The UK’s new free trade agreements in the Asia-Pacific: how closely is it adopting US trade regulation?

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The UK’s new free trade agreements in the Asia-Pacific: how closely is it adopting US trade regulation?

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ABSTRACT
In a global economy and system increasingly defined by new developments and complexities in trade, whose rules and regulations govern that trade matter. The UK has embarked on a new post-Brexit trade policy, signing its first wholly new free trade agreements (FTAs) with Australia and New Zealand. It is also in negotiations to join the Comprehensive and Progressive Trans-Pacific Partnership (CPTPP) as part of the UK’s aspirations to become an integral part of the Asia-Pacific trading community. This study’s research and text analysis on the UK’s bilateral FTAs with Australia and New Zealand reveals high levels of similarity with two larger regional agreements heavily imprinted with US trade regulatory norms—this being the CPTPP itself and the United States–Mexico–Canada Agreement (USMCA). The UK’s revealed willingness to strongly align itself with US trade regulatory norms has important implications for the Asia-Pacific. It also raises some key issues on what kind of trade partner the region might expect a post-Brexit ‘Global Britain’ to become, and how the UK’s deeper planned engagement with the Asia-Pacific could affect its strategic dynamics. This could significantly depend on how closely the UK is pulled over time into the US’ trade regulatory orbit.

KEYWORDS Asia-Pacific; CPTPP; free trade agreements (FTAs); trade regulation; UK; US hegemony

1. Introduction
In the current turbulent geopolitical environment, upholding rules-based orders has become a particular priority for many countries. But whose rules dominate or prevail in the international system? This is a critical issue regarding trade, which itself increasingly defines many key contours of
today’s global economy. Understanding the rules and regulations that govern and shape trade remains vital. The continued inertia of World Trade Organisation (WTO) in advancing multilateral trade governance has meant the most important recent developments in trade regulation have occurred within the growing number of free trade agreements (FTAs), whose number worldwide has grown from around 20 in 1990 to over 350 by the early 2020s (WTO, 2023). In simple terms, an FTA is an international treaty typically comprising around 20 to 30 thematic chapters of varying lengths and hundreds of specific articles outlining the agreement’s different measures, where signatory parties (i.e. in almost every case, countries) commit to liberalise and facilitate trade between them, as well as abide by often complex regulations that permit and promote certain trading activities and other related actions.

One of the most important recent developments in international trade affairs has been the United Kingdom’s (UK) leaving of the European Union (EU), and thereby able to conduct its own independent trade policy for the first time in many decades. The UK may be considered a large middle power, arguably the most globally-connected European country and a past global trade hegemon. It once determined much of the terms and rules of world trade but what about now? In this early post-Brexit era, ‘Global Britain’ has looked especially towards the Asia-Pacific for its new trade horizons. The region has indeed been strategically prioritised above all others in the UK government’s foreign policy (UK Government, 2021). For Brexit supporters, escaping the EU’s rule-making regimes only to tether its regulatory fate to another foreign power or region would not logically seem ideal. Yet some version of this outcome could possibly transpire as a consequence of the UK entering into new FTA pacts in the Asia-Pacific. New research presented in this study shows that the country is closely aligning itself with US trade regulation through the bilateral FTAs signed with Australia and New Zealand, this set to become stronger if the UK’s negotiations to join the mega-regional Comprehensive and Progressive Trans-Pacific Partnership (CPTPP) succeed.

Australia and New Zealand are two British Commonwealth nations with whom the UK has very close ties. This made them suitable new FTA partners for a post-Brexit UK, and useful preparatory steps towards joining the CPTPP. It is therefore not unreasonable to expect the trade deals with Australia and New Zealand to closely align with CPTPP trade regulations to help ease the passage of accession negotiations with this larger Asia-Pacific agreement. However, the CPTPP bears a strong US trade regulatory imprint for historic reasons later explained. Thus, with the UK’s CPTPP accession would come a de facto close adoption of US-styled trade rules. New research presented in this study shows that this has already occurred in the UK’s new FTAs with Australia and New Zealand from the results of text mapping these two bilateral agreements with the CPTPP and crucially also
the United States–Mexico–Canada Agreement (USMCA)—an even more US-dominated FTA that entered into force in July 2020, a year and half after the CPTPP. The evidence presented shows strikingly high-level similarity in many key regulatory chapters across both these larger agreements.

In the next section, an analytical framework on trade regulation and FTAs is developed that examines the nature and purpose of trade regulation, how powerful and hegemonic states can create predominant trade regulation norms, and how these are diffused in the international system. The United States as a trade regulatory hegemon is then considered in this perspective. This is then followed by a discussion on the UK’s post-Brexit trade policy, situating it in an Asia-Pacific context before presenting the study’s empirical research and text analysis, and then the main arguments and conclusions drawn overall.

2. Trade regulation and FTAs: an analytical framework

To better understand the key concepts, issues and debates concerning this study’s research and its main findings, this section develops a generalised analytical framework of trade regulation based around the following investigative questions: (i) what is nature of trade regulation and its main purposes; (ii) how do certain forms of trade regulation become prominent and diffused in the international system, and how can norms help explain these processes?

2.1. Nature and purposes of trade regulation

Trade regulation can be defined as the use of various types of institutionalised or legalised rules, standards and other regulatory measures that establish governance frameworks designed to shape the conduct of international trade. It is typically embodied in international treaties, domestic legislation and the statutes of multilateral or supranational institutions (e.g. WTO, EU), these often working interconnectedly. For example, when governments ratify signed FTAs through their legislative processes the agreement’s measures become domestic law. Trade regulations may also be introduced unilaterally as part of a government’s own trade policy. Due to trade issue-linkage, the scope of trade regulation has gradually extended over time, and thus the regulatory reach of FTAs (Maggi, 2016). Consequently, trade policy now encompasses a broad spectrum of commercial, scientific, technical and sector-specific regulatory matters, such as investment, rules of origin, sanity and phytosanitary standards (SPS), technical barriers to trade (TBT), intellectual property (IP), government procurement, digital technology, competition policy, finance and telecommunications. In addition, trade’s functional connections with societal priorities including environment, climate action, labour, gender, animal welfare and (sustainable) development have strengthened.
Comprehensive, ambitious FTAs can have deep regulatory impacts on a signatory party’s economy and society. For example, an agreement’s IP regulations can affect the prices of pharmaceutical products in national health systems. Its government procurement measures determine the basis on which foreign companies can bid for national public infrastructure contracts. SPS rules can significantly influence a country’s agricultural practices and food production-consumption. An FTA’s rules of origin can shape how certain companies configure their supply chain production relationships. Its digital trade regulations can affect domestic data protection regimes and their future evolution. Environment chapters often prohibit trade connected to ecologically damaging activities and promote green technology transfers. An FTA’s trade regulation will generally depend on the political-economic interests and capacities of the signatory parties involved. Advanced high-income countries typically pursue broad-themed FTAs with complex and deep regulatory content, whereas less developed countries prefer simpler, narrower scope agreements with relatively stronger emphasis on trade co-operation (Acharya, 2016).

The gradual lowering of import tariff rates across key global industries over past decades has made trade regulation increasingly important regarding new value-adding contributions made by FTAs. Furthermore, the functional priorities of trade regulation have shifted in response to the changing nature of trade itself, which increasingly occurs within the global supply and value chain configurations of transnational business. This has consequently created pressure for harmonising cross-border regulatory environments and tackling ‘behind the border’ regulatory barriers that impede trade, leading to calls to establish mega-regional FTAs like the (CP)TPP given a persistently weak WTO. In these circumstances, FTAs generally have become the most important mechanism for developing, innovating and diffusing new trade regulation.

2.2. Trade regulation prominence, norms and diffusion

Certain forms of trade regulation can achieve varying degrees of prominence within the international system, its text content dispersed across multiple agreements through particular diffusion mechanisms. Whose trade rules prevail and gain salience in FTAs matter significantly. As noted earlier, it can impact on domestic regulatory regimes and thus how economies and societies are governed. Persuading other FTA partners to adopt particular forms of trade regulation will depend primarily on factors of power and other capacities to influence. Neo-realists argue that nation-states exercising hegemonic power within a region or globally are more likely to champion its own preferred trade regulatory norms and practices, where these can become dominant. Power in its international context can be defined in a number of
ways but in terms of political-based influence and capability—which is most relevant to this study—it broadly concerns an actor’s ability to structure and determine the nature of social relations that also involve other actors, and thereby also shape or constrain their behaviour (Barnett & Duvall, 2005; Mearsheimer, 2001). The negotiation of FTAs create its own set of social relations among involved parties, where power capabilities are revealed and reproduced through various bargaining processes. Here, larger, stronger states may exploit opportunities to leverage their power to secure outcomes most closely aligned to their own interests. Consequently, predominant trade regulation can emerge that both reflect and augment a powerful state’s position and aspirations. This can in turn create some form of trade regulation hegemony within a cluster of linked FTAs where substantively extant.

Hegemony itself is an important power status concept often used as a proxy term for dominance or a preponderance of power. It is also closely associated with leadership, particularly its more assertive forms. The influence of powerful hegemonic states, like the US, are often deferred to by other actors on international rule-setting, including trade. Certain theorists contend that hegemonic states can bring about international systemic stability through deployments of their power to establish strong governed order and uphold the rules underpinning it (Gilpin, 2001; Kindleberger, 1981; Wohlfert, 1999). However, others argue hegemony is a form of imperialism that can create structural tensions within the global system (Bromley, 2003; Kiely, 2006; Vasudevan, 2008; Worth, 2015).

Cox’s (1983, 1987) triangular model of hegemony can be usefully applied to understand how strong forms of power can lead to predominant trade regulation arising within FTAs, this model comprising three elements: material capabilities, ideas and institutions. Material capabilities refers primarily to various technologies, capital and various other resource assets at a hegemon’s disposal. Regarding FTAs, this can include large cadres of highly trained trade lawyers and experienced, skilful trade diplomats that powerful hegemonic states can bring to bear in negotiations, and additionally offering access to its huge domestic markets. Furthermore, the above noted superior technocratic capability creates various opportunities to exercise norms innovation and entrepreneurship, where new types of trade regulation are presented to others as ‘start-of-the-art’ thinking. This can confer powerful hegemonic states with intellectual and ideational authority, from which approval for their advocated trade regulation can be secured from other negotiating parties. Connections exist here with the ideas element of Cox’s model, relating to the ideologies and intersubjectively shared norms and common perceptions of political, economic, social and other forms of order that underpin a hegemonic position. The US often refers to its more ambitious FTA projects as ‘platinum standard’ agreements due to their new
cutting-edge ideas and innovations that establish new global benchmarks on trade regulation (Mercurio, 2014). Lastly, institutions in Cox’s model relates to how a hegemonic order is initially founded, stabilised and sustained, with the other two elements playing a supporting role. We may define institutions as durable structures of regulations, laws, norms, social conventions, codes of conduct and other mechanisms that both shape and constrain human behaviour (North, 1990). In addition to more recognisable types of institutions, like the WTO, FTAs also meet the above definitional criteria and can help institutionalise a hegemonic order based on predominant trade regulation.

Relatedly, the concept of norms can help explain why and how predominant trade regulation can form through international diffusion. Norms may be defined as actions, ideas or practices that are commonly adopted by actors, forming the basis of standardised or ‘normalised’ conduct as well as new categories of activity, interests and agency (Horne & Mollborn, 2020). They can thus act as transmission carriers, including of trade regulation practice. As earlier indicated, norms have close links with the ideas and institutions elements of Cox’s hegemony model, and trade regulation can become increasingly predominant through progressive stages of norms diffusion within the international system. In norm’s emergence stage, they are initially established by their originators who seek to persuade others to adopt them. In the cascade stage, norms have been accepted by a critical mass of users which then expands in influence through self-reinforcing socialisation, demonstration, and institutionalisation effects. Finally in the internalisation stage, norms becomes default practice amongst a universal community of users (Finnemore & Sikkink, 1998). The progress of norms diffusion will depend significantly on power capability factors.

Trade regulatory norms in practice typically form in the emergence stage around the text content and structure of international treaties. The burgeoning growth of FTAs has provided a very effective mechanism for diffusing trade regulatory norms based on the article-structured content of chapters in negotiated agreements. With regard to the ‘cascade’ stage, powerful states and other influential actors will often seek to replicate their preferred norms in as many FTAs as possible they are a signatory of. In extreme cases, an FTA’s trade regulatory norms may consist of substantive templated text from previously brokered agreements. This is especially evident in FTAs involving the US and to a lesser extent the EU (Arbia, 2013; Ranald, 2015). Trade regulation may too be diffused across agreements where the advocating powerful state is not a signatory, an example of ‘internalised’ stage norms adoption among third-party states, this being highly relevant to the UK’s later analysed new FTAs with Australia and New Zealand.

Powerful states may push for diffusing their trade regulatory norms based on arguments that harmonisation and standardisation generate
mutual benefits (Sheargold & Mitchell, 2016), similar in rationale to creating common network standards and systems. To further cascade them, they may contend that these norms build on existing WTO multilateral equivalents, extending and modernising them to create new regulatory frontiers that reflect latest techno-innovatory developments across various trade issue-linkage sectors. Most contemporary FTAs contain baseline provisions in certain chapters derived from relevant parts of the 1994 GATT/WTO Uruguay Round agreement, e.g. on investment (TRIMs) and intellectual property (TRIPs). While this has provided some basic level of regulatory coherence and standardisation across FTAs, much of the regulatory content concerned has become increasingly dated. This provides scope for powerful states in particular to suggest upgrades through FTAs based on their preferred trade regulation. FTAs also provide opportunities for powerful states to export elements of their own domestic regulatory regimes within the international system (Ahcar & Siroën, 2017; Drezner, 2007).

States lacking power and hegemonic capacity may still be able to establish and diffuse trade regulatory norms through exercises of soft power, i.e. cultural, intellectual and diplomatic influence (Nye, 2004). This can include the norms innovation and entrepreneurship founded on an effective combination of politico-diplomatic initiative, thought leadership and applied technocratic capability. An example is New Zealand’s lead role in Agreement on Climate Change, Trade and Sustainability (ACCTS) being negotiated with Costa Rica, Fiji, Iceland, Norway and Switzerland in the early 2020s, which if successfully brokered will be a ground-breaking development in the trade-climate nexus (Dent, 2022). At the domestic level, the trade regulatory norms of powerful and influential states may be determined by the balancing of various domestic stakeholder interests. Business lobby groups are invariably the most powerful agency in influencing governments to push for including certain trade regulations in FTAs, especially deriving from preferred domestic legislation or the text from other agreements. Civil society lobby groups such as labour and environmental organisations may also exercise considerable lobbying influence, depending largely on their own capacities and the domestic political system where they operate. Governments can also co-opt the power of business and civil society agency to augment its own material power capabilities, for instance by hiring private sector trade lawyers in its FTA negotiating teams.

3. US trade regulation and the Asia-Pacific

3.1. Writing the ‘rules of the road’ for Asia-Pacific trade

The United States is a global trade power and hegemon, and most of its important economic relationships lie in the Asia-Pacific. This makes the region a crucial part of the world in which to advance its trade regulatory
norms and establish trade rules closely aligned with US commercial interests. This endeavour has geopolitical relevance given the challenge an ascendant China poses to American hegemony both in the Asia-Pacific and globally. Since the US developed a more proactive FTA policy from the late 1990s onwards, new bilateral trade deals were subsequently signed across the region and with many other trade partners. While the US has more broadly driven ‘market-oriented’ economic integration in the Asia-Pacific, compared to China and Japan it was relatively late in developing regional FTA initiatives, notwithstanding its engagement with Asia-Pacific Economic Co-operation (APEC) diplomacy (Dent, 2016). The Trans-Pacific Partnership (TPP) thus presented an important opportunity for the US to address this lag and establish an Asia-Pacific trade order more strongly influenced by its own trade regulatory norms, underpinned by the country’s ‘behind the border’ market access FTA model (Capling & Ravenhill, 2011; Dent, 2010).

The US’ involvement with the TPP is highly relevant because the CPTPP that superseded it is substantially based on the original TPP text. Consequently and as later detailed, even though the US is not a CPTPP member the agreement bears a very strong US trade regulatory imprint. The TPP comprised 30 chapters, 63 annexes and 61 side letters that combined spanned around 6,000 words and over 500 articles, making it then the longest FTA text in history. Its deep ancestral roots lie in a quadrilateral agreement between Singapore, New Zealand, Chile and Brunei (the Trans-Pacific Strategic Economic Partnership Agreement, TPSEPA) signed in 2005 (Dent, 2006). Other Asia-Pacific countries were later invited to join, namely Australia, Canada, Japan, Malaysia, Mexico, Peru, US and Vietnam. Enlargement negotiations began in 2008. The following year, newly incumbent US President Obama pushed for the TPSEPA to become a more substantive Asia-Pacific regional FTA. It was subsequently rebranded the Trans-Pacific Partnership, negotiations on which commenced in March 2010 and became the centre-piece of Obama’s ‘Pivot to Asia’ foreign policy strategy and trade policy generally (Bhala, 2017; Gordon, 2012; Ji & Rana, 2019).

In various public communications on the TPP, the US government made its trade regulation goals and hegemonic intent very explicit throughout, including the agreement being an overt diffusion mechanism for US trade rules. In November 2011, a US Trade Representative (USTR, 2011: 1) press release on the TPP stated that: The rules of the road are up for grabs in Asia. If we don’t pass this agreement and write those rules, competitors will set weak rules of the road, threatening American jobs and workers while undermining US leadership in Asia. After the conclusion of the TPP negotiations in October 2015, Obama proclaimed: When more than 95 per cent of our potential customers live outside our borders, we can’t let countries like China write the rules of the global economy. We should write those rules, opening new markets to American
products while setting high standards for protecting workers and preserving our environment (White House, 2015). A few months later when presenting the TPP bill to US Congress in April 2016, Obama further remarked: The TPP represents a choice for the United States. It is a choice between leading the world toward a future that supports US values and interests or standing back and allowing others—most likely China—to write the rules of the road for Asia in the 21st century (cited in Bhala, 2017).

The Obama Administration’s proclaimed interest in shaping the trade rules of the Asia-Pacific and beyond rather than on tariff liberalisation affirmed the primacy of trade regulation in FTAs for the US, and its critical importance in determining the prevailing hegemonic order in the region. As Ravenhill (2017) argued, the US looked to simultaneously strengthen the region’s rules-oriented trade environment whilst pursuing a hegemonic agenda of establishing its own rules that undergirded it through the TPP. Augmenting US material power capability in the negotiations, the country’s powerful business community worked in close tandem with the US government on a proposed TPP trade regulatory agenda. This included the US Chamber of Commerce, Emergency Committee for American Trade, US Council for International Business, National Association of Manufacturers, Pharmaceutical Research and Manufacturers of America, Coalition of Service Industries, these peak organisations together with leading US exporting companies forming the US Coalition for TPP. All viewed the proposed agreement as a key strategic opportunity for advancing American commercial and regulatory interests in the Asia-Pacific, especially in key areas such as IP and digital economy (Biegon, 2020; Kawharu, 2012). According to Ravenhill (2017), a strong US national business coalition² formed around a promoted alignment of copyright regulations to US law, with multiple submissions made to the USTR on the coalition’s priority objectives in TPP negotiations.

3.2. US power, hegemony and trade regulation diffusion

The TPP created a framework of social relations that were quite unique. Aside from its engagement with GATT/WTO multilateral talks, for the US the Trans-Pacific Partnership constituted an FTA negotiation process involving at the time the largest number of trade partner interlocutors it had participated with. Regarding material capabilities, the US delegation of TPP trade negotiators was significantly the largest, possessed the broadest expertise and were arguably the best trained (Kawharu, 2012; Rogowsky, 2016). The US geoeconomic weight advantage was also very considerable, its GDP and hence domestic market size representing around 70 percent of the collective TPP total. While many of the other eleven TPP countries had already signed bilateral FTAs with the United States, the new regional agreement
potentially offered much enhanced access to US markets through wider trade regulation measures.

Notwithstanding the resistance the US encountered from certain countries in some key areas of the TPP—including on IP (Australia and Chile, especially on the length of data protection for biologics), state-owned enterprises (Vietnam and Malaysia) and labour standards (Brunei, Malaysia, and Vietnam)—and the longer than anticipated time it took to finally conclude the agreement, other countries generally deferred to the US’ ideas and norms leadership on trade regulation in most chapters (Helble, 2017). They were furthermore reportedly realistic about the implications of US hegemonic power in TPP talks, acknowledging the impacts its dominant position would have on negotiated outcomes. The same applied to their acceptance of how US domestic trade politics duly influenced the US government’s negotiating position (Elms, 2016). For example on IP, among the objectives of the US Congress Trade Act of 2015 that granted Trade Promotion Authority (TPA) to the Obama Administration was ensuring that the provisions of any trade agreement governing intellectual property rights that is entered into by the United States reflect a standard of protection similar to that found in United States law (US Government Committee on Ways and Means 2015, Section 5.A.II). While this suggested that Congress would in principle be content with IP regulation in the TPP where sufficient mutual recognition of US law was evident, the country’s trade negotiators went further by pressuring trade partners to comply with even stricter regulatory demands, for example on data exclusivity time period clauses (Helble, 2017; Ravenhill, 2017).

The US sought to push trade regulatory boundaries not only where they aligned with its own equivalent domestic legislation but also in relatively new trade issue-linkage areas. Although the US had included disciplines on state-owned enterprises (SOEs) in previously signed FTAs, it used the TPP as an opportunity to exercise much stronger norm entrepreneurship on this front, achieving substantive levels of trade regulatory innovation (Fleury & Marcoux, 2016; Zhou, 2021). US trade regulatory norms were also strongly evident in the TPP’s earliest foundations. The TPSEPA drew upon many common regulatory elements of the bilateral FTAs the US signed with Singapore and Chile that both entered into force in 2004. Subsequent numerous agreements Singapore negotiated with other trade partners contained significant levels of text derived its FTA with the United States. With relevance to diffusion, a prime motive for Singapore helping cascade US trade regulatory norms was to mitigate the so-called spaghetti or noodle bowl problem caused by the proliferation of mainly bilateral FTAs creating a myriad of differentiated trade rules (Bhagwati, 2008). The TPP presented an important opportunity to harmonise trade regulations across the Asia-Pacific and rationalise the dense criss-cross pattern of bilateral trade deals
that existed among negotiating parties into a unifying mega-regional agreement (Capling & Ravenhill, 2011; Elms, 2013).

In assessing the strength of US trade regulatory norms in the TPP, research by Allee and Lugg (2016) found that around 45 percent of the agreement’s text derived from previously signed FTAs dating back to 1995 involving the US as a signatory party. This text similarity was especially strong in key areas such as investment, IP, telecommunications, safeguards, services trade and financial services. The TPP’s highest similarity ranked chapter was investment with 80 percent of its text derived from previous FTAs, and indicatively 88 percent from the 2009 US-Oman FTA. Additionally, 72 percent of the 2006 US-Columbia FTA services trade chapter was repeated in the TPP, and more than 70 percent of text from the financial services chapters of six previous US signed FTAs in the TPP’s own corresponding chapter. Allee and Lugg (2016) analysis furthermore revealed the high degree of internal consistency among US-signed FTAs, strongly indicative of a text template approach.

Research by Broude, Haftel, and Thompson (2017) and Alschner and Skougarevskiy (2016) on the similarity of various FTA investment chapters and bilateral investment treaties with the TPP text yielded comparable results to Allee and Lugg (2016). Again, striking parallels with the text of previous US-signed agreements were strongly evident. Looking wider afield, a European Parliament (2021) report on the later negotiated Regional Comprehensive Economic Partnership (RCEP)—a large East Asia centred FTA whose membership includes China and Japan but excludes the US—found its highest text similarity existed with the CPTPP at 30 percent, the second highest being the USMCA at 24 percent. This indicated evidence of ‘internalisation’ stage diffusion of US trade regulatory norms in the Asia-Pacific. While there is overlapping membership between the (CP)TPP and RCEP, and these ratios are much lower than presented by Allee and Lugg (2016) on US FTA text similarity, this is nevertheless surprising given the predilection of China and Japan to forge their own approach to FTAs, especially in bilateral arrangements.

3.3. From TPP to CPTPP, and then to USMCA

TPP talks were concluded in October 2015 and the agreement signed by all 12 member countries in February 2016. After the US had negotiated an important trade treaty so closely aligned with its trade regulatory norms, new incoming President Trump withdrew the country from it on entering office in January 2017, claiming it threatened rather than protected US commercial interests. The TPP was subsequently rebranded the CPTPP, with re-negotiations initiated in May 2017 and were completed by March 2018. The CPTPP came into force in January 2019. Only 22 articles from the TPP
(out of an original 500 plus) were either suspended or amended, the most significant changes located in the IP and investment chapters. In sum, the vast majority of alterations made to the original TPP text were largely cosmetic, involving the deletion of US-related references as well as some adjustments on provisions the US had previously championed that were a low priority for other members (Goodman 2018). Consequently, the CPTPP is a regional FTA based largely on US trade regulatory norms.

It is noteworthy how the (CP)TPP—which President Trump said was misaligned with his ‘America First’ foreign policy goals—ended up influencing many aspects of another regional FTA that Trump claimed to be the best and most important trade deal ever made by the USA. This was the United States—Mexico—Canada Agreement (USMCA) that superseded the 1992 North America Free Trade Agreement (NAFTA) at the Trump Administration’s behest. The USMCA was a qualitatively different upgrade on its predecessor but derived extensively from ‘templated’ trade regulation text used in other FTAs more recently signed by the US. Negotiations ran from August 2017 to October 2018. The USMCA was signed by all three countries’ leaders in December 2019 and entered into force in July 2020. The USMCA comprises 34 chapters compared to 22 in NAFTA, additional areas including SOEs, SMEs and digital trade with broader updated provisions on IP, SPS, TBT, investment, competition policy and most other areas of trade regulation (Burfisher, Lambert, & Matheson, 2019; Gantz, 2018). USMCA chapters drawing significantly upon the (CP)TPP text included those on SOEs (more or less copied verbatim), e-commerce (digital trade in USMCA), environment (e.g. articles directly lifted on fisheries, marine litter, invasive species and air quality) and intellectual property (e.g. protections on pharmaceuticals) where the USMCA verbatim copied the (CP)TPP’s provisions on safe harbours for internet service providers that are in turn modelled on the US Digital Millennium Copyright Act’s Section 512 (Chander, 2018). A feedback norms cascade of sorts thus occurred here regarding the diffusion of US trade regulation across both regional FTAs. As we later discuss, this has implications for UK trade policy and its aim to join the CPTPP.

4. The UK, Asia-Pacific and trade

4.1. Post-Brexit UK trade policy and FTAs

After leaving the EU in January 2021, the UK was able to negotiate its own new FTAs and accession to existing ones. For its supporters, Brexit allowed the UK to escape the regulatory clutches of EU rule-setting institutions and exercise its own independent trade policy (Gaston, 2019; Holmes & Rollo, 2020). Trade has been integral to defining post-Brexit ‘Global Britain’. In a speech given in January 2017, Prime Minister Theresa May outlined her future vision for the UK
to become even more global and internationalist in action and in spirit, and that, it is time for Britain to get out into the world and rediscover its role as a great, global, trading nation. The speech contained numerous references to trade, including the government’s intention to strike new FTAs with countries worldwide. Brexit advocates also highlighted how the UK could now establish its own determined trade regulatory norms in FTAs (Centre for European Policy Reform, 2022; Freeman, Manova, Prayer, & Sampson, 2022).

By early 2023, the UK had signed 34 ‘rollover’ or ‘continuity’ FTAs that perpetuate the terms of agreements the UK was already party to when an EU member state. It looked to the Asia-Pacific in particular to sign new trade agreements, a region with which the UK already had strong historic, cultural, economic and politico-security connections. Moreover, the Asia-Pacific (now often synonymously referred to as the Indo-Pacific) has been long viewed as strategically very important to the UK’s long-term strategic interests, with trade playing a vital role. In March 2021, the UK Government published its Integrated Review of Security, Defence, Development and Foreign Policy outlining its vision of the country’s position in the world by 2030 (UK Government, 2021). The paper contained an ‘Indo-Pacific tilt’ framework of generic actions, this being the only part of the world thematically prioritised. Its section on ‘Putting trade at the heart of Global Britain’ furthermore identified Australia, New Zealand, the CPTPP and India as initial targeted partners to sign wholly new FTAs.

The UK’s negotiations on FTAs with Australia and New Zealand began in June/July 2020 and concluded agreements signed in December 2021 and February 2022 respectively. Meanwhile, accession talks to join the CPTPP began in September 2021, and by 2022 the UK was additionally negotiating other FTAs with Canada, Mexico, India, Israel and the Gulf Co-operation Council group (Table 1). As part of Brexit, the UK also negotiated a Trade and Co-operation Agreement (TCA) with the EU, this being a comprehensive scoped FTA (Bennett & Vines, 2022). For ‘trade gravity’ market size and geographic proximity reasons, the EU will remain the UK’s most important trade partner for the foreseeable future, accounting it is estimated for around 40 percent of its total trade over some years or even decades yet (Brakman, Garretsen, & Kohl, 2018; Dhingra, Ottaviano, Rappoport, Sampson, & Thomas, 2018; Office for Budget Responsibility, 2022; Siles-Brügge, 2019). Consequently, the TCA will remain the UK’s most important FTA relationship for the foreseeable future.

The TCA’s continued importance to UK trading interests is relevant to trade regulation that future UK governments could look to develop and innovate itself or adopt from other countries. There may be cases where the UK complies with particularly trade rules, such as on food and agricultural standards, that cause regulatory dissonance with its corresponding
TCA commitments. In these circumstances, the UK government will need to proceed carefully to avoid damaging its crucial trade relationship with the EU. This scenario may particularly arise where the UK develops close alignment with US trade regulations that potentially conflict with their EU-centred equivalents (Cygan, 2020; Dalingwater, 2021; Fusacchia, Salvatici, & Winters, 2022). The failed Trans-Atlantic Trade and Investment Partnership talks between the US and EU is indicative of significant regulatory differences that exist between them. Any regulatory dissonance between the EU/European and US-based regimes may not necessarily present a problem for the UK at the moment but could in the future as the new regulatory commitments of its post-Brexit trade policy have deeper impact. Thus, although the UK’s negotiation of whole new FTAs can in one sense be understood as attempting to distance itself from EU trade regulatory norms, constraints may arise here as is later discussed.

While the estimated trade creation benefits of signing new FTAs with relatively small and distant trade partners may be negligible (Office for Budget Responsibility, 2022), the longer-term significance and impact of these new agreements for the UK are the trade regulatory norms it is aligning to in this early post-Brexit phase, where new precedents for future significant agreements may be set. The UK’s FTAs with Australia and New Zealand were part of a pre-accession plan of joining the mega-regional CPTPP (UK Department for International Trade, 2021a). It was therefore logical in these two bilateral agreements—where deemed possible and appropriate—to align with the CPTPP’s text content, this being as earlier shown very heavily influenced by US trade

Table 1. United Kingdom’s new FTA projects.

<table>
<thead>
<tr>
<th>Trade Partner</th>
<th>Status by December 2022</th>
</tr>
</thead>
<tbody>
<tr>
<td>Canada</td>
<td>Negotiations began March 2022 to supersede EU ‘continuity’ agreement.</td>
</tr>
<tr>
<td>Mexico</td>
<td>Negotiations began May 2022 to supersede EU ‘continuity’ agreement.</td>
</tr>
<tr>
<td>India</td>
<td>Negotiations began January 2022.</td>
</tr>
<tr>
<td>Israel</td>
<td>Negotiations began July 2022 to supersede EU ‘continuity’ agreement.</td>
</tr>
<tr>
<td>Gulf Co-operation Council</td>
<td>Negotiations began in June 2022.</td>
</tr>
<tr>
<td>United States</td>
<td>Negotiations began May 2020 but after the last round of talks in October 2020 have been officially curtailed.</td>
</tr>
<tr>
<td>Switzerland</td>
<td>Initial consultations held between April and June 2022 on superseding EU ‘continuity’ agreement.</td>
</tr>
</tbody>
</table>

Source: House of Commons (2022). Notes: Does not include EU ‘continuity’ FTAs.
regulatory norms. The idea of the UK and US themselves becoming FTA partners was a headline proposal of the UK’s post-Brexit trade policy (Heron & Siles-Brügge, 2021). There was even discussion within the UK government at one point of acceding to the USMCA. A closer trade partnership with the United States, cemented by an FTA, would send a strong signal worldwide of the United Kingdom putting its past EU membership distantly behind, and of a Global Britain charting a course towards new international horizons. Negotiations on a UK-US FTA began in May 2020, UK Trade Secretary Liz Truss stating at their launch, *Britain and America are linked by language and law, habit and history. Our friendship is not some alliance of convenience. It rests, rather, on shared values and principles.* However, the talks were soon curtailed, mainly due to thorny trade regulation issues arising over food standards and IP-related concerns over healthcare costs. The failure of these negotiations suggests the UK was averse to aligning with particular US trade regulatory norms in certain sensitive socio-political areas, not seeking a viable compromise through sectoral trade-offs in other areas, such as financial services and investment. As is later shown, the UK has nevertheless aligned with these norms in a wide range of significant regulatory areas through third-party cascade effects.

As a large middle power with a long history of trade policy invention and leadership, whether a post-Brexit UK emerges as a ‘regulation maker’ or ‘regulation taker’ overall in international trade governance could have notable consequences. The capacity of the UK to exercise norm innovation and entrepreneurship on trade regulation will depend significantly on its government’s ability to formulate a robust, coherent and creative trade strategy. There was a general view when the UK started negotiating its bilateral FTAs with Australia and New Zealand that this strategy was lacking (Peterson Institute for International Economics, 2022; Resolution Foundation, 2022). In its scrutiny report of the country’s planned accession to the CPTPP, the UK House of Lords (2021) concluded that the government’s negotiating objectives were weak on detail, and included no commitments or stated red lines on various regulatory issues like on health, environment and intellectual property. The UK government did publish a ‘strategic approach’ paper on CPTPP accession (UK Department for International Trade, 2021a), as well as impacts assessment documents on its FTAs with Australia and New Zealand (UK Department for International Trade, 2021b, 2022). However, these mainly focused on specific priorities set for each trade partner rather framed within an overarching, substantively developed trade strategy. In November 2022, former UK Environment Secretary, George Eustice, revealed his government *gave away far too much for far too little in return* in its FTA negotiations with Australia due to then Trade Minister Liz Truss’ insistence on agreeing the trade deal’s basic ‘Agreement in Principle’ terms in time for UK’s hosting of the G7 summit in June 2021. Eustice contended this was indicative of political expediency
prevailing over any form of UK trade strategy, all this suggesting the UK was more likely to emerge as a regulation taker than maker at this time.

Furthermore, CPTPP accession rules requires prospective new members to accept the current core text of agreement, and thus its regulatory obligations across all chapters. Notwithstanding there being some scope for brokering ‘side letters’ to derogate certain legal commitments, the UK would be essentially a regulation taker on joining the CPTPP (Morita-Jaeger, 2021), and thus required to accept its US-influenced trade regulatory norms. The aforementioned House of Lords (2021) report also highlighted areas where CPTPP accession could lead to possible conflict with UK regulatory regimes. In IP and health, for instance, it found that CPTPP regulations are inconsistent with the European Patent Convention to which the UK remains a signatory as part of its continued membership of the European Patent Office. In addition, the CPTPP includes a mandatory regulation on patent notification and authorisation procedures for generic and biosimilar medicines that would lead to the UK’s National Health Service paying higher prices for these products. Moreover, the FTAs with Australia and New Zealand have required the UK to regulatory opening up of its agriculture sector and on accession to the CPTPP an alignment with US-styled standards that deviate from the EU’s, which may cause compliance issues for the UK’s agri-related regulatory commitments embodied in the TCA. The CPTPP’s digital trade regulations are also based on a US-styled market driven, open rules approach that differ from the more human rights-oriented data protection regime of the UK and EU, as embodied in their respective GDPR rules (Morita-Jaeger, 2021).9

The UK’s wish to join the CPTPP, a trade bloc centred on a far distant region from itself, would to many seem extraordinary, especially in the post-Brexit context of it leaving the EU regional trading regime only to become part of another, and over which it would have less influence. What follows is a deeper, empirical investigation into these and other key matters discussed thus far. It presents new research and text analysis of the UK’s bilateral FTAs with Australia and New Zealand, examining the extent and pattern of their text similarity with the CPTPP and USMCA, two heavily US-influenced agreements. This new research thus investigates the degree to which the UK may be adopting US trade regulatory norms in this early stage of its post-Brexit trade policy, and implications arising from this.

5. To what extent is the UK aligning with US trade regulation?

5.1. Purpose and overview of research methodology

This study’s empirical research employs certain grading methodologies to evaluate the significance of text similarity found in the UK’s new FTAs with Australia and New Zealand in relation to the CPTPP, USMCA and other trade
agreements. Text-as-data analysis is being increasingly used in social sciences (Anson, 2020; Grimmer, Roberts, & Stewart, 2022). It is especially useful when analysing international treaties like FTAs where legal interpretation and precise wording are important, as is whose ‘preferred language’ is being adopted. Manual evaluation and coding methods were first used to prepare the FTA documents for text similarity analysis. This methodological approach allows for a nuanced and flexible assessment of the text, facilitating a more meaningful interpretative analysis of it (Broude et al., 2017). For example, closely synonymic language used to articulate the same trade regulation with high degrees of similar legal particularity and implications would appear disproportionality dissimilar. Conversely, similar language across agreements may be used to frame certain parallel provisions but there may be qualitative differences regarding their trade regulation content. Additionally, idiosyncratic terms such as on cross-referenced parts of the agreement (e.g. chapter titles, article themes), country-specific institutions, dates, locations, etc were also eliminated in the evaluative process.

These preparatory factors were taken into consideration before text-matching software was used to generate similarity percentage scores for each FTA chapter. This In particular related to derivative similarity, meaning the extent in percentage terms that specific text from one FTA derived from the corresponding text content of another. Accordingly, even if particular parts of the CPTPP and USMCA have more extensive content than equivalent sections in the UKAFTA and UKNZFTA, a derivative similarity of 100 percent is still attainable. This was combined with the legalisation grading methodology, which as later explained involves a more qualitative assessment of the trade regulatory content embodied in, and shared by, the examined FTAs.

### 5.2. Trade regulation similarity analysis

The heavy influence of US trade regulatory norms on the CPTPP was earlier established. We may therefore deduce that high-level derivative similarity of the UKAFTA and UKNZFTA with the CPTPP indicates notable alignment with those norms also, most affirmatively where the bilateral agreements have high similarity scores with the USMCA. The study’s research results presented in Table 2 shows that the UK’s FTA with Australia has an overall derivative similarity scores of 58 percent and 51 percent with the CPTPP and USMCA respectively. The scores for its FTA with New Zealand were lower at 47 percent and 42 percent, while the derivative similarity between the two bilateral agreements themselves was 62 percent. To contextualise these scores, as well as the chapter-specific ones below, we can refer back to the earlier cited text analysis research (e.g. Allee & Lugg, 2016) covered
in Section 3.2 on US trade agreements, the TPP and other FTAs. Comparable findings are evident and the overall derivative similarity scores for the UKAFTA and UKNZFTA against the CPTPP and USMCA are high by international comparison. Perhaps most importantly, the derivative similarity of the UKAFTA and UKNZFTA with the TCA signed between the UK and EU was found to be 12 and 14 percent respectively. Moreover, most of this similarity can be attributed to common WTO nomenclature language in chapters linked to existing multilateral agreements on investment, IP, TBT,
SPS and other themes. There are also clearer differences of priority and emphasis when comparing the other agreements to the TCA, like the State-Owned Enterprises and Monopolies chapter where the TCA is far shorter with half the number of articles. Similar textual differences between the TCA and the four studied Asia-Pacific agreements are evident in their corresponding Investment chapters. Whereas many of the TCA’s article themes and content have commonalities with the other FTAs (e.g. on national treatment, most-favoured nation and performance requirements—derived mainly from the aforementioned multilateral TRIMs accord), the former here too is only half as long and lacks the additional verbatim shared other articles (e.g. on transfers, subrogation, expropriation and compensation) found in the second half of all four Asia-Pacific agreements’ chapters on investment. In another example, the TCA’s provisions on environment, climate change and sustainable development are by comparison more interlinked and pervasive compared to the study’s other FTAs.

For reasons previously discussed, we may expect the UKAFTA and UKNZFTA to have closer derivative similarity with the CPTPP than the USMCA. However, for most chapters this difference is negligible. Table 2 provides a ranked list of chapters and shows in some cases the bilateral agreements’ derivative similarity with the USMCA is actually stronger, e.g. SPS and Government Procurement. Derivative similarity percentages against both the CPTPP and USMCA are furthermore extremely high in many impactful trade regulatory chapters, the top six ranked being:

1. State-Owned Enterprises and Monopolies (89–94 percent)
2. Investment (82–85 percent)
3. Anti-Corruption (76–87 percent)
4. Government Procurement (79–83 percent)
5. Telecommunications (67–80 percent)
6. Cross-Border Trade in Services (66–77 percent)

In such high-scoring chapters of the UKAFTA and UKNZFTA, multiple instances of verbatim coping of whole articles from either or both the CPTPP and USMCA was pervasively evident. More often than not it was from both, explained by the notable similarity between these larger two heavily US-influenced agreements. While the derivative similarity percentage scores for the extensively long IP chapters were comparatively low (in the 30s percent range), most of their key regulatory sections scored relatively highly: Patents and Data—62 to 71 percent, Trade Marks—56 to 58 percent, Undisclosed Test or Other Data—70 percent: UKNZFTA only against both CPTPP and USMCA. The UKAFTA also had notably close similarity with the CPTPP and USMCA in the Environment and Labour chapters,
and with the former on Rules of Origin. Aside from IP, below agreement average scores were found in only a few high impact trade regulation chapters. For example, SPS was in the 29 to 45 percent range. One possible explanation for this is that agricultural standards was a key area of negotiation in both bilateral agreements, leading to more bespoke regulatory outcomes.

Information on the decisions made in the FTA negotiations process regarding the agreed text of chapters is not made publicly available, hence we can only largely speculate on why particular chapters have higher derivative similarity scores than others. For instance, the State-Owned Enterprises and Monopolies chapters of the UKAFTA and UKNZFTA was almost verbatim copied from the CPTPP/USMCA possibly because of it being viewed as state-of-the-art trade regulation in this area, pioneered as noted earlier by the US in TPP negotiations. However, certain generalisable conclusions can be more confidently proposed. Of the two bilateral agreements, the UKNZFTA’s relatively lower derivative similarity with the CPTPP and USMCA is primarily due to greater trade policy innovation and deeper commitments to trade-related co-operation in ‘societal’ regulatory chapters like Environment, Labour, Gender Equality and Consumer Protection. It consequently contains more ambitious measures on broadening the trade relationship, such as on climate action which is mentioned 56 times as opposed to just 26 times in the UKAFTA, and not at all in either the CPTPP or USMCA. In addition, the running theme of ‘inclusive trade’ within the UKNZFTA is unique across the studied FTAs, with an Inclusive Trade Sub-Committee created to oversee future work on relevant measures here. New Zealand earlier noted reputation for trade policy innovation may principally explain these above noted features. Given the aforementioned confidentially that exists regarding the FTA negotiation discussions themselves, it is difficult to ascertain what creative inputs were made by here UK negotiators.

5.3. How significant the similarity with US trade regulatory norms?

While derivative similarity analysis identifies where in FTAs that trade regulatory norms are being diffused, legalisation grading provides some gauge of the qualitative significance of that similarity. The strength of legalisation embodied within an international treaty like an FTA generally refers to how it establishes new laws, regulations, standards, policy actions and other forms of governance once entering into force. This closely equates with assessing the trade regulatory weighting and impact of measures contained in FTAs. The legalisation concept was first developed and popularised by Abbott, Keohane, Moravcsik, Slaughter, and Snidal (2000) based on three constituent elements:
Obligation—the strength of a legally binding commitment to introduce new rules or actions, ranging from an expressly non-legal norm (lowest) to a binding rule (highest).

Precision—narrowing possible interpretations of a rule by outlining specific actions that will be implemented, ranging from a vaguely stated principle (lowest) to a precise, highly elaborated rule (highest).

Delegation—the extent to which third-party agential mechanisms of implementation and enforcement have been created to apply, uphold and develop new rules, ranging from simple diplomacy (lowest) to high-level judicial mechanisms (highest).

This study developed its own legalisation grading score system based on certain defining legalisation features that draw upon Abbott et al. (2000) model, as outlined in Table 3. The UKAFTA and UKNZFTA were accordingly assessed, Table 4 showing the legalisation scores calculated for each chapter as part of the study’s text analysis. The ‘regulatory category’ column to the right-side of the table indicates where a chapter’s legalisation measures will have most regulatory impact and linkages that exist here between chapters, such as on services trade or where scientific regulations (e.g. IP, SPS) impact on trade. As the two agreements are structurally very similar almost identical legalisation scores exists between them, the only exception being the Environment chapter where the UKNZFTA scores slightly higher. These scores correspond almost identically also to the CPTPP and USMCA given the common legalisation nature of their mutually shared chapters.

Bringing together the derivative similarity and legalisation grading methodologies, as well as a text length grading of chapters, combined grading scores for each chapter were produced by simply multiplying the scores for each grading criteria, with derivative similarity percentages divided by 10
for proportionality reasons. Similarly, text length scores were based on the number of pages in each chapter divided by 10, e.g. 2.4 for a 24-page chapter. The combined grading scores thus provided workable comparative data in a simplified format to assess the relative weighted significance of the UKAFTA and UKNZFTA’s trade regulation similarity with the CPTPP and USMCA. From this we could assess on a comparative chapter basis where both bilateral agreements are most significantly aligned with US trade regulatory norms, and where they are not. The combined grading scores were used for this particular analytical purpose, and Table 5 shows the results for each chapter, the highest eight ranked being:

Table 4. Legalisation grading analysis.

<table>
<thead>
<tr>
<th>CHAPTERS</th>
<th>UKAFTA</th>
<th>UKNZFTA</th>
<th>Regulatory Category</th>
</tr>
</thead>
<tbody>
<tr>
<td>INITIAL PROVISIONS and GENERAL DEFINITIONS</td>
<td>4</td>
<td>4</td>
<td>Operational</td>
</tr>
<tr>
<td>TRADE IN GOODS / NATIONAL TREATMENT / MARKET ACCESS FOR GOODS</td>
<td>5</td>
<td>5</td>
<td>Goods</td>
</tr>
<tr>
<td>RULES OF ORIGIN</td>
<td>5</td>
<td>5</td>
<td>Goods</td>
</tr>
<tr>
<td>CUSTOMS PROCEDURES and TRADE FACILITATION</td>
<td>5</td>
<td>5</td>
<td>Scientific</td>
</tr>
<tr>
<td>SANITARY and PHYTOSANITARY MEASURES</td>
<td>5</td>
<td>5</td>
<td>Scientific</td>
</tr>
<tr>
<td>TECHNICAL BARRIERS TO TRADE</td>
<td>5</td>
<td>5</td>
<td>Operational</td>
</tr>
<tr>
<td>TRADE REMEDIES</td>
<td>5</td>
<td>5</td>
<td>Services</td>
</tr>
<tr>
<td>CROSS-BORDER TRADE IN SERVICES</td>
<td>5</td>
<td>5</td>
<td>Services</td>
</tr>
<tr>
<td>FINANCIAL SERVICES</td>
<td>5</td>
<td>5</td>
<td>Services</td>
</tr>
<tr>
<td>TELECOMMUNICATIONS</td>
<td>5</td>
<td>5</td>
<td>Services</td>
</tr>
<tr>
<td>TEMPORARY ENTRY FOR BUSINESS PERSONS</td>
<td>4</td>
<td>4</td>
<td>Services</td>
</tr>
<tr>
<td>INVESTMENT</td>
<td>5</td>
<td>5</td>
<td>Direct Commercial</td>
</tr>
<tr>
<td>DIGITAL TRADE</td>
<td>4</td>
<td>4</td>
<td>Direct Commercial</td>
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<tr>
<td>GOVERNMENT PROCUREMENT</td>
<td>5</td>
<td>5</td>
<td>Domestic Policy</td>
</tr>
<tr>
<td>INTELLECTUAL PROPERTY</td>
<td>5</td>
<td>5</td>
<td>Scientific</td>
</tr>
<tr>
<td>General Provisions</td>
<td>5</td>
<td>5</td>
<td>Scientific</td>
</tr>
<tr>
<td>Co-operation</td>
<td>5</td>
<td>5</td>
<td>Scientific</td>
</tr>
<tr>
<td>Trade Marks</td>
<td>5</td>
<td>5</td>
<td>Scientific</td>
</tr>
<tr>
<td>Copyright and Related Rights</td>
<td>5</td>
<td>5</td>
<td>Scientific</td>
</tr>
<tr>
<td>Patents and Data</td>
<td>5</td>
<td>5</td>
<td>Scientific</td>
</tr>
<tr>
<td>Undisclosed Test or Other Data</td>
<td>5</td>
<td>5</td>
<td>Scientific</td>
</tr>
<tr>
<td>Enforcement</td>
<td>5</td>
<td>5</td>
<td>Scientific</td>
</tr>
<tr>
<td>STATE-OWNED ENTERPRISES and MONOPOLIES</td>
<td>5</td>
<td>5</td>
<td>Domestic Policy</td>
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<tr>
<td>COMPETITION POLICY</td>
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<td>3</td>
<td>Domestic Policy</td>
</tr>
<tr>
<td>CONSUMER PROTECTION</td>
<td>2</td>
<td>2</td>
<td>Domestic Policy</td>
</tr>
<tr>
<td>GOOD REGULATORY PRACTICE and REGULATORY COMPETITION</td>
<td>3</td>
<td>3</td>
<td>Domestic Policy</td>
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<tr>
<td>ENVIRONMENT</td>
<td>2</td>
<td>3</td>
<td>Societal</td>
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<tr>
<td>LABOUR</td>
<td>2</td>
<td>2</td>
<td>Societal</td>
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<tr>
<td>SMALL AND MEDIUM-SIZED ENTERPRISES</td>
<td>1</td>
<td>1</td>
<td>Direct Commercial</td>
</tr>
<tr>
<td>TRADE and GENDER EQUALITY</td>
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<td>1</td>
<td>Societal</td>
</tr>
<tr>
<td>ANIMAL WELFARE</td>
<td>1</td>
<td>1</td>
<td>Societal</td>
</tr>
<tr>
<td>DEVELOPMENT</td>
<td>1</td>
<td>1</td>
<td>Societal</td>
</tr>
<tr>
<td>ANTI-CORRUPTION</td>
<td>4</td>
<td>4</td>
<td>Operational</td>
</tr>
<tr>
<td>TRANSPARENCY</td>
<td>4</td>
<td>4</td>
<td>Operational</td>
</tr>
<tr>
<td>ADMINISTRATIVE and INSTITUTIONAL PROVISIONS</td>
<td>4</td>
<td>4</td>
<td>Operational</td>
</tr>
<tr>
<td>DISPUTE SETTLEMENT</td>
<td>5</td>
<td>5</td>
<td>Operational</td>
</tr>
<tr>
<td>GENERAL EXCEPTIONS and PROVISIONS</td>
<td>4</td>
<td>4</td>
<td>Operational</td>
</tr>
<tr>
<td>FINAL PROVISIONS</td>
<td>4</td>
<td>4</td>
<td>Operational</td>
</tr>
</tbody>
</table>

Notes: Legalisation grading scores based on details provided in Table 3
1. Government Procurement
2. State-Owned Enterprises and Monopolies
3. Intellectual Property
4. Investment
5. Telecommunications
6. Financial Services
7. Rules of Origin
8. Cross-Border Trade in Services

All the above have high-level legalisation scores and with the exception of IP and Financial Services high-level derivative similarity scores also. They are chapters whose trade regulations furthermore have potential for deep domestic regulatory impact. As with derivative similarity, the combined grading scores against the CPTPP are higher than against the USMCA but in most cases the difference is again negligible, especially for the highest scoring chapters. The USMCA actually scored higher in key chapters such as Government Procurement, Customs Procedures and Trade Facilitation, SPS and Digital Trade. In sum, the study’s text analysis research clearly indicates the UK’s strong adoption of US trade regulation norms in a range of significant regulatory areas through its new bilateral FTAs with Australia and New Zealand.

Table 5. Combined grading analysis.

<table>
<thead>
<tr>
<th>Chapter</th>
<th>CPTPP</th>
<th>USMCA</th>
<th>Combined</th>
<th>CPTPP</th>
<th>USMCA</th>
<th>Combined</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Government Procurement</td>
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<td>252</td>
<td>252</td>
<td>252</td>
<td>252</td>
<td>252</td>
</tr>
<tr>
<td>2. State-Owned Enterprises and Monopolies</td>
<td>252</td>
<td>252</td>
<td>252</td>
<td>252</td>
<td>252</td>
<td>252</td>
</tr>
<tr>
<td>3. Intellectual Property</td>
<td>252</td>
<td>252</td>
<td>252</td>
<td>252</td>
<td>252</td>
<td>252</td>
</tr>
<tr>
<td>4. Investment</td>
<td>252</td>
<td>252</td>
<td>252</td>
<td>252</td>
<td>252</td>
<td>252</td>
</tr>
<tr>
<td>5. Telecommunications</td>
<td>252</td>
<td>252</td>
<td>252</td>
<td>252</td>
<td>252</td>
<td>252</td>
</tr>
<tr>
<td>6. Financial Services</td>
<td>252</td>
<td>252</td>
<td>252</td>
<td>252</td>
<td>252</td>
<td>252</td>
</tr>
<tr>
<td>7. Rules of Origin</td>
<td>252</td>
<td>252</td>
<td>252</td>
<td>252</td>
<td>252</td>
<td>252</td>
</tr>
<tr>
<td>8. Cross-Border Trade in Services</td>
<td>252</td>
<td>252</td>
<td>252</td>
<td>252</td>
<td>252</td>
<td>252</td>
</tr>
</tbody>
</table>
Zealand. This would be further consolidated by the UK’s future accession to the CPTPP, and indeed by signing FTAs with other Asia-Pacific nations such as Canada and Mexico, these also being under negotiation at time of writing.

5.4. Recent developments in US trade policy and the UK

Even though the US under President Biden has no plans to negotiate any new FTAs or other trade-only agreements specifically, the UK’s new FTAs are nevertheless adopting US trade regulation and rules established by important, recently implemented and heavily US-influenced agreements. In this sense, the UK helping buttress existing incumbent US trade regulation norms and structures. The Biden Administration’s Indo-Pacific Economic Framework (IPEF) initiative launched in May 2022 is a different kind of regional multi-faceted agreement based on four pillar elements. However, in its trade pillar, any identifiable ‘market access’ oriented trade regulation issues are largely confined to digital trade, competition policy and agriculture. The pillar’s main emphasis—under the theme ‘fair and resilient trade’—is instead on co-operation and inclusivity, where labour and environmental priorities are highly ranked (US Trade Representative Office (USTR), 2022). IPEF talks began in December 2022 between its 14 country members, half also being CPTPP members. For the UK, acceding to the CPTPP remains the principle strategic goal of its Asia/Indo-Pacific strategy and is has hitherto not formally declared any interest in joining IPEF.

6. Conclusions

The UK’s aspirations to become an integral part of the Asia-Pacific trade community through signing bilateral FTAs and acceding to the CPTPP has notable implications for the region. As a large, globally-connected middle power that shares similar political economic values with other English-speaking nations in Asia-Pacific, the UK’s deeper engagement in the region could bring something significantly new to its strategic dynamics. The UK’s new bilateral FTAs with Australia and New Zealand—the first such agreements it had signed after Brexit—provides some early insights into what potential impact the country might have here. What this study’s research findings suggest is that the UK could help augment the US-led trade order in the Asia-Pacific by its revealed strong adoption of US trade regulatory norms embodied in these two bilateral agreements. The text analysis of the UKAFTA and UKNZFTA presented in the previous section evidenced strikingly high levels of similarity with two larger, heavily US-influenced regional agreements—the CPTPP and USMCA—this additionally being in areas of
significant regulatory impact. The UK’s desire to join the CPTPP itself further confirms its readiness to closely align with US trade regulation, at the very least in its Asia-Pacific trade relations.

The importance of trade regulation in regional orders and the global system was discussed. Trade rules increasingly matter, not least because they are increasingly shaping various domains of domestic regulation and policy. Whose trade rules are adopted are therefore critically important, and during the last two decades it is principally within FTAs that new rules are being created. Despite the retreat from trade leadership under President Trump and the aforementioned somewhat cautious approach thus far adopted by President Biden on Asia-Pacific trade diplomacy generally, the US nevertheless remains the trade power hegemon in the region. The UK appears at this stage to become more of a regulation taker than regulation maker in its bilateral FTAs with Australia and New Zealand, particularly on the more regulatory significant chapter themes examined in this study. What, though, may happen in the longer-term?

While on accession the UK is obligated to accept the CPTPP’s existing trade regulatory terms, it was designed as a ‘living agreement’ and thus open to evolutionary development. On joining, the UK would be second only in economic size to Japan within the CPTPP group, presenting an important future opportunity for the country to exercise innovation and leadership on trade regulatory norms, especially if the US or China remain outside the agreement. This would most realistically involve the introduction of new trade rules in fast-changing scientific, technological and socio-technical regulatory areas rather than challenging incumbent trade regulatory norms championed by the US. The UK could engage in collaborative innovation with fellow CPTPP middle powers regarding the former activity should it develop the capacity, strategy and ingenuity to do so in this future scenario. The CPTPP will need trade policy innovators to stay relevant, especially considering its current lack of a hegemonic power member and competition posed by the larger RCEP trade agreement, albeit much weaker in regulatory impact.

From a different perspective, the UK is a European nation with a hitherto quite different regulatory culture to most other Asia-Pacific nations. This may possibly limit the UK’s ability to become a regulation maker in Asia-Pacific trade, as well as more fully embrace a regional trade regime heavily influenced by US. The research and arguments presented in this study suggests a willingness, at least at this early stage, of the UK to fit somewhere in this regime where its domestic trade politics permits. The potential problematic issues arising over digital trade, intellectual property and agri-food standards in the UK’s negotiations to join the CPTPP were previously noted, as were the aborted UK-US bilateral FTA talks. Furthermore, the EU will remain the UK’s most important trade partner for some considerable time,
in trade volume terms around twice as large as the whole Asia-Pacific region. If the UK wishes to secure optimal access to the EU Single Market—currently through the TCA—there may be numerous constraints on what trade regulations the country can adopt and implement through other FTAs where these prove incompatible with maintaining that access. Instances of such potential regulatory dissonance were mentioned earlier in the study.

It may nevertheless transpire that the UK’s new bilateral FTAs with Australia and New Zealand, and accession to the CPTPP, could set important regulatory precedents in its post-Brexit trade policy where foundational alignments with US trade regulatory norms are established. Alternatively, we may see the UK exercise a generally pragmatic approach with the adoption of completely different trade regulation norms in its FTAs currently in negotiation with India, Gulf Co-operation Council and other nations. The Asia-Pacific will, though, remain a priority trading region for the UK, and where many of its new FTA partnerships will be concentrated. Thus, notwithstanding the foreseeable need to maintain optimal access to EU markets, the UK could over time find itself being pulled increasingly into the US trade regulatory orbit. As discussed, this will be determined by a number of variables, but this study’s research suggests these forces are already strongly at work.

**Disclosure statement**

No potential conflict of interest was reported by the author(s).

**Notes**

1. By the early 2020s, trade activity represented around 60 percent of global GDP. In the 1970s it was just 30 percent (World Trade Organisation, 2023).
2. This included the Motion Picture Association of America, Business Software Alliance, American Society of Composers, Authors and Publishers, and firms such as Time Warner and Intel.
3. By comparison, past agreements signed by Australia, Canada and Peru registered in around the 30s percent similarity range and most other TPP nations in the mid-20s percent.
9. GDPR – General Data Protection Regulation. Morita-Jaeger (2022) argued that the UK’s commitment to the CPTPP’s relatively weaker personal data protection regulations (Article 14.8) and rules on free cross-border data flows (Article 14.11) could notably compromise the UK-GDPR regime.
10. United States, Australia, Brunei, Fiji, India, Indonesia, Japan, the Republic of Korea, Malaysia, New Zealand, the Philippines, Singapore, Thailand, and Vietnam.

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