



House of Commons
International Trade Committee

**UK trade options
beyond 2019:
Government Response
to the Committee's
First Report of Session
2016–17**

First Special Report of Session 2017–19

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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

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Publication

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 Lydia Menzies (Clerk), Joanna Welham (Second Clerk), Karlene Agard (Committee Specialist), Stephen Habberley (Committee Specialist), David Turner (Committee Specialist), Luke Villiers (Committee Specialist), Andrew Wallace (Senior Committee Assistant), Mariam Keating (Committee Assistant), and George Perry (Media Officer).

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First Special Report

The International Trade Committee published its First Report of Session 2016–17, [UK trade options beyond 2019](#), on 7 March 2017 (HC 817). The response from the Government, and an accompanying letter from the Secretary of State, were received on 10 November 2017 and are appended below.

In the Government response, the Committee's recommendations appear in bold italicised text.

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

I welcomed the opportunity to give evidence to the International Trade Committee on Wednesday 1 November alongside Antonia Romeo, DIT's Permanent Secretary, and Crawford Falconer, DIT's Second Permanent Secretary. I would also like to take this opportunity to thank the Committee again for its report published 7 March. I wrote to you in April after the General Election was called and, in view of the imminent dissolution of Parliament, undertook to respond to the report in the new Parliament.

Much of course has happened since the report's publication, and we were able to discuss many of these developments during the evidence session. The Government has published a series of papers on the new deep and special partnership the UK is seeking to build with the European Union. These papers represent the hard work and detailed thinking that has been going on behind the scenes across Whitehall over the past twelve months. They offer pragmatic and innovative solutions to issues related to our withdrawal and the future partnership that we want with the EU.

The Prime Minister's speech in Florence set out the scale of our ambition as well as our proposal for a clear, time-limited implementation period. This was an important speech which set out a bold and ambitious vision for our future relationship with the EU once we have left.

And we also published a White Paper on 9 October: 'Preparing for our future UK trade policy', which sets out the principles that will guide our independent UK trade policy as well as laying out the practical steps that will support those aims.

A formal response to each of the recommendations made in the Committee's report is enclosed herewith. The Committee's experience and scrutiny is a welcome contribution to this debate, and the Government remains committed to engaging with Select Committees on our trade policy as it continues to develop.

7 November 2017

Appendix 2: Government Response

1. ***The UK’s position in the WTO will be the foundation stone for all our future trading relationships after Brexit. DIT was, therefore, quite right to start work on this as soon as possible. There is no doubt that the UK is a member of the WTO in its own right, and establishing the bound-tariff element of separate UK schedules appears to be a straightforward matter. However, there is rather less certainty about how quickly and easily it will be possible to disaggregate the UK element from the quantitative aspect of the EU’s schedules, in respect of Tariff Rate Quotas and Aggregate Measures of Support.*** (Paragraph 32)

In order to minimise disruption to trade, the Government has announced it will, as far as possible, replicate its existing commitments as set out in the EU’s schedules of commitments and submit these for certification in the WTO ahead of leaving the EU. The Government will maintain current levels of market access and keep changes to a technical nature. The Government stands ready to work with the EU and with other WTO Members in order to ensure a smooth transition. (Trade White Paper, 2.1 Supporting the WTO, page 25)

We have already begun these discussions and over the coming months, we will hold further discussions with the WTO Secretariat, our EU partners and the wider WTO membership concerning our WTO schedules, including on issues like Tariff Rate Quotas and Aggregate Measures of Support.

2. ***Nothing should be left to chance and the devil will be very much in the detail of these arrangements. DIT ministers should report to this Committee regularly, and at least every quarter, regarding the progress of this work.*** (Paragraph 32)

Our approach to developing our future trade policy must be transparent and inclusive. Parliament, the devolved administrations, the devolved legislatures, local government, business, trade unions, civil society, and the public from every part of the UK must have the opportunity to engage with and contribute to our trade policy. (Trade White Paper, page 22)

The Department for International Trade (DIT) recognises the benefit that an informed and up to date committee provides, both on WTO matters and departmental business generally. DIT will take forward a conversation with the Committee on the nature and frequency of this, to our mutual benefit.

3. ***In addition, the Government must seek early legal clarity on the consequences for the UK in the event that separate UK schedules at the WTO have not been agreed or certified by the time that Brexit occurs. The Government should make sure it has whatever contingency arrangements may be necessary.*** (Paragraph 33)

Please see response to recommendation 1

It should also be noted that the UK is a full and founding member of the WTO and already has schedules which it shares at present with the EU. While legal changes will be necessary, changes of substance are not. WTO rules and procedures provide for such legal changes to certified schedules which are then presented in a schedule that will be uncertified until the certification process is completed. While it is not our preferred position, operating on the basis of uncertified schedules is not without precedent in the WTO. By way of example, the latest certified EU schedule for goods refers to an EU of 25 Member States and the

latest services schedule refers to 12 Member States. In other words, the EU has not had up-to-date certified schedules since the accession of Austria, Sweden and Finland to the EU in 1995. Our aim to provide business with certainty remains the same.

4. *The Government should consider that negotiations concerning the establishment of the UK's position at the WTO are appropriately sequenced with those concerning a UK-EU Free Trade Agreement (FTA)—for instance in respect of the UK's interest in the determination of the EU's revised Tariff Rate Quotas after Brexit.* (Paragraph 34)

Please see response to recommendation 1

The Government is also aware of the interdependencies between the establishment of the UK's position at the WTO and the UK's negotiation of a trade agreement with the European Union. We have worked collaboratively with the EU to set out our position on Tariff Rate Quotas in a joint letter to WTO members.

DIT is working closely with the Department for Exiting the European Union to ensure that all timeframes are taken into consideration.

5. *DIT must give a full account of the legislative and administrative preparations that the Government is making in respect of arrangements for UK trade defence instruments to take effect at the point of Brexit.* (Paragraph 35)

To operate an independent trade policy, we will need to put in place a trade remedies framework. Consistent with our WTO obligations, the UK's framework will be implemented by a new mechanism to investigate cases and propose measures that offer proportionate protections for our producers. In preparation for this, we also need to identify existing EU measures which are essential to UK business and will need to be carried forward. As we continue our work to develop and deliver a UK trade policy, we will engage regularly with stakeholders through both formal and informal consultation mechanisms. We consulted on our approach to trade remedies as part of the consultation on our White Paper. This consultation closed on Monday 6 November.

6. *Material changes to the UK's position at the WTO should be subject to appropriate parliamentary scrutiny. If applicable, the Government will need to consider how this will be achieved in respect of bound tariffs, Tariff Rate Quotas and Aggregate Measurement of Support. The Government should also clarify, when appropriate, what the purpose is of the Customs Bill that it proposes to bring forward.* (Paragraph 36)

Please see response to recommendations 1, 2 and 3

We do not anticipate that there will be material changes to the UK's commitments at the WTO. As I said in my Written Ministerial Statement of 5 December 2016, we will seek to replicate commitments as far as possible.

We are closely consulting with all our WTO partners to ensure that they understand the steps that we are taking and to reassure them that there is no intention to make substantial changes to our current trade commitments or to disadvantage any Member as we go forward. As we have said, the UK is treating this as a technical exercise.

The Treasury recently published a White Paper, “Customs Bill: legislating for the UK’s future customs, VAT and excise regimes” which details the Government’s approach to legislating for a future customs regime, and to creating a framework that supports intra-European trade.

7. *The government must initiate negotiations for an EU-UK FTA, including customs arrangements and a phased process of implementation, in parallel to the Article 50 negotiations. The Government should identify and address the legal implications of doing so and should make clear how it will address the resourcing implications of doing so.* (Paragraph 122)

The Government is seeking to initiate negotiations for an EU-UK FTA as soon as possible. As the Prime Minister set out in her speech in Florence, the UK will also seek to agree a time-limited implementation period with the EU, during which access to one another’s markets should continue on current terms. This would help both the UK and EU to minimise unnecessary disruption and provide certainty for businesses and individuals as we move towards our future deep and special partnership with the EU.

The UK Government is committed to securing a deep and special partnership with the EU, including a bold and ambitious economic partnership. The UK wants to secure the freest trade possible in goods and services between the UK and the EU. (Trade White Paper, page 27)

The departmental responsibility for both our exit from and future relationship with the EU rests with the Department for Exiting the European Union.

8. *The Government must seek a reciprocal tariff-free basis for trade with the EU after Brexit. In addition, a UK-EU FTA should seek to retain the mutual recognition of rules and standards, and conformity assessment, that the UK currently has as an EU member—bearing in mind the potential need to align rules and standards with those of other trading partners. Even if this is not possible, a UK-EU FTA should allow for equivalence of assessment (including mutual recognition of assessment), in order to minimise as far as possible the friction to trade caused by any regulatory barriers to trade in goods.* (Paragraph 123)

The UK Government is committed to securing a deep and special partnership with the EU, including a bold and ambitious economic partnership. The UK wants to secure the freest trade possible in goods and services between the UK and the EU. (Trade White Paper, page 27)

A key part of this agreement will be about finding the best way for the benefits of the common regulatory systems and related arrangements, that are the current basis for UK and EU businesses to trade with and operate in each other’s markets, to be translated into a bilateral agreement when we leave the EU. As the Prime Minister set out in her letter to Donald Tusk triggering Article 50, we are starting the negotiations from a unique position of close regulatory alignment. We will also be taking fully into account, the implication for potential agreements with future trade partners. The precise nature of our future arrangements will be a matter for the negotiations.

9. In respect of trade in services in general, a UK-EU FTA should seek as far as possible to reproduce the right of establishment and mutual recognition of professional qualifications from which the UK currently benefits as a member of the EU. Regarding trade in financial services, the Government should seek the nearest achievable approximation to the EU system of “passporting”. This is a matter to which the Committee will return, including the examination of regulatory change. (Paragraph 124)

Please see response to recommendation 8

The Government recognises the importance of the financial services sector to the UK economy. It is the Government’s objective to seek a bold and ambitious free trade agreement with the EU, including free-flowing trade in services. Any agreement will be subject to the forthcoming negotiations, but it is the case that the UK starts with exactly the same rules and regulations as the rest of the EU in financial services, and this forms a solid starting point for seeking agreement to mutual market access arrangements.

10. It would be helpful if the Government could be clearer about the design principles for the dispute-resolution mechanism it will seek as part of a UK-EU FTA. In particular, it should say whether it envisages the possibility of such a mechanism involving provision for foreign investment protection along the lines of the Investor-State Dispute Settlement system. Clarity on how complex disputes in the financial services sector will be resolved without the involvement of the European Court of Justice (ECJ) would also be welcome. (Paragraph 125)

It is clear that as part of our future agreement(s) with the EU, there will need to be a means of resolving any disputes that might arise. We will be seeking a bespoke arrangement unique to the UK in our future relationship with the EU, and so our future dispute resolution mechanism will need to reflect this in order to work best for both the UK and the EU. In leaving the EU, however, we will bring about the end of the direct jurisdiction of the Court of Justice of the European Union in the UK.

The Government’s “Enforcement and dispute resolution” future partnership paper sets out possible approaches to the enforcement of rights under UK-EU agreements by individuals and businesses. As part of the ongoing work in this space we will be looking closely at all relevant options, including foreign investment protection and mechanisms for resolving complex disputes in different sectors, to secure the best deal possible.

11. A UK-EU FTA should also take full account of the importance of inward investment for the UK economy, and the importance of UK outward investment into the remaining 27 member states. (Paragraph 126)

Please see response to recommendation 8

The Government recognises the importance of cross-border investment to both the UK and EU economies. A rounded trade policy provides a balance between both inward and outward investment. We want to ensure that after we leave the EU, British investors have the maximum freedom to operate within European markets – and to let European investors do the same in Britain. The UK is the number one destination for Foreign Direct Investment in Europe. The Government will ensure the UK builds on these strengths as we exit the EU.

12. The Government says that it does not wish the UK to continue in a customs union with the EU and that it aspires instead to some form of post-Brexit “customs arrangement”—but the latter has thus far been described only in very vague terms. The current uncertainty is delaying investment decisions, particularly in the manufacturing sector. (Paragraph 127)

In assessing the options for the UK’s future customs relationship with the EU, as set out in the Government’s “Future customs arrangements” future partnership paper, the Government will be guided by what delivers the greatest economic advantage to the UK and by three strategic objectives:

- ensuring UK-EU trade is as frictionless as possible;
- avoiding a ‘hard border’ between Ireland and Northern Ireland; and
- establishing an independent international trade policy.

(Trade White Paper, pages 5 & 10)

The deep and special partnership we are seeking with the EU, including a comprehensive agreement on free trade, is of course subject to ongoing negotiations. We will also aim to agree a time-limited interim period with the EU based on a model of close association with the EU Customs Union. This would help both the UK and EU to minimise disruption and provide certainty for businesses and individuals as we move towards our future deep and special partnership with the EU.

The UK would intend to pursue new trade negotiations with others during the implementation period, having left the EU, though we would not bring into effect any new arrangements with third countries that were not consistent with the terms of our agreement on an implementation period with the EU. (Trade White Paper, page 27)

13. The Government must be much clearer about the defining characteristics of the proposed “customs arrangement” and explain how it would differ from a customs union. The Government should clarify if there will be a significant sectoral aspect to the arrangement they are seeking and whether that would impact on future international trade policy. (Paragraph 127)

Please see response to recommendation 12

14. Regarding the “phased process of implementation” which the Government envisages, it must take particular account of the need to avoid the sudden ending of passporting in financial services. Any such transitional arrangements will need to include fully worked-out arrangements for dispute resolution. (Paragraph 128)

Please see responses to recommendations 7, 9 & 10

Protecting financial and economic stability is a key priority for the Government and we are mindful of the particular need for a smooth and orderly exit in the area of financial services.

15. *As a general principle, we strongly urge that, in the interests of allowing businesses to adapt and plan for new trading arrangements with the EU, the Government provide as much certainty as possible, as early as negotiations allow.* (Paragraph 129)

Please see response to recommendations 2 & 7

16. *Whatever option applies, the Government must clarify arrangements for customs and border operations, and specify the expected number and intensity of customs checks. Planning for this is a matter of urgency now.* (Paragraph 130)

Please see response to recommendation 12

17. *The Government must set out as clearly as possible the likely consequences of trading under WTO rules alone. It must also show what contingency planning it is undertaking for that eventuality—including in respect of the legislation which it says it is prepared to bring forward “as necessary to mitigate the effects of failing to reach a deal”.* (Paragraph 160)

We are confident that we can secure a deal with the EU. However, a responsible government should prepare for all potential outcomes and that is what we are doing. The whole of government is in the process of carrying out a comprehensive programme of analysis and planning to support the negotiations.

We are working with businesses across the economy to provide the certainty they need to understand the challenges and opportunities they may face in the coming months and years.

While the government hopes and expects to achieve a negotiated settlement with the EU, it is only prudent that it prepares for every eventuality. The Customs Bill will give the Government the powers needed in a scenario where the UK leaves the EU without a negotiated agreement on customs arrangements, referred to here as a contingency scenario. This is not the government’s preferred outcome to the negotiations. However, it is essential that the UK is prepared for all possible outcomes on customs arrangements. (‘Customs Bill: legislating for the UK’s future customs, VAT and excise regimes’)

18. *When considering policies such as adopting a unilateral zero tariff policy, the DIT should produce evidence showing the likely winners and losers, and the amounts involved. This should also be carried out with the involvement of the devolved assemblies and governments of the UK.* (Paragraph 161)

The devolved administrations will have a direct interest in our future trade agreements. We will work closely with them 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. We recognise that if we are to represent the UK effectively on the international stage, we must build support for our vision across all four nations and deliver real, tangible benefits. (Trade White Paper, page 22)

The Government is in the process of carrying out a programme of rigorous and extensive analytical work that will contribute to our exit negotiations with the EU, including our future approach to tariffs. However, we will not publish information that will jeopardise our negotiating position.

19. *It is quite clear that “no deal” is in effect a deal to trade with the EU under WTO rules. The Prime Minister has said that it is her ambition to seek tariff-free trade with the EU and frictionless customs arrangements. It is clear that WTO rules would not permit this.* (Paragraph 162)

Please see response to recommendation 17

We agree that in the unlikely event of “no deal”, this would mean reverting to WTO rules for the UK-EU trading relationship. We enter these negotiations aiming for a deep and special partnership with the EU, including a comprehensive agreement on free trade, and are confident we can achieve an outcome that it is in the interests of both sides. However, a responsible government should prepare for all potential outcomes, and that is what we are doing.

20. *Therefore, the “no deal” option should be discounted entirely.* (Paragraph 162)

Please see response to recommendations 17 & 19

It is in everyone’s interests to secure a good deal for both sides. However, a responsible government should prepare for all potential outcomes, including the unlikely scenario in which no mutually satisfactory agreement can be reached. That is exactly what we are doing across the whole of Government.

21. *Given that striking new FTAs is a major strand of the UK’s Brexit strategy, it is untenable that it should proceed in this work without clear knowledge of how far it can go towards negotiating new FTAs before it leaves the EU. Negotiators will need clear guidelines. While we accept that there is no precedent for this situation—and that the EU’s view could differ from that of the UK—the Government’s position must be clear.* (Paragraph 201)

Please see response to recommendation 8

We cannot negotiate and conclude trade agreements while we are a member of the EU, but we can have discussions on our future trading relationships. Therefore, we understand that new independent trade deals with third countries cannot come into effect prior to Brexit. Nor would we want to undermine the EU’s trade discussions whilst we remain a member. Indeed we are actively supporting EU trade negotiations with third countries in the normal way.

22. *We request that the Secretary of State write to us setting out clearly the Government’s position on how far it can go towards negotiating new FTAs before the UK leaves the EU.* (Paragraph 201)

Please see response to recommendation 21

The Government will continue to lay out its position as appropriate. However, it would not be appropriate to publish anything that may undermine our negotiating position, as Parliament has agreed.

As set out in our future partnership paper, ‘Future Customs Arrangements’, the UK would intend to pursue new trade negotiations with others during an implementation period, having left the EU, though it would not bring into effect any new arrangements with third countries which were not consistent with the terms of any interim agreement.

23. *There is a further major element of uncertainty as the UK goes into the Article 50 process: how far is it possible for the UK to negotiate post-Brexit “grandfathering” arrangements in respect of FTAs to which we are currently a party in consequence of our EU membership?* (Paragraph 202)

As we prepare to leave the EU, we will seek to transition all existing EU trade agreements and other EU preferential arrangements. This will ensure that the UK maintains the greatest amount of certainty, continuity and stability in our trade and investment relationships for our businesses, citizens and trading partners. (Trade White Paper, pages 8 & 27)

24. *Here too, the Government must seek the earliest possible clarity. If such “grandfathering” is legally possible, particular effort should be put into this, with the setting out of a roadmap for this purpose, including early discussions with the WTO about the degree of proactive support they can provide to promote such a smooth transition.* (Paragraph 202)

Please see response to recommendations 1 & 23

25. *We recommend that the Government now evaluate the implications of the UK re-joining the European Free Trade Association (EFTA), which would offer an opportunity for a smoother transition as the UK exits the EU in 2019. We were impressed by the potential benefits of EFTA membership, given there is close alignment between the UK’s economy and those of EFTA members, albeit the UK would be considerably the largest member were it to join. The lighter-touch dispute and arbitration system of EFTA offers a more flexible process than that in operation across EU member states under the ECJ. In addition, membership would give significant advantages in the pursuit of new FTAs across the global economy, in a framework more suitable to UK policy following the referendum decision to exit the EU. And amending EFTA’s 27 FTAs with 38 countries to include the UK could be a more straightforward way of substituting for the EU’s FTAs should a “grandfathering” process in respect of the latter be legally impossible, or prove complex and time-consuming. The prospect of UK membership of EFTA from 2019 onwards could clearly be to Britain’s advantage and we, therefore, recommend that the Secretary of State publish a White Paper on EFTA membership before summer 2017, so that negotiations can commence before the end of the year.* (Paragraph 203)

The Government’s White Paper ‘Preparing for our future UK trade policy’, sets out the principles that will guide future UK trade policy as well as laying out the practical steps that will support those aims. This includes the commitment to seek continuity in the UK’s current trade and investment relationships, including those covered by EU preferential arrangements. We have begun to discuss what may be possible with our trading partners, including those countries that are members of EFTA, in order to achieve this.

26. *If it is legally possible to conduct negotiations regarding the “grandfathering” of EU FTAs and / or membership of EFTA and the adoption of EFTA FTAs during the Article 50 process, appropriate resources will need to be devoted to them. Yet these negotiations*

will be taking place at a time when the UK's trade negotiators are likely also to be negotiating a comprehensive FTA with the EU, as well as FTAs with other countries which are neither EU members nor parties to FTAs with the EU. (Paragraph 204)

We are aware of the need to ensure appropriate resources are allocated to our priorities. We are confident that we will have suitable resources in place to deliver. As I said to the Committee on Wednesday 1 November, the Department for Exiting the European Union will have responsibility for negotiating a comprehensive free trade agreement with the European Union.

27. Clearly, there is a limit to how many FTAs can be negotiated at one time. There will have to be priorities (while taking account of issues related to the sequencing of negotiations). The Government must be clear about what those priorities are, what negotiating resources it is able and willing to procure, and how those resources will be deployed. (Paragraph 204)

It is not possible to be exact about how many FTAs can be negotiated at any one time. For instance, replicating existing EU agreements is not the same as negotiating new agreements from scratch. The EU is currently engaged in around ten negotiations at various stages: http://trade.ec.europa.eu/doclib/docs/2006/december/tradoc_118238.pdf.

It is important to remember that in addition to negotiating FTAs we can also seek to remove barriers to trade in other ways, such as through plurilateral agreements or more limited bilateral agreements. We agree that there is a limit to how many negotiations can be undertaken at one time, and the Government will need to be pragmatic about what can be achieved at any one time. As our plans develop we will seek to keep Parliament informed.

28. We accept that there is a balance to be struck between not revealing the Government's hand on FTAs around the world and keeping Parliament informed. (Paragraph 205)

Please see response to recommendation 2

We welcome the Committee's recognition of the sensitivity of revealing our thinking on future trade agreements. Nonetheless we will seek to keep Parliament informed to the best extent possible.

29. Nonetheless, DIT should publish a broad strategy document on negotiating FTAs, describing and justifying the outlines of its approach. (Paragraph 205)

Please see response to recommendation 25