders including the setting up of the Strategic Trade Advisory Group, sectoral/thematic working groups (Expert Trade Advisory Groups) and the continuation of regular Town Hall-style meetings.

**13. The Government should be under a statutory requirement to engage in open and inclusive consultation with business, civil society, and the public, on the mandate for, and scope of, future trade deals. The Government should hold regular (at least quarterly) meetings which are open to all interested businesses, organisations and individuals. Government should provide updates on all ongoing trade negotiations and allow attendees to make representations in the presence of negotiators and Department for International Trade officials. The Government should ensure that such a forum, which could in many ways mirror the Civil Society Dialogue at the EU level, is transparent and accessible to all.** (Paragraph 129)

As this is the first time the UK will be negotiating trade agreements for over 40 years, we need to retain a degree of flexibility to allow us to adapt and iterate as we go. This will allow us to evolve our approach and structure to support negotiations. We want to ensure the best approach for the UK's unique circumstances.

We agree with the recommendation that Government should hold regular meetings to engage stakeholders. Alongside our regular engagement with stakeholders, we are setting up formal mechanisms to ensure all stakeholders have the opportunity to feed into trade policy at key stages of negotiations.

These include:

- Open public consultations in the pre-negotiation stage, to inform our overall approach and the development of our policy objectives;
- Creating a Strategic Trade Advisory Group, to seek expert insight and views on relevant trade policy matters;
- Use of expert trade advisory groups, which will bring together stakeholders with relevant expertise in particular industries or sectors, to contribute to our policy development at a detailed technical level.

We note the recommendation on creating a forum similar to the EU's Civil Society Dialogue and will consider this alongside work underway to develop a more structured approach to engagement with Civil Society. In any future potential trade agreement which the UK seeks to negotiate, we will undertake appropriate consultation with the public, as demonstrated by our public consultations launched in July 2018.

We will continue to draw on the widest possible range of expertise across the UK to ensure we create a trading environment that works for all. Our engagement is intended to gather insight and ensure the UK position is well-informed, reflecting the interests of the whole of the UK.

**14. *The proposals for the STAG are a step in the right direction. The current membership of STAG is imbalanced between business and civil society, and does not allow for the breadth and depth of representation necessary for consultation during trade negotiations, as it does not include all stakeholder groups that should be represented. The Government should redress the imbalance between big business, small and medium business, civil society, trade unions and consumer groups, and report back to us on how it has done so.*** (Paragraph 130)

The government agrees with the committee that it is important that we strike the right balance between business and civil society when it comes to STAG membership, whilst managing the overall size of membership. The STAG has been set up to bring a range of external insight to trade policy making and negotiations. We have designed the membership of the group to represent a variety of interests including representatives of academia, trade unions, consumers, think tanks, NGOs and developmental organisations. It is our intention that once it is up and running, the membership of the Group will be reviewed in the first year with the Chairs and others, in particular to ensure the Group is sufficiently representative.

The STAG is not the only engagement mechanism being set up to support the process of negotiations and help shape UK positions. As part of our engagement infrastructure, we are setting up a number of working level sectoral and thematic Expert Trade Advisory Groups (ETAGs). These will offer further opportunities for civil society and other groups to engage on trade issues and policy in specific trade matters on a detailed, technical level. Membership of these working groups will vary according to the sector or policy area and will evolve over time to meet the needs of the UK's trade policy and negotiations.

**15. *The Government should create a STAG sub-committee for each representative category in the current STAG proposals. This sub-committee should feed its conclusions upwards through the lead STAG member at points where the Government is seeking feedback on negotiating texts and positions. This will allow Government to efficiently receive confidential feedback from an increased pool of expertise. The Government should create ad-hoc sub-committees where there is a need for additional expertise not currently covered by STAG members—for instance, services or digital trade policy.*** (Paragraph 131)

The STAG will be complemented by a range of Expert Trade Advisory Groups (ETAGs) who will provide advice to the Government on specific sector and thematic policy issues. Their objective is to enable the Government to draw on external knowledge and experience to ensure that the UK's trade policy is backed up by evidence at a detailed level and is able to deliver positive outcomes for the UK.

Where appropriate, the STAG Chair/s may also invite experts from outside the group with specific competence in a subject to participate in the work of the group.

Additionally, the Chair may set up sub-groups for the purpose of examining specific questions. These sub-groups will feed their conclusions upwards and formally report to the group. They shall be dissolved as soon as their mandate is fulfilled

**16. *STAG members and sub-committees should be vetted advisors with full access to all negotiating documents to allow them to provide the best advice to Government. The membership and application processes to these groups should be publicly available and fully transparent. The balance of stakeholder groups, and the members of each group, should be reviewed and changed at regular intervals, to avoid concerns about preferential treatment of specific businesses or organisations.*** (Paragraph 132)

To facilitate open and constructive discussions, members of the STAG will have access to sensitive information. The members will be expected to treat such information as confidential and will be subject to non-disclosure agreements

Recruiting members of the STAG followed an open and transparent selection process. The application and membership selection process including the selection criteria, have been published on Gov.uk.

Members will be appointed by the Secretary of State for International Trade, from applicants meeting the membership selection criteria. In appointing members of the group, we will aim to ensure a high level of expertise, as well as a balanced representation of relevant areas and interests.

The selection procedure consists of an assessment of the applications against the following selection criteria:

- competence and experience in areas relevant to international trade and trade policy
- seniority
- demonstrating understanding of the procedures by which the UK conducts international trade

Once the appointments are made, DIT will publish the group membership, the dates and meeting times, and the agenda and discussions summary, unless it is appropriate to keep them confidential, on Gov.uk.

In the case of ETAGs, DIT is partnering with other relevant government departments and making use of existing groups and structures to ensure a joined up cross government approach.

Where this is not possible and new groups are being set up, the membership will be determined by a nominations process in cooperation with relevant government departments and the industry, using a set of published criteria. We will aim, as far as possible, to ensure a high level of expertise, a geographical balance, as well as a balanced representation of relevant know-how and areas of interest, taking into account the specific tasks of the group, and the type of expertise required.

Going forward, we are putting in place a continuous membership review process for the STAG and all ETAGs to ensure the groups fulfil their purpose and have a balanced representation.

**17. STAG should act as a “room next door” during negotiations, allowing it to provide Government with swift advice and calling on the expertise of its sub-committees when doing so. Where STAG identifies that a change in the negotiating position could have significant impacts not covered in the impact assessment, it should have the power to recommend the production of a new impact assessment, which must be completed before negotiations progress further.** (Paragraph 133)

DIT is committed to ensuring we will have appropriate mechanisms in place to consult with STAG and ETAG members during negotiations to inform the government position.

In July 2018, the Secretary of State for International Trade set out that the government would publish scoping assessments prior to the beginning of negotiations, provide timely analysis to Parliament during negotiations, and publish a final impact assessment at the end of negotiations. Recommendations by the STAG will help inform the analysis that is provided to Parliament.

**18. Business and civil society groups should be involved in the production of impact assessments. These assessments should be produced before negotiations are initiated, as well as following the conclusion of negotiations (before a deal is presented to Parliament). They should use consistent metrics and analyses, and consider economic as well as non-economic impacts.** (Paragraph 134)

The Government is committed to a transparent trade policy and has committed to publish scoping assessments for any proposed new free trade agreement prior to the beginning of negotiations. The government will then publish impact assessments of any concluded agreement prior to ratification. These assessments will use best practice in assessing the potential impacts of free trade agreements on the UK economy.

**19. *Local government and its areas of competence are directly affected by national trade policy decisions. In addition, local government is well placed to understand the effects of trade policy on the individuals and organisations whose interests it represents. Local authorities are, therefore, well placed to be involved in the development and scrutiny of trade policy. Local government should have a voice throughout the trade policy process, and the Government, in its response to this report, should set out how it plans to facilitate this. The Government should consider whether it would be appropriate to include local government representation on STAG.*** (Paragraph 144)

The Government welcomes this recommendation and is currently exploring options for formalising its approach to engagement with Local Government on trade policy and negotiations.

DIT has consulted widely with a range of stakeholders through both informal and formal mechanisms. During the consultation period, Ministers and senior officials ran a series of outreach events, in partnership with business representative organisations and a trade union, across the whole of the UK, including the Devolved nations and English regions, on how to approach potential trade negotiations. These events were attended by representatives from Local Government, Local Enterprise Partnerships, and local growth hubs. The department also invited a representative from the Local Government Association (LGA).

DIT's regional teams engage regularly with Local Enterprise Partnerships, elected mayors and Combined Authorities to boost trade and investment across the English regions.

As discussed in more detail in the earlier response, membership of STAG has been chosen to reflect the needs and interests of external stakeholders, rather than Government participants from across the UK.