

## **IND0018 - Friends of the Earth England, Wales and Northern Ireland**

### **About us**

1. Friends of the Earth England, Wales and Northern Ireland was established in 1971. We have local groups in around 130 neighbourhoods, and support more than 260 Climate Action groups. We are part of an international network of 73 national groups, counting over 2 million members and supporters globally. Friends of the Earth supports strong environmental standards and alternative approaches to trade, which put the needs of local communities and our environment at the forefront.

### **Summary**

- Government objectives in relation to a UK-India FTA are unambitious, particularly in relation to environmental, climate and human rights issues, and Friends of the Earth remains concerned that ISDS has not yet been ruled out of any deal.
- Initial assessments suggest some increase in greenhouse gas emissions could result from a deal, but little analysis has been attempted thus far on the potential impacts on biodiversity, water and air quality. A further, full Sustainability Impact Assessment should be carried out, exploring impacts in both the UK and India.
- The UK should work to ensure that any UK-India FTA does not result in the growth of outsourced emissions or other forms of environmental damage, or the undermining of UK standards. Any pressure to decrease UK import standards should also be strongly resisted, and the UK should not look to open up Indian markets in ways which undermine economic justice and the ability of communities to access basic human rights.
- Any UK-India FTA should include binding and enforceable chapters on human and workers' rights, the environment and gender issues. These must be covered by the horizontal dispute settlement mechanism.
- We urge the government to improve processes for the engagement of stakeholders in negotiations and monitoring the implementation of deals, and to improve levels of transparency and parliamentary scrutiny to support better outcomes.

### **What are the potential benefits for the UK of an FTA with India, and what are the potential downsides?**

2. The government's strategic approach document acknowledges that "consultation returns illustrated significant stakeholder interest in protecting both the UK and the global environment. Respondents would like to see an impactful climate and environment chapter in all FTAs, implemented effectively.<sup>1</sup>" However, the potentially negative impacts outlined below would hinder this protection, and the UK government's current approach to negotiation appears unlikely to deliver a sufficiently impactful climate and environment chapter or associated action suitable to mitigate these risks.
3. The strategic approach also highlights concerns raised during the consultation relating to human rights, workers' and gender issues, as explored further below. We do not believe that it is appropriate to trade off basic human rights for potential economic benefit, and urge government to seek far stronger guarantees of action to protect and enforce rights prior to further negotiation. Further detail on these issues is provided below.

**How do you evaluate the Government's Negotiating Objectives (Outline Approach) and initial economic scoping assessment included in the Government's strategic approach? Are the UK Government's aims sufficiently ambitious?**

4. **The overall objective of "not compromising on our high environmental protection, animal welfare and food standards"<sup>2</sup> in a UK-India FTA is welcome, but flawed.** Where the UK signs trade agreements with nations that produce goods to lower domestic standards, this presents the potential for UK standards to be undermined, and for impacts to be outsourced. Therefore, safeguarding such protections requires a stronger ambition than simply maintaining import bans during negotiations.
5. Better outcomes for the environment and human health could be achieved by increasing the level of ambition on this objective to include fully safeguarding existing standards and seeking protections to ensure that supply chain impacts are not outsourced.
6. **"Enhanced cooperation on the related important matters of public interest of animal welfare and antimicrobial resistance"<sup>1</sup> is also a positive objective.** It is encouraging that cooperation on animal welfare and antimicrobial resistance is identified as a specific SPS objective within this agreement. This should be an explicit concern in all future negotiations concerning SPS. However, we note that there is no specific objective to build

---

<sup>1</sup> Ibid. (p11)

1

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1046839/uk-india-free-trade-agreement-the-uksstrategic-approach.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1046839/uk-india-free-trade-agreement-the-uksstrategic-approach.pdf) <sup>2</sup> Ibid. (p10)

upon the UK-Australia approach of including an animal welfare and antimicrobial resistance chapter in any resulting FTA.

7. **Environment and clean growth objectives lack ambition.** The objective relating to implementing and enforcing environmental law, for example, is limited to situations that might create an artificial competitive advantage. Similarly, the focus on promoting trade in low carbon goods and services - without setting out specific objectives around technology transfer and the exchange of expertise to support decarbonisation - represents a missed opportunity to clarify the UK's aims in this space. This omission is particularly evident given that chapter 1 of the strategic approach argues that "the expertise and experience of UK companies in this area could offer bilateral benefits, bolstering both countries' commitments to green energy."<sup>4</sup>
8. The objective of elevating climate action to the status of an 'essential element' within FTAs has not been adopted by the government at this time. This is disappointing. While objectives including the reaffirmation of international climate commitments and ensuring "appropriate mechanisms" for dispute settlement under the environment chapter feature<sup>2</sup>, if achieved these would still fall short of a binding guarantee of action. These objectives therefore do not equate to an "adequate and appropriate" response to the climate crisis.
9. **We are pleased that there is currently no specific negotiating objective relating to incorporating Investor State Dispute Settlement (ISDS) mechanisms within this FTA.** Friends of the Earth have raised concerns on multiple occasions regarding the use of ISDS mechanisms within trade and investment agreements. ISDS, which allows firms to sue governments for implementing policies which harm their profits, has been used to challenge a range of environmental regulations, including the phase-out of coal-fired power stations in Europe<sup>5</sup>, fracking bans in Canada<sup>3</sup>, and action taken to protect human rights and biodiversity across Latin America<sup>4</sup>.

---

<sup>2</sup> <https://www.iisd.org/itn/en/2021/10/08/reform-or-withdrawal-from-the-ect-what-does-it-mean-for-coal/>

<sup>3</sup> <https://www.isds.bilaterals.org/?lone-pine-vs-canada-fracking>

<sup>4</sup> <https://miningwatch.ca/news/2019/5/2/new-report-exposes-mining-companies-suing-latinamerican-countries-where-communities>

10. Such provisions would put both UK and Indian governments at risk of legal action in relation to domestic regulation to protect people,

4

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1046839/uk-india-free-trade-agreement-the-uksstrategic-approach.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1046839/uk-india-free-trade-agreement-the-uksstrategic-approach.pdf) (p8) <sup>5</sup> *Ibid.* (p14)

support biodiversity and tackle the climate crisis. However, the strategic approach document does not rule out ISDS and flags a UK objective to provide “sufficient protections to UK investors”<sup>8</sup> via the agreement. We urge the UK government to explicitly confirm that these protections will not include any form of ISDS mechanism, given the incompatibility of ISDS with the right of governments to regulate in the public interest.

**What specific protections should be sought on the environment and climate? What is your assessment of how goods and services traded under an agreement with India could affect both countries’ carbon (and other greenhouse gas) emissions?**

11. **Climate impact:** The scoping assessment predicts a 0.08-0.14% increase in UK production emissions, and a 2136% increase in transport emissions. As with similar assessments provided for Australia and New Zealand, no estimate is made of increases in Indian territorial emissions that might be associated with increased UK trade, and no mention made of the cumulative impacts of this FTA in combination with those previously negotiated.
12. The government must make clear how it will address these increases to meet the UKs commitments under the Paris Agreement. The government must also outline how it will ensure overall trade strategy supports, rather than undermines, climate action, and how carbon leakage will be prevented in ways which acknowledge the UKs responsibility for historic emissions and support equitable decarbonisation.
13. The government should support this approach by championing the concept of a ‘climate waiver’ at the WTO, to ensure that India and other UK trade partners are not unnecessarily constrained in acting on climate change by trade rules.
14. **Other environmental impacts:** Focusing only on greenhouse gas emissions risks ignoring the possible impacts of an FTA on nature and biodiversity – and hence missing the opportunity to embed specific protections within the final deal. For example:
  - The Indian textile and apparel industry is likely to be a main beneficiary of increased UK-India trade but is identified within

the scoping assessment as a key contributor to air pollution, poor water quality and water stress.

- In research cited by the strategic approach document, increased agricultural production is linked with air and water

8

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1046839/uk-india-free-trade-agreement-the-ukstrategic-approach.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1046839/uk-india-free-trade-agreement-the-ukstrategic-approach.pdf) (p13)

pollution and “poor agricultural practices, such as stubble farming”<sup>9</sup>. The document acknowledges that the FTA may contribute to such expansion.

- Unregulated Indian dairy farming is linked to water and land pollution from improper waste management. While the strategic approach suggests that current dairy trade volumes are small and increases might be limited, research and reports on the Indian dairy industry<sup>5</sup> suggest that the UK is seen as part of a potential growth market for exports.
- While India has a limited ban on tree-felling, and committed in 2019 to increase tree cover to over a third of the country, deforestation is still an issue. In 2020 the government passed an order allowing the felling of protected trees on private land (although this was rescinded in 2021), and as the strategic approach acknowledges, the Indian government’s “support of coal mining expansion has brought concerns about deforestation and biodiversity loss in certain regions”. The document also suggests that an FTA could increase the import of agricultural goods linked to ongoing deforestation, including dairy, rice, and sugar cane. As the current, limited, UK approach to Due Diligence set in place via the Environment Act 2021 is confined to the import of specific commodities produced on illegally deforested land, it would be unlikely to impact the future import of goods produced on, or with input from, deforested land.

However, no mitigation measures are suggested in relation to any of the above issues in the UK government’s approach at this point, beyond the potential for UK businesses to export goods to India to improve air quality. This should be urgently addressed. The government should set out how it will measure the global footprint of UK consumption and take steps to minimise it.

---

<sup>5</sup> See, for example, <https://hrcak.srce.hr/file/380521>, [https://www.nddb.coop/sites/default/files/pdfs/baseline/16 Roadmap & strategies to promote dairy products.pdf](https://www.nddb.coop/sites/default/files/pdfs/baseline/16_Roadmap_%26_strategies_to_promote_dairy_products.pdf) and <https://krishijagan.com/animalhusbandry/india-s-dairy-exportscould-increase-significantly-in-the-next-decade-wazir-advisors-report/>

15. **Proposed protections:** To secure the best possible outcomes for the environment and climate, the UK government should:

- Publish and commit in law to a trade policy and negotiation practices which safeguard the environment and human rights, provide transparency and give parliament and civil society a voice.

9

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1046839/uk-india-free-trade-agreement-the-uksstrategic-approach.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1046839/uk-india-free-trade-agreement-the-uksstrategic-approach.pdf) (p83)

- Consider wider environmental impacts, including extraterritorial and transport emissions, threats to biodiversity in India and the UK, and any impacts on air, water and soil pollution, as part of a full Sustainability Impact Assessment (SIA) prior to ratification of any deal.
- As a baseline, include reaffirmations of existing multilateral commitments and the implementation and enforcement of existing policy within the sustainable development chapter, in binding language, enforced through recourse to the horizontal DSM.
- Demonstrate ambition by removing references to trade impact from commitments on implementation and enforcement of existing environmental protections. Instead use the FTA to add strength to multilateral processes including the COP, including by making climate action under the Paris Agreement an 'essential element' of the deal, as outlined above.
- Ensure an ongoing monitoring and assessment processes, including an ex-post SIA, along with mitigation measures and termination triggers in the event of unforeseen impacts.
- Guarantee and resource ongoing civil society and ministerial engagement to oversee the operation of the FTA.

### **What protections should be sought on human, labour, women's and minority rights?**

16. India has high levels of economic inequality, exacerbated by the continuing impacts of the caste system. Indian workers face challenges including insecure employment, the lack of a robust legal system to protect against labour abuses, and fluctuating goods prices. A number of human rights concerns have been raised in recent years, particularly in relation to the treatment of religious minorities. India has not ratified two of the eight fundamental International Labour Organisation (ILO) conventions, nor three of

the nine fundamental human rights treaties identified by the United Nations (UN).

17. Any FTA which increases UK trade with India has the potential to exacerbate existing abuses and inequalities. However, two key areas identified by the UK government in the strategic approach document raise particular issues:
  - Agriculture is the key source of income for 70% of rural households in India<sup>6</sup>. Therefore an FTA which resulted in the removal of tariffs on agri-food imports from the UK, as suggested by the strategic approach, could have a negative impact in poverty rates and access to basic human rights in rural communities.
  - The textiles industry ranks as the second largest employer in India, but has faced multiple allegations of poor working conditions and is linked with health impacts caused by air and water pollution<sup>7</sup>. Any FTA which results in the growth of the India textile and garment industry has the potential to further restrict access to basic necessities including clean water.
18. The potential for a UK-India FTA to contribute to growth in these sectors in ways which restrict access to basic human rights is clear. However, the strategic approach document does not currently consider these impacts. We urge the government to prioritise consideration of these issues in stakeholder discussions, further impact assessment and negotiations; and identify mitigating measures that might be adopted.
19. As a baseline, the government should ensure that any UK-India FTA includes chapters covering human and workers' rights, and gender equality. However, such chapters must be couched in binding and enforceable language and covered by the dispute settlement mechanism in order to provide any tangible benefit. They must also support and explicitly link to international commitments. The UK should therefore seek binding commitments from India to ratify remaining ILO conventions and UN treaties - and work to support implementation of these rights - before agreeing to any further trade liberalization.
20. Environmental rights can help ensure access to the unspoiled natural resources that enable survival, including land, shelter, food,

---

<sup>6</sup> <https://www.fao.org/india/fao-in-india/india-at-a-glance/en/>

<sup>7</sup> See <https://www.aljazeera.com/opinions/2021/4/19/the-high-cost-of-indias-cheap-garmentexports> and <http://www.jstor.org/stable/resrep26770.11>

water, and air. They include substantive rights such as specific land rights for indigenous peoples; and procedural rights, such as the right to information and participation in decisionmaking, and to challenge the legality of decisions affecting the environment through a court process. Currently, these rights are poorly protected and enforced, in both the UK and India.

21. The Aarhus Convention, which the UK is a signatory to and has ratified, recognises the importance of a right to healthy environment. It provides a legal basis in international law for a number of procedural

environmental rights: access to environmental information, public participation in environmental decision making, and access to

justice in environmental matters. The UK government should work to fully implement Aarhus domestically, and work with India and other prospective trade partners to explore and support accession to Aarhus - following the example of Guinea-Bissau, which became a party to the convention in 2021<sup>8</sup>.

**What risks could a trade agreement with India pose to the UK's food safety standards, animal and plant health or animal welfare standards? How could any such risks be mitigated?**

22. There are some key differences between India and the UK in the way that environmental, food safety and animal welfare standards are set and enforced. This presents the risk that negotiations could put pressure on the UK to reduce its product standards or facilitate imports of goods made using practices banned in the UK as part of a trade agreement.
23. **Animal welfare:** Standards are lower in India than the UK, with practices including the caging of laying hens, sow stalls and farrowing crates still authorised. There is also no limitation on the stocking density of broiler chickens. India has an 'E' rating for farm welfare under the World Animal Protection Index<sup>9</sup>. The Indian Prevention of Cruelty Act 1960 exempts several husbandry practices from cruelty considerations – including dehorning, castration, and branding. Animals used in scientific research are also exempt<sup>10</sup>.

---

<sup>8</sup> <https://www.genevaenvironmentnetwork.org/events/welcome-guinea-bissau-opening-a-newdimension-for-aarhus-aarhus-mop7side-event/>

<sup>9</sup> <https://api.worldanimalprotection.org/country/india>

<sup>10</sup> <https://api.worldanimalprotection.org/sites/default/files/2020-India-UPLOADED.pdf>

24. The UK's current approach to agri-food import standards, as illustrated in the recent UK-Australia FTA and parliamentary debates, appears focused on tariff and quota liberalisation, and does not differentiate between or prevent imports produced to lower animal welfare standards. Import bans apply only to specific processes including the washing of chickens in chlorine and the use of hormones in cattle. These would therefore not prevent a growth in the volume of most imports produced in ways banned in the UK.
25. **Antibiotics use:** Antimicrobial resistance due to the overuse of antibiotics in Indian farming systems is a particular concern, with one 2019 study finding the highest levels of antimicrobial resistance globally in animals in India and China. Monitoring of usage and surveillance on antimicrobial resistance are both poor. While 'enhanced cooperation' on antimicrobial resistance is mentioned as a UK objective, there is no suggestion that commitments will be sought in the form of expanded FTA text, as  
  
in the UK-Australia deal. It is also unclear how UK import standards would be maintained in the absence of clear data and traceability controls.
26. **Pesticides:** India follows a 'risk-based' approach to pesticide management, as compared to the UK's hazard-based approach. For example, food imported from India can contain residues of the fungicide propiconazole, which is not permitted to appear in food grown in the UK. Wheat grown in India can contain four times the amount of carbaryl. Both pesticides are classified as developmental or reproductive toxins and suspected endocrine disruptors. Overall, 91 Highly Hazardous Pesticides, including bee-harming neonicotinoids, are approved for use in India, compared to just 73 in the UK.
27. A UK-India trade review<sup>16</sup>, leaked in 2018, suggested that the Indian government was keen for the UK to relax a number of existing standards when negotiations commence. This would threaten human health and environmental protections in the UK, and should be fiercely resisted by negotiators. Conversely, a recent investigation by Unearthed<sup>18</sup> found that the UK continues exporting pesticides banned domestically to countries including India. The strategic approach is not explicit in relation to UK objectives on pesticides, although chemicals are identified as an area where UK exports could benefit from tariff removal. If an FTA supports or contributes to the growth of this dangerous UK export market the potential consequences for the environment and human health in India would be dire.
28. **Mitigation:** These risks could be mitigated by:

- Acting on the recommendations of the Trade and Agriculture Commission, including clearly setting out core UK standards, in addition to protecting domestic standards from being undermined by imports, and exploring the UK's role in assisting trade partners to meet such standards
- Maintaining existing import bans and, where there is new evidence of potential harms, expanding such bans or tightening maximum residue limits
- Increasing ambition in relation to antimicrobial resistance, including seeking a binding and enforceable animal welfare

<sup>16</sup>

<https://unearthed.greenpeace.org/2018/07/12/brexit-uk-india-trade-review-out-of-reach/>

<sup>18</sup>

<https://unearthed.greenpeace.org/2022/02/22/bees-syngenta-paraquat-uk-exports/>

and antimicrobial resistance chapter, building on the approach taken in the UK-Australia FTA

- Tightening UK regulations to prevent the production and export of chemicals and pesticides banned for domestic use for reasons of human health or threat to the environment

**How would you rate the Government's mechanisms for engaging with stakeholders and seeking input into the negotiations? What is your assessment of how well Government departments are coordinating with each other to help deliver the best outcomes in the negotiations?**

29. **Coordination:** The level and effectiveness of departmental coordination in relation to this FTA is unclear. While the strategic approach document suggests that DIT aims to deliver an agreement that supports the government's trade and development objectives, it does not directly reference or outline how negotiations will support the priority FCDO outcome to "ensure the UK is a force for good in the world by: supporting sustainable development and humanitarian needs; promoting human rights and democracy; and establishing common international standards"<sup>11</sup>. As we have noted across this submission, many potential outcomes of a UKIndia FTA could pose challenges to the environment and risks to human health, yet the engagement between DIT and other relevant government departments to date,

---

<sup>11</sup> <https://www.gov.uk/government/publications/foreign-commonwealth-development-officeoutcome-delivery-plan/fcdo-outcome-delivery-plan-2021-to2022>

and the capacity available to engage in the coordination of trade with domestic policy, appears lacking.

30. While we welcome the plethora of Committee inquiries into the intersections between trade and foreign policy, development, and environmental impacts, this is no substitute for joined up policy making and scrutiny. We believe that the publication of an overarching trade strategy would support both the delivery of outcomes and the communication of government ambition.
31. **Consultations:** Friends of the Earth did not respond directly to the consultation on trade with India, as it appeared to be oriented towards business. Consultation questions and the accompanying information note focussed on economic issues and barriers to trade, with no meaningful discussion or exploration of the potential negative social or environmental impacts of increased trade. The information note failed to provide enough information about government intent to enable effective analysis of potential effects of a deal. We note that due to a formatting error, the 'glossary of FTA chapter areas' provided in the information note failed to provide a relevant definition of an environment and climate change chapter<sup>18</sup>.
32. **Stakeholder engagement:** Across negotiations with new prospective trade partners, the government approach to engagement has been poor. Levels of transparency and meaningful engagement have been disappointing. The lack of an overarching trade strategy or action to lay out UK core standards and guiding principles, combined with this lack of engagement, have hampered efforts to consider the cumulative impacts of new FTAs and identify methods to mitigate them. This has been reflected in the approach taken to negotiations with India thus far.
33. Opportunities to engage with the development of objectives via stakeholder fora have also been limited, with only high-level updates provided at quarterly stakeholder meetings and opportunities to engage further limited to organisations willing to sign restrictive confidentiality agreements. There has been no feedback to stakeholders that we are aware of on the ways in which specific concerns – for example around Investor State Dispute Settlement (ISDS) – have been reflected in UK policy or helped to shape objectives.
34. **Negotiations:** On January 13, 2022, the Department for International Trade (DIT) published a Strategic Approach pack, outlining the government's proposed approach to negotiations.

However, this document insufficiently reflects concerns raised by NGOs during the consultation process – and provides only limited detail on actions to be taken in response to such concerns, particularly on the environment, gender, and labour rights.

35. On January 28, 2022, the governments of India and the UK concluded the first round of negotiations for this FTA. The update provided in Parliament by the Secretary of State<sup>12</sup> was, as with updates provided during negotiations with Australia and New Zealand, extremely short and high level. It summarises the results of 32 meetings covering 26 policy areas in a list of chapter headings including 'trade in goods' and 'sustainability'. This quality of information does not provide stakeholder with any indication of sectors under particular focus at specific stages of the negotiation, nor any specific issues under debate.

36. **Government should:**

<sup>18</sup>

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/989234/dit-india-uk-consult-info-note.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/989234/dit-india-uk-consult-info-note.pdf) (p31)

- Improve the quality and specificity of updates on negotiations to support transparency and stakeholder engagement
- Urgently establish planned Domestic Advisory Groups for existing trade agreements, and increase their number to allow for effective oversight of agreements, including any UK-India FTA
- Pursue a civil society forum as part of any UK-India FTA
- Outline steps being taken to learn lessons from previous negotiations and ensure civil society organisations can engage effectively, both within and outside of the Strategic Trade Advisory Group, Thematic Working Groups and quarterly update.

---

<sup>12</sup> <https://questions-statements.parliament.uk/written-statements/detail/2022-01-31/hcws570>