

Greener UK response to the International Trade Committee's UK trade negotiations: Agreement with New Zealand inquiry

1. Greener UK is a coalition of 12 major environmental organisations which came together to ensure that environmental protections are maintained and enhanced during the Brexit process, particularly through ambitious domestic legislation. Now that we have left the EU, we are urging the UK and devolved governments to build on our high environmental standards and protections, including when negotiating trade agreements.
2. We remain concerned that the UK does not have an overarching, public trade strategy. The final Free Trade Agreement (FTA) texts agreed with Australia and New Zealand differ in a number of areas, providing clear potential for overlaps and inconsistencies – particularly given the UK's recent moves to join the Comprehensive and Progressive Trans-Pacific Partnership (CPTPP).
3. The comparatively higher level of ambition evident in some areas of the UK-New Zealand agreement also throws the deficiencies of the Australia text into sharp relief. It is unclear why UK negotiators were unable or unwilling to secure such progress in the case of Australia. We would suggest that a published, coherent summary of the UK's trade agenda would support negotiators in pushing for ambition in future trade talks.
4. The New Zealand FTA, similarly to the Australia FTA, introduces zero tariff and zero quota trade in key agricultural sectors, for which there are lower environmental standards of production in New Zealand than in the UK. There are no environmental conditions placed on the products that can be imported into the UK, which means that the deal exposes UK farmers to unfair competition with lower standard produce from New Zealand. It entrenches the poor precedent set by the UK-Australia FTA. Countries with substantive exports to the UK, which rely on agricultural methods harmful to the environment, such as the US or Brazil, could rely on these agreements to argue for an equal amount of market access in upcoming negotiations.

What opportunities or potential costs does this agreement present for:

- a. **The UK as a whole?**
 - b. **Particular sectors of the UK economy?**
 - c. **The UK's devolved nations and English regions?**
 - d. **UK consumers?**
5. A Which? survey of UK adults in 2019 showed that “most people would feel uncomfortable eating food produced using methods that are allowed in some countries, but not currently in the UK”.¹ In 2020, over one million people supported the NFU's food standards petition in support of all food imports being produced to the same standards as British farmers.² However, there is a clear potential for increased trade under this FTA to increase the involvement of UK consumers in environmental harms overseas, and to undermine UK production standards. This could occur both where import controls do not exist, and where traceability or industry self-regulation are poor, or where Maximum Residue Limits are not properly enforced.
 6. Some examples of these differing standards include:³

¹ Which?, [Ensuring trade deals work for consumers](#), January 2020

² <https://www.nfuonline.com/archive?treeid=144340>

³ Further information on some of the ways in which standards differ between New Zealand and the UK is available in submissions made to the ITC inquiry on the Agreement in Principle in October 2021.

- a. Fertiliser: between 1990 and 2015 the annual application of nitrogen via fertiliser across New Zealand increased by 627%.⁴ Nitrogen use in the UK over the same period fell by around 40%.⁵
- b. Pesticides: New Zealand permits the use of 35% more highly hazardous pesticides than the UK (99 compared to 73 in the UK).⁶
- c. Water pollution: industrial agriculture, which involves very large use of synthetic fertiliser and nitrogen, has degraded New Zealand's freshwater, contributing to one third of New Zealand's rivers being deemed unfit to swim in at least part of the year.⁷ In 2017, 76% of native freshwater fish were either threatened with or at risk of extinction, as were one third of all invertebrates and plants.⁸

Are there any opportunities which have been missed, or could have been taken further?

7. While the environmental chapter of this deal offers some improvements on the equivalent in the UK-Australia FTA, most of the commitments continue to be broad and vague – making them difficult to enforce, despite the chapter falling under the overarching Dispute Settlement Mechanism. The commitment to enforce domestic laws (Article 22.4) is welcome, however it only seeks to uphold protections limited to situations where such weakening would impact on trade or investment between the parties. This trade and investment test is notoriously difficult to prove and has been ineffective in previous trade agreements where it has been used.
8. Objectives to “reaffirm” commitments to Multilateral Environmental Agreements are secured in the FTA (Article 22.5). These feature in all modern trade agreements and are present in many of the UK's historic ‘rollover’ trade deals.
9. We were pleased to see that this deal will not contain an Investor State Dispute Settlement (ISDS) mechanism. ISDS has been used to challenge regulations vital to meeting the climate emergency and tackling environmental damage, and could impede the ability of the UK to move towards a net zero future. Many NGOs raised concerns about the potential impacts of such a mechanism during the consultation and negotiation process, and in meetings with government departments. However, we note that opposition to ISDS was not a specific objective, and it is unclear if the government has now adopted a negotiating position against ISDS which we might expect to see reflected in other future FTAs, or if the UK intends to seek side letters on ISDS in the event of accession to CPTPP. It would be helpful if the government could clarify this.
10. A truly ambitious approach to environment and trade, which would redress the negative environmental impact of granting market access to lower standard imports, would be to develop a set of core environmental standards for all products imported into and produced in the UK. These would underpin the UK's trade deals and set minimum sustainability requirements that apply to all agri-food products on the UK market, ensuring a level playing field for food producers in the UK and giving the public confidence in the quality of food imported into the UK. This would allow agri-food trade with New Zealand to continue, while ensuring that the worst types of production in terms of environmental harm are not included in the UK market.⁹

⁴ <https://www.stats.govt.nz/indicators/nitrogen-and-phosphorus-in-fertilisers>

⁵ <https://www.gov.uk/government/collections/fertiliser-usage>

⁶ PAN UK, Sustain and Dr Emily Lydgate, [Toxic Trade: Comprehensive and Progressive Agreement for Trans-Pacific Partnership \(CPTPP\)](#), June 2021

⁷ Ministry for the Environment & Stats NZ, [New Zealand's Environmental Reporting Series: Environment Aotearoa 2019](#), April 2019

⁸ Ministry for the Environment & Stats NZ, [Our freshwater 2020 Summary](#), April 2020

⁹ Further information about core standards available at: WWF, [Core Environmental Standards](#), January 2022

Has the Government got the right balance overall in terms of any trade-offs it has made, and how do you expect these will affect you, your business or organisation, or those you represent?

11. New Zealand's ambition on environmental issues has clearly shaped what the UK government sought to achieve within this FTA. Developments within the environmental chapter show clear echoes of positions publicly espoused by New Zealand in other forums, including the WTO, and accompanying limitations also closely align with areas where the New Zealand government is uncomfortable to act.
12. It is positive to see that, in contrast to the UK-Australia FTA text, limiting warming to 1.5 degrees is referenced twice (Articles 22.3(c) and 22.6). Article 22.6 contains a helpful pointer towards a climate waiver, which outlines the importance of the aims of the Paris Agreement and the ways in which trade rules allow for the implementation of climate policy. It clearly affirms commitments to limit warming to "well below 2 degrees" and to pursue a 1.5 degree limit. However, the UK-New Zealand FTA must be judged as providing less enforceability on climate commitments than the UK-EU Trade and Cooperation Agreement.
13. Article 22.8 also contains some positive commitments including to (22.8(2)a) "take steps to eliminate *harmful* fossil fuel subsidies," (22.8(2)b) "end *unabated* coal fired electricity generation," (22.8(2)e) "end *new direct* financial support, such as officially supported export credits, for fossil fuel energy *in non-parties*" and (22.8(2)f) "end international aid funding for fossil fuel energy". However, these clauses containing commitments to action also contain unhelpful caveats and limitations, as emphasised in italics above. Additionally, we note that the UK government maintains that it provides no current fossil fuel "subsidies" under its own definition. For such FTA commitments to end government funding of fossil fuels to have an impact, they must be accompanied by an acknowledgement of the varying forms of support provided to such companies and a fully inclusive definition of such subsidies.

How well has the Government communicated its progress in negotiations – and how much has it listened to stakeholders during those negotiations?

14. Civil society engagement has been piecemeal. Similarly to the Australian deal, stakeholders have been able to access more information about the negotiations from the New Zealand government's website than from the UK's. Trade agreements must be subject to rigorous scrutiny and oversight, with meaningful and ongoing public participation and accessible information. We appreciate that the limited government commitments to parliamentary scrutiny and early experiences of scrutiny in practice have been roundly criticised by this Committee¹⁰ and the Lords International Agreements Committee.¹¹

How well has the Government communicated the likely impacts of this agreement for you, your business or organisation, or those you represent?

15. The government's current approach to impact modelling and assessment is lacking. The evidence in the final published impact assessment¹² lacks environmental detail and proper modelling on the full and cumulative emissions impacts of the FTA.

¹⁰ International Trade Committee news article, [Government riding roughshod over Parliament on trade deal scrutiny](#), 24 March 2022

¹¹ House of Lords Media Notice, [Government transparency needed for effective Parliamentary scrutiny of trade agreements, says Lords committee](#), 8 February 2022

¹² Department for International Trade, [Impact assessment of the Free Trade Agreement between the United Kingdom of Great Britain and Northern Ireland and New Zealand](#), February 2022

16. For example, the assessment suggests overall greenhouse gas emissions “associated with UK-based production” are likely to be largely unchanged by this FTA. A “composition effect” is predicted to reduce emissions from UK production by around 0.1 MtCO₂e, but it is unclear if this shift is spurred by the trade agreement or domestic priorities. Emissions associated with transport are expected to increase by up to 0.1 MtCO₂e a year. However, no mention is made in the assessment of changes to the UK’s consumption footprint, either in terms of emissions or ecological impacts. This is particularly concerning given agriculture constitutes 48% of all New Zealand’s emissions, and yet is exempt from the domestic Emissions Trading Scheme and likely to see exemptions of up to 95% of emissions when brought under the scheme.
17. The assessment also finds that “the economic growth and sectoral changes resulting from the agreement could affect air pollution, water quality, forests, biodiversity and waste management” particularly at a sub-national level, but provides no detail beyond highlighting that these are “difficult to quantify”.
18. Publishing the impact assessment after the deal has been signed means that it cannot usefully be used to improve the deal throughout negotiations. To get a better understanding of the impacts to the environment, and how to mitigate them, UK trade policy should require conducting environmental impact assessments (EIAs) during the negotiating process. These assessments must inform the development of trade policy at all stages and should affect how trade agreements are agreed. EIAs should also be conducted periodically once deals are ratified to determine any modifications to existing deals or implications for future deals.

What lessons and inferences for other current and future negotiations can be drawn from how the Government approached, and what it secured in the FTA with New Zealand?

19. The government should:
 - a. Set out a clear, published trade policy, alongside clear, legally binding core environmental standards that apply to both imports and UK produce.
 - b. Prioritise environmentally ambitious nations and compliance with the Paris Agreement in future trade negotiations.
 - c. Guarantee that side letters will be sought excluding the UK from the ISDS mechanism if the UK accedes to CPTPP, and setting out how the UK will build upon steps taken to end fossil fuel subsidies in other trade forums.
 - d. Improve scrutiny and civil society engagement arrangements for future FTAs.