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## 1. The UK's accession

The United Kingdom (“**UK**”) has joined the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (“**CPTPP**”). The CPTPP’s entry into force for the UK is expected to take place in the second half of 2024.<sup>1</sup>

The UK’s joining is notable since it is the first new economy to join since the CPTPP was signed in 2018 and the UK, as a European state, hails from far beyond the “trans-pacific” region.

On 16 July 2023, the UK [announced](#) that it had formally signed the treaty that allows it to join the CPTPP. The same day, the Prime Minister of the CPTPP’s Depository, New Zealand, [commented](#) that the UK’s accession would “see [...] *economic opportunities for growth and recovery further increase*”.

The official CPTPP website specifies that the UK and CPTPP members signed a [Protocol for the Accession of the UK](#) to the CPTPP on 16 July 2023 (“**Protocol**”), which will enter into force after the UK and all the CPTPP Parties have ratified it, or after 15 months if the UK and a majority of CPTPP Parties have ratified it.<sup>2</sup> The UK has a period of 12 months [to accept the Protocol](#) and its press release has indicated this will include parliamentary scrutiny.

The CPTPP had a somewhat tumultuous history, arising out of the Trans-Pacific Partnership (TPP), which stalled following the United States’ decision to withdraw from the agreement in 2017, leaving it dead in the water.

To date, all 11 original CPTPP members<sup>3</sup> have ratified the CPTPP.<sup>4</sup> Some contracting states have entered into side letters to exclude investor-state arbitration. A more in depth explanation of the treaty’s history and the investor-state dispute settlement (“**ISDS**”) regime of the CPTPP by the authors of this Newsletter can be found in the [CPTPP chapter](#) of *The Investment Treaty Arbitration Review*.

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<sup>1</sup> [UK Gov Website](#); for additional reading, see the [IAReporter article](#) .

<sup>2</sup> Articles 21.1 and 21.2 of the Protocol, at p. 18; New Zealand’s formal [CPTPP website](#).

<sup>3</sup> The original 11 members are Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, and Vietnam.

<sup>4</sup> [Australian Department of Foreign Affairs and Trade website on the CPTPP](#).

## 2. Investment Protection and ISDS

As a result of entry into force of the CPTPP for the UK, investment between the UK, on the one hand, and Brunei and Japan, on the other, will benefit from investment treaty protection and ISDS with general coverage, which did not previously exist.<sup>5</sup>

The Protocol signed by the UK and CPTPP members includes exceptions to the application of the CPTPP's investment chapter with respect to the Bailiwick of Guernsey, the Bailiwick of Jersey, and the Isle of Man.<sup>6</sup>

Another notable exception includes the exclusion of decisions by the UK government made (i) under the *National Security and Investment Act 2021* or (ii) on public interest grounds under Part 3 of the *Enterprise Act 2002*, with respect to blocking mergers or acquisitions, from the ISDS and dispute settlement provisions of the CPTPP.<sup>7</sup> In addition, under the Protocol, the UK's Department for Business and Trade will be the entity for service of notices of dispute and other communications related to ISDS under the CPTPP.<sup>8</sup>

The UK has [previously stated](#) that the ISDS provisions of the CPTPP would not apply to investment between itself and Australia and New Zealand, and has already entered into side letters with those states.<sup>9</sup>

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<sup>5</sup> The Energy Charter Treaty and Japan-UK Comprehensive Economic Partnership have entered into force between the UK and Japan. However, the former only applies to investments in the energy sector, and the latter does not contain investment protection provisions or ISDS.

<sup>6</sup> Article 2.2 of the Protocol, at p. 3.

<sup>7</sup> Article 6.2 of the Protocol, at p. 8.

<sup>8</sup> Article 6.1 of the Protocol, at pp. 7-8.

<sup>9</sup> Side letters regarding ISDS ([UK to AUS](#) / [AUS to UK](#) / [UK to NZ](#) / [NZ to UK](#)).