

# IND0013 - Which?

## Summary

1. It is important that the government ensures that consumer interests are at the heart of trade negotiations with India. Our in-depth consumer research and engagement through our National Trade Conversation has found that people would welcome trade negotiations that help to deliver greater choice and lower prices, but they expect the government to prioritise maintaining key protections, including food and product standards, data protection and environmental protection. They also think that trade deals should deliver meaningful benefits for people across the whole of the UK.
2. As the UK begins negotiations with India, the UK government should clearly establish the importance of consumer interests as part of any agreement by the inclusion of a consumer chapter within any deals. This would reinforce the consumer interests within individual chapters and build upon the consumer protection chapter that the UK has secured in the agreement in principle with New Zealand.
3. The government has made welcome commitments in line with the priorities our research has identified within its strategic approach, including not compromising on our high environmental protection, animal welfare and food standards. But negotiations with India will be complex. The UK and India have very different regulatory and policy contexts. The UK will be seeking to secure reductions in tariffs in order to benefit exporters across a range of sectors as well as focusing on investment.
4. Sixty per cent of Indian exports to the UK are already tariff-free, but only 3% of UK exports to India are. The UK government therefore needs to ensure that it does not 'trade away' important standards or protections, for example through provisions relating to regulatory equivalence, conformity assessment or recognition of international standards that offer a lower level of protection, in order to achieve its objectives.

## Introduction

5. Which? welcomes the opportunity to submit evidence to the International Agreements Committee's inquiry into trade negotiations with India, following the publication of the UK Government's negotiating objectives.
6. A trade deal with India could offer many opportunities for businesses and for consumers, but the two countries will begin negotiations from different starting points - both in terms of their regulatory landscape and domestic priorities, as well as in terms of their respective tariff and non-tariff barriers to trade that will be on the table in negotiations. Sixty per cent of

Indian exports to the UK are already tariff-free, but only 3% of UK exports to India are, for example.

7. Against this backdrop, it is essential that the UK promotes consumer interests and stands up for consumer priorities as part of the negotiations. As with our previous evidence to the Committee's inquiries, we have drawn on our unique, in-depth public dialogues, the National Trade Conversation, to assess the government's negotiating objectives set out within its strategic approach against what we know matters most to consumers.

## **Reflecting consumer priorities**

8. In 2020 Which? conducted the 'National Trade Conversation' (NTC) – a series of public dialogues around the UK, with people from a wide range of backgrounds, to understand in greater depth what mattered most to people about trade deals when they had a detailed understanding of the issues that could be part of the negotiations – including greater access to a range of goods and services<sup>1</sup>.
9. The Conversation took place in Northern England, the East Coast of Scotland, Northern Ireland, South Wales and Southern England. Over five virtual workshops people learned about what we trade, how trade deals are negotiated and what the key issues are for the government's priority trade deals. After much debate and questioning, four issues emerged as the overall priorities for most of the people who took part. These four issues were identified as priorities by the majority of participants across all of the locations after hearing a wide range of evidence and in-depth discussions:
  - Maintain health and safety standards for food and products
  - Maintain data security regulations that protect consumers' digital rights
  - Protect the environment
  - Help address regional inequalities by protecting and promoting jobs, skills and industries across the UK.
10. Four core principles also underpinned the way that people explained what mattered most to them:
  - Fairness and trade for good
  - Longevity – deals that are future-proofed
  - Deals should represent the whole of the UK
  - Transparency in trade negotiations.
11. Which? reconvened some participants a year on from the NTC in a multiday online research community to understand their views on the development of the government's approach since the first conversation,

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<sup>1</sup> <https://www.which.co.uk/policy/euexit/6731/nationaltradeconversation>

and to see if their priorities had shifted<sup>2</sup>. Which? also supplemented this deliberative research with a survey<sup>3</sup> in June 2021 that was representative

of the UK population to find out people's views on how trade negotiations were progressing and what they considered to be most important. This new research reinforced the importance of the four priorities and in the case of environmental protection, showed that people felt even more strongly that the government needed to ensure trade deals supported efforts to tackle climate change.

### **Importance of a consumer chapter**

12. The government's strategic approach emphasises the benefits that trade negotiations with India could bring in terms of improving choice and value for UK consumers. It suggests for example that through removal of tariffs manufacturers will be able to save costs by accessing cheaper parts for their products and that UK consumers would benefit from improvements in the variety and affordability of available products.
13. This will be particularly important for consumers facing the current cost of living crisis. But our consumer research shows that people do not expect lower prices and greater choice to come at the expense of standards and consumer protection. It is positive that the government states in its strategic approach that one of its overall objectives is to "*Ensure high standards and protections for UK consumers and workers and build on our existing international obligations. This will include not compromising on our high environmental protection, animal welfare and food standards, as well as maintaining our right to regulate in the public interest*". We discuss this in more detail below.
14. It is often all too easy for trade negotiators to view consumer interests in simple terms and a more traditional view that trade benefits consumers through greater choice and lower prices, but as our research highlights, consumer interests and values that they expect to be included within trade deals are much broader than this - including health, data and environmental protections, as well as cross-border consumer protections.
15. We very much welcomed the inclusion of a specific consumer protection chapter within the UK-New Zealand Agreement in Principle, which signalled the importance of consumer interests in trade. This chapter is important in that it sets out clear expectations around implementation of consumer rights and protection legislation, but also recognises the importance of cross-border consumer protections, regulatory cooperation

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<sup>2</sup> <https://www.which.co.uk/policy/euexit/8502/consumer-priorities>

<sup>3</sup> Yonder, on behalf of Which?, surveyed 3,263 UK adults online between 23rd and 24th June 2021. Data was weighted to be representative of the UK population by age, gender, region, social grade,

and access to redress. Similar provisions have also been included within the UK-Australia free trade agreement.

16. Given the nature of cross-border trade, including digital trade, it is important that any agreement (or agreements with India) clearly establish the importance of strong consumer protections and the need for cooperation between authorities on consumer protection issues and market surveillance. It is therefore positive that the government's

tenure and work status. We boosted the number of respondents from the devolved nations to ensure we had a large (500+) sample for each.

strategic approach sets out objectives in relation to competition and consumer protection, including effective cooperation between enforcement agencies. But a consumer chapter should also go beyond this, reinforcing more fundamental consumer interests that also need to be reflected across individual chapters.

### **Food and product standards**

17. Maintaining food and product standards was a clear priority across Which?'s public dialogues and follow up discussions. This has also been reinforced through our consumer surveys. Our June 2021 survey found for example that 91% of people thought that the same UK food standards relating to safety and health should be applied to imports – and 87% and 84% respectively in relation to standards for animal welfare and environmental protection.

18. Given the very different types of risk, regulatory contexts and respective enforcement regimes in India and the UK, it is important that the government is able to ensure this as part of negotiations.

19. The UK already has very low tariffs, but will want India to remove its high tariffs in order to improve market access for UK companies across a number of sectors. It is important that in order to secure this, the UK does not give way on our standards - for example by agreeing to recognition of regulatory equivalence or conformity assessment that would result in reduced standards and lower consumer protection. As the Department for International Trade's note on trade with India that informed its consultation paper set out very clearly, the UK already has relatively low tariffs compared to India. The UK's average is 4.2%, compared to India's average of 14.6%. Sixty per cent of Indian exports to the UK are already tariff-free, but only 3% of UK exports to India are. Six per cent of goods to the UK have a tariff above 15%, but 23% of UK exports to India do.

20. The government has said in relation to sanitary and phytosanitary (SPS) measures that it will uphold the UK's high levels of food safety, animal and plant health, and animal welfare and the UK's right to regulate in these areas in the public interest. It will also seek to enhance cooperation on

animal welfare and antimicrobial resistance. The government has also set out an objective to *“reduce technical barriers to trade by removing and preventing trade restrictive measures in goods markets, while upholding the safety and quality of products on the UK market”*.

21. These welcome commitments need to be delivered in both the short and longer-term. We have had concerns that in the UK-Australia free trade agreement, for example, provisions relating to equivalence of standards or mutual recognition that are included and subject to further negotiation and implementation once the deal has been signed open up the possibility of an unwinding of standards, depending on the mechanisms that are put in place to assess this.
22. Caution is also needed in relying on international standards as a benchmark for trade - whether for food or non-food products. The strategic approach states that the UK wants to “promote the use of international standards to further facilitate trade between the parties” in relation to TBT measures. But international standards generally reflect where consensus can be reached and UK standards may go beyond these. The UK therefore needs to ensure that it maintains higher standards where necessary and in line with the regulatory approach consumers expect. It is also important that the enforcement of these standards and on the ground realities is also taken into account.
23. In relation to food, we also strongly support the recommendations of the Trade and Agriculture Commission<sup>4</sup> (TAC) and Henry Dimbleby in his National Food Strategy<sup>5</sup> that the government should urgently establish the ~~core standards~~ that it will apply across all trade deals. It is important to ensure that the UK is not opening up the market to imported products which are produced to lower environmental or welfare standards. This would undermine the UK’s shift to a healthier and more sustainable food system.

## **Digital trade and data protection**

24. Digital trade will be a focus of the negotiations. The government has stated that it will seek commitments on free and trusted cross-border data flows, prevent unjustified data localisation, and maintain the UK’s high standards for personal data protection. Participants in Which?’s National Trade Conversation felt strongly that data protection and digital rights needed to be upheld through trade negotiations. They were open to the opportunities that digital trade could provide, but did not think that this should be at the expense of UK standards. Our more recent survey also reinforced this, with 88% of people saying that it was important that future trade deals do not reduce the level of data and digital protection – and nearly two thirds (63%) suggesting it is very important.

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<sup>4</sup> Trade and Agriculture Commission, Final Report, March 2021.

<sup>5</sup> The Plan, National Food Strategy independent review, Henry Dimbleby, July 2021.

25. The UK and India start from very different points in terms of data protection. The UK regime for data protection and privacy currently provides high standards that could be put at risk by measures to promote cross-border data flows. This is an important issue for consumers as purchases move online and data gathering digital technology becomes embedded in all kinds of everyday goods. Without strong data protection measures, consumers' data could potentially be collected, gathered and used in ways that they did not consent to or expect.
26. Recently agreed deals with Japan and Australia have raised concerns about the ability of the UK to maintain its commitments on data protection. If the same provisions are used in an agreement with India, we are concerned that it would undermine the protections consumers expect

under the UK General Data Protection Regulation (GDPR) because the wording used allows for recognition of international guidelines and voluntary undertakings that offer less protection. If this wording were replicated in a trade deal with India, we would have concerns that consumers data would not be subject to the same protections when transferred to India and potentially on to other jurisdictions. The government needs to give clearer assurances that it will be able to deliver on its commitment to maintain the UK's current high standards for data protection.

### **Environmental protection**

27. The government has set out a number of objectives relating to the environment and green growth in its objectives for trade negotiations with India. It states that it will include measures which: allow the UK to protect our regulatory sovereignty; maintain the integrity - and provide meaningful protection - of the UK's environment and climate legislation; and that it will ensure that both countries reaffirm international environmental and climate protections, including Multilateral Environmental Agreements such as the United Nations Framework Convention on Climate Change and the Paris Agreement. It will also seek provisions that support and help further the government's ambition on environment, climate change and achieving Net Zero greenhouse gas emissions by 2050, including promoting trade in low carbon goods and services and supporting research and development collaboration in pursuit of clean growth.
28. These are all to be welcomed, but given the different starting points of the two countries in terms of climate change ambitions, it is important that the impact of the deal on the environment is assessed in terms of the whole deal, including changes to trading patterns and potential for 'carbon leakage' if goods are imported produced to lower standards than the UK's.

29. Environmental protection was a strong theme across all of the public dialogues as part of the National Trade Conversation. Our survey also found that eight in ten (80%) people agreed that the UK Government should promote trading in ways that reduce global carbon emissions which contribute to climate change and a similar percentage of respondents (81%) thought that the government's trade policy should promote high environmental standards and that it should not sign deals that would remove existing protections. More than half of consumers (59%) however lack confidence that the government will prioritise environmental protections. The government therefore needs to demonstrate that it is committed to doing this.

### **Ensuring all parts of the UK benefit**

30. The strategic approach sets out the objective of delivering for people across the UK, stating that it will "*secure an agreement which works for the whole of the UK and*

*takes appropriate consideration of the UK's constitutional arrangements and obligations*". It is therefore important that as negotiations progress, it seeks input from people across the UK so that it understands their priorities and can deliver on this in a meaningful way.

### **Other issues**

31. Investment will be a strong focus of the negotiations, as set out in the UK's strategic approach. Investor-State Dispute Settlement which allows companies to take action against countries for alleged discriminatory practices should not be included within any trade agreement. This approach has no place in agreements that the UK is signing up to, as the UK already has a functioning court system.

### **Which?**

**February 2022**

**Which? is the UK's consumer champion. As an organisation we're not for profit - a powerful force for good, here to make life simpler, fairer and safer for everyone. We're the independent consumer voice that provides impartial advice, investigates, holds businesses to account and works with policymakers to make change happen. We fund our work mainly through member subscriptions, we're not influenced by third parties and we buy all the products that we test.**