

International Trade Committee

Inquiry on UK trade negotiations: Agreement with New Zealand

Evidence from the Trade Justice Movement

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*Recommendations are highlighted in **bold***

About us

1. The Trade Justice Movement is a UK-wide network of sixty civil society organisations, with millions of individual members, calling for trade rules that work for people and planet. Our members include trade unions, NGOs, consumer groups and faith organisations. Together we are calling for trade justice, where the global system of trade ensures sustainable outcomes for ordinary people and the environment.

Summary

2. The UK Government has devoted substantial political attention to a Free Trade Agreement (FTA) with New Zealand, despite the fact that New Zealand is the UK's 54th largest export partner, behind Slovakia, Bermuda and Egypt,¹ and the deal is expected to make no difference to UK long run GDP, on the Government's own assessment.² An FTA with New Zealand cannot make up a meaningful part of a UK industrial strategy, and is likely to be a distraction from more pressing social, environmental and economic issues, particularly as the UK recovers from the Covid-19 pandemic and aims to lead global action on climate change.
3. We believe that there is relatively more potential to achieve a forward-thinking trade deal compared to partners such as Australia or the US. New Zealand's Government, led by Prime Minister Jacinda Arden, has a somewhat better record on climate change compared to many other trade partners, and in certain areas has signalled a willingness to consider a new approach to trade policy. For example, we are particularly pleased to see that the deal does not contain Investor-State Dispute Settlement (ISDS) provisions, which would allow investors to sue governments for regulations which harm their profits. New Zealand has also played a founding role in the Agreement on Climate Change, Trade and Sustainability (ACCTS), which we believe is an interesting initiative that aims to put environmental issues at the heart of trade policy.
4. However, in common with all countries, New Zealand could be doing much more to achieve the necessary reductions to greenhouse gas emissions, for example they have a worrying reliance on the purchase of carbon offsetting to achieve their goals. Although the ACCTS agreement may deliver improvements, New Zealand's existing trade agreements do not diverge from the standard approach which does little to address crucial issues such as climate change.

¹ ONS, [Pink Book 2021](#), October 2021 (figures for 2020)

² Department for International Trade, [UK-New Zealand FTA](#), July 2020

5. However, we still have concerns about the content of and some of the precedents set by this deal, which would appear to be very similar to previous EU deals that the UK was a part of. New Zealand has lower agriculture and food production standards than the UK in a number of areas, which could put a downward pressure on our standards. Liberalising provisions for public services could make it easier for New Zealand companies to bid for public contracts, including NHS contracts, while also locking-in privatisation measures. Lastly, this deal is a stepping stone towards joining the Trans-Pacific Partnership, which does contain worrying ISDS provisions, and is a deregulatory deal which could put the UK's climate ambition at risk.
6. We also have concerns about the level of communication from the Department for International Trade (DIT) and the UK's system for treaty scrutiny, which gives Parliament very little say in agreeing trade deals. Civil society has not been meaningfully involved in the crafting of this Agreement in Principle, and we have not been reassured about our role in its assessment, ratification and implementation.

How good a deal does the AiP represent for the UK?

7. The UK-New Zealand Agreement in Principle (AiP) is somewhat short on detail about what will be included in the final deal, particularly in terms of expected impact, enforceability and which commitments will be binding. However, the UK Government's own assessments predict that a UK-New Zealand FTA will not add anything to GDP in the long run, with a negative impact in the range of possible scenarios.³ There has not been any full assessment of the potential environmental impact of an FTA, but initial scoping suggests that the deal will increase greenhouse gas emissions.
8. Furthermore, there are specific concerns about the impact of the deal on UK food and farming standards, including environmental and animal welfare issues. There is a lack of detail about how the deal will tangibly affect the UK's climate ambition, which is surprising given the UK's leadership of COP26, the Government's pledge to make Britain the "cleanest, greenest country on Earth",⁴ and a recent target to reduce emissions by 78% by 2035.⁵
9. The lack of economic benefit, combined with the potentially negative impacts of the deal on food standards, British farming, environmental issues, animal welfare and climate change, raise questions about why the Government is devoting so much political attention and civil service resources to signing this FTA. One explanation is that the deal is primarily seen as a stepping stone towards UK membership of the Comprehensive and Progressive Trans-Pacific Partnership (CPTPP). We have concerns about this deal, particularly its inclusion of Investor-State Dispute Settlement (ISDS) clauses, as well as the impact it could have on environmental standards and public services. Another explanation is that the deal is of geopolitical and strategic importance as UK foreign policy focus 'tilts' away from Europe towards the Asia-Pacific region.

³ Department for International Trade, [UK-New Zealand FTA](#), July 2020

⁴ Energy Live News, [Boris Johnson pledges to make Britain 'cleanest, greenest country on Earth'](#), 13 December 2019

⁵ Department for Business, Energy and Industrial Strategy, [UK enshrines new target in law to slash emissions by 78% by 2035](#), 20 April 2021

10. **The Government must publish a full environmental and social impact assessment of the deal, with reference to the UK's net zero ambitions, the Paris Agreement, and any further multilateral agreements that arise from COP26 before the deal is ratified. The Government must also clarify that a UK-New Zealand FTA will not be a stepping stone towards ISDS within the CPTPP.**

What is likely to be the impact of the agreement on:

- a. **social, labour, environmental and animal welfare issues?**
- b. **UK consumers?**

11. The lack of detail in the AiP means that it is hard to assess the impact of a UK-New Zealand FTA on social, labour, environmental and animal welfare issues. However, it is important to note that the UK's scoping assessment does predict higher carbon emissions as a result from the deal, and a change in the composition of UK production towards sectors which are comparatively more carbon-intensive.⁶
12. The AiP does not provide a lot of detail on the enforceability of provisions within the deal, including environmental and social provisions. However, the language implies that challenges can only be brought if a lowering of standards is demonstrably an attempt to gain trade advantages. The UK is therefore missing an opportunity to build on the UK-EU Trade and Cooperation Agreement (TCA) in which the climate was made an 'essential element' of the deal, so that the emphasis is on impact rather than intent. The approach in the UK-New Zealand deal means it might be difficult for either country to challenge on the basis of a reduction in environmental protections. **The UK should seek a more robust enforcement system within the deal, particularly for climate related provisions. This should allow challenges to any reductions in climate regulation regardless of its impact on trade.**
13. The AiP includes reductions in agricultural tariffs, which means we can expect increased imports of cheap meat and dairy products to the UK. This poses obvious risks to UK producers, consumers and animals, as well as potential general impacts on the level of protection and prevention of future increases in food standards. The IPCC, Climate Change Committee and the National Food Strategy have all concluded that a reduction in meat consumption of at least a third will be important to decrease impacts on climate and biodiversity, as well as to improve health.⁷ However, the government's current approach to trade negotiations, as indicated in the AiP, is likely to increase the volume of meat imported, increasing the UK's global footprint. It is estimated that agriculture is responsible for half of New Zealand's carbon emissions, and the sector is exempt from New Zealand's Emissions Trading Scheme, though the plan is for agriculture to be incorporated by 2025.⁸ **The UK Government must produce an assessment of how the removal of agricultural tariffs will affect UK meat consumption, and particularly**

⁶ Department for International Trade, [UK-New Zealand FTA](#), July 2020

⁷ National Food Strategy, p.11: "The Government's Climate Change Committee has said we must reduce the amount of meat we eat by 20–50% in order for the UK to reach net zero by 2050. In this strategy, we have set a goal of a 30% reduction over ten years. This is significant, and it won't be easy to achieve." [The Report - National Food Strategy](#), accessed November 2020.

Climate Change Committee, p.48, specifically says a 35% reduction by 2050 on a balanced net zero pathway, [Sixth Carbon Budget](#), December 2020

⁸ ICAP, [ICAP\) - New Zealand reaches agreement with agricultural sector to price emissions from 2025](#), July 2019

the environmental and animal welfare impacts of this.

14. The risk to UK farmers is particularly acute. The UK Government's own scoping assessment noted that "New Zealand's producers may be able to supply UK retailers at lower cost relative to domestic producers",⁹ and this concern has been raised by the farming community. While New Zealand is not the worst offender in terms of environmental standards and animal welfare, a willingness to reduce agricultural tariffs across the board sets a worrying precedent for ongoing and future negotiations with other trading partners including Australia, Canada, the US and Brazil.
15. The AiP includes a specific animal welfare chapter. While this is welcome, it is essential that this chapter is fully enforceable, and allows for UK animal welfare standards to rise. While there is reference to 'non-regression' rather than 'non derogation', the language seems to be non-binding; for example, words like 'reaffirming', 'recognising', 'cooperating' are used.¹⁰ The mere existence of a chapter does not mean that New Zealand's animal welfare standards are sufficiently good, or that the UK Government will be sufficiently empowered to ban imports in the future.
16. World Animal Protection's Animal Protection Index rates New Zealand 'C' for animal welfare in general and 'C' specifically for farm animal welfare standards, compared to the UK ratings of 'B' and 'D' respectively.¹¹ One example of where New Zealand lags behind is sow stalls: the UK banned the use of sow stalls for pigs over twenty years ago, while stalls are still permitted for the first week of pregnancy in New Zealand.¹² Another concern is eggs; as colony ("enriched") cages remain legal in New Zealand while we expect the UK Government to end the use of enriched (or "colony") cages. **The Government must explain how it will retain the power to ban animal product imports which are produced to lower standards than would be allowed in the UK, and commit to raising standards in this area. Where New Zealand lags behind on animal welfare standards, the UK must not be prevented from standard-raising.**
17. New Zealand has a comparatively poor record on the use of antibiotics in farming. This is shown by New Zealand's regulatory system, and a trend of increasing sales of farm antibiotics in New Zealand between 2014 and 2017. The Alliance to Save our Antibiotics notes that in New Zealand the antibiotic bambermycin is used as a growth promoter in poultry, while several ionophore antibiotics (lasalocid, monensin and salinomycin) are also used as growth promoters in pigs and cattle and for increased milk production in dairy cows.¹³ The UK ended the use of antibiotics for growth promotion in 2006. It is unclear from the AiP how UK prohibitions and maximum residue limits will be maintained.
18. There are similar concerns about increases in New Zealand's use of environmentally damaging fertilisers, and a recent report by the New Zealand government found that nearly 60% of rivers carried unacceptable levels of pollution – linked to the growth of dairy farming and large-scale irrigation.¹⁴ New Zealand permits the use of 35% more

⁹ Department for International Trade, [UK-New Zealand FTA](#), July 2020

¹⁰ Department for International Trade, [UK-New Zealand Agreement in Principle](#), October 2021

¹¹ World Animal Protection, [Animal Protection Index](#), accessed November 2021

¹² Ibid.

¹³ Alliance to Save Our Antibiotics, [Farm Antibiotics and Trade Deals](#), November 2020; and [Differences in farm antibiotic standards in the UK and New Zealand](#), October 2021

¹⁴ ABC, [Behind New Zealand's clean, green image is a dirty reality](#), 15 March 2021

highly hazardous pesticides than the UK (99, compared to 73 in the UK) and allows far greater levels of pesticide residues on food – in some instances hundreds of times more. Grapes grown in New Zealand are allowed to contain 1,000 times the amount of the fungicide Iprodione (a carcinogen and suspected endocrine disruptor) than their UK equivalents.¹⁵

19. It is worth noting that the Trade Act includes specific provisions to prevent ‘rollover’ trade agreements from reducing the level of protection in key areas, including environmental standards, public health and animal welfare. Although the New Zealand FTA is not a ‘rollover’ deal, because the UK was not party to such a deal within the EU, we believe **that the same protections should be set out in primary legislation for the UK-New Zealand deal. An appropriate place for such provisions would be any implementing legislation arising from the UK-New Zealand FTA, or alternatively blanket legislation which covers all new, non-rollover trade agreements.**
20. The procurement section of the AiP commits both sides to “consider” environmental, social and labour outcomes.¹⁶ Although this is welcome, the language appears to be unenforceable, and could leave either side facing a challenge from the other party if they wish to use procurement budgets to aid climate ambition. This could have a particular impact on devolved nations and local authorities, who may wish to support local businesses or regional economic initiatives to tackle climate change.
21. The AiP implies that the UK was successful in extending patent terms to 20 years, with the aim of protecting UK intellectual property (IP). This is of concern because IP protections in trade agreements can undermine international commitments, particularly in areas such as global health and development, and the fight against climate change. For instance, many developing countries have called for a TRIPS waiver for Covid vaccines at the WTO level, which would allow developing countries to produce Covid vaccines more cheaply and protect their populations.¹⁷ Such a move has been resisted by wealthy countries and large pharmaceutical firms, who have an obvious financial interest in IP protections.
22. IP protection also has implications for the global fight against climate change. A critical factor in helping developing countries transition towards lower emission economies is technology transfer, which would enable these countries to adopt fossil fuel-free alternatives to existing energy production and use. A significant proportion of patents for green technology is held by wealthy, Western countries, and protected by IP. This makes it harder for developing countries to access this technology, and increases reliance on unsustainable, high-carbon technologies. **The Government should clarify its position on IP in recognition of the global health and climate related arguments for loosening IP protections, including a Covid vaccines TRIPS waiver at the WTO.**
23. The AiP is unclear about the scope and strength of any regulatory cooperation provisions in the deal. If regulatory cooperation is modeled on CETA, the EU-Canada agreement, this could see the establishment of a Regulatory Cooperation Council within the deal. We have concerns about the reach of these councils, which allow regulators to meet to

¹⁵ PAN UK, [Toxic Trade - CPTPP](#), accessed November 2021

¹⁶ Department for International Trade, [UK-New Zealand Agreement in Principle](#), October 2021

¹⁷ WTO, [TRIPS Council agrees to continue discussions on IP response to COVID-19](#), 20 July 2021

attempt to harmonise regulations and resolve differences. The concern is that this slows down the introduction of important new regulations, and prioritises harmonisation for the sake of trade rather than high standards for the sake of social and environmental objectives. There is also a concern that Regulatory Cooperation Councils can be ‘captured’ by corporate interests, due to their opacity and lack of democratic accountability.¹⁸

24. We have some concerns about the impact of the deal on public services. The AiP bans requirements for providers to have a physical presence in the country, making it more difficult to hold companies to account for poor practice.¹⁹ The chapter will also use a negative list approach, which makes it much harder for either side to manage what exactly is being liberalised. Liberalising provisions for public services could make it easier for New Zealand companies to bid for public contracts, including NHS contracts, while also locking-in privatisation measures. **The Government must commit that the NHS and other publicly-provided services will be excluded from the deal, and adopt a positive list system in the final deal.**
25. On digital trade, the AiP is unclear about what will be included in the final deal; for example, whether the disclosure rules cover algorithms as well as source code. We have concerns about the interpretation of “legitimate public policy objectives”, particularly if this is used by technology companies to avoid scrutiny in a way that damages personal privacy and/or supports online harms. There is also a risk that any lowering of data protection leads to the UK not meeting the EU’s data adequacy requirements. **The Government must clarify its intentions for the digital trade chapter, and provide assurances that an FTA with New Zealand will not see a reduction in the existing level of data protection.**
26. Our partner organisations in New Zealand have particular concerns about the protections afforded to the Māori community. In particular, the lack of explicit protection of Māori cultural goods, and a loss of sovereignty over their data and digital governance. **The UK should work with New Zealand to clearly set out how the Māori community’s interests will be protected in a UK-New Zealand FTA.**

How well is the Government communicating its progress in negotiations – and how much is it listening to stakeholders during those negotiations?

27. We, along with many other stakeholders including NGOs, trade unions and businesses, have been disappointed at the level of communication from DIT when it comes to UK-New Zealand negotiations. Despite being on a DIT ‘Thematic Working Group’ and signing legally-binding confidentiality agreements, we (TJM) were not given any prior sight of the UK-New Zealand AiP, or any opportunity to comment on the general direction of the deal, let alone specific provisions.
28. In terms of the next stages of negotiations, we (and other stakeholders) have been given no indication that we will be able to comment on or influence negotiations as they progress, or that we will have prior sight of the final text before it is published. Indeed, DIT has been extremely vague about the role of civil society organisations in agreeing

¹⁸ Trade Justice Movement, [Dynamic Alignment and Regulatory Cooperation](#), September 2019

¹⁹ Department for International Trade, [UK-New Zealand Agreement in Principle](#), October 2021

new trade agreements. The last formal opportunity we had to share our views on the New Zealand FTA was DIT's consultation in 2018. Although we expect another consultation before the deal is signed, it is unclear what influence this will have.

29. Parliament has also had very little say over the negotiation process, with no formal role in setting the negotiation mandate, and very few updates from DIT. MPs will have no guaranteed debate or vote on the deal before ratification, although we expect that a debate will be provided for.²⁰ **The ITC should push for the Government to provide MPs with a guaranteed debate and vote on the New Zealand FTA; ideally this should be set out in legislation, and apply to all new trade agreements.**
30. Updates to both civil society and Parliament have been extremely high-level and lacking in detail. These updates have only covered subjects under discussion, and not what the UK is actually pursuing in these areas, including whether the UK is taking an ambitious or a regressive approach. It is interesting to compare this to the situation in New Zealand. For example, the UK and New Zealand's respective updates on the fifth round of negotiations shows New Zealand providing far more detail and transparency.²¹ That said, our New Zealand partner organisations have complained of secrecy within the Ministry of Foreign Affairs and Trade (MFAT), and a failure to take up recommendations from its Trade for All Advisory Board.
31. The UK Government has been very slow to respond to recommendations made by the original Trade and Agriculture Commission (TAC) and place it on a statutory footing. **Given the important role that the TAC might play, and some of the specific concerns about the UK-New Zealand FTA on food and animal welfare standards, it is essential that a fully functional TAC has meaningful scrutiny and enforcement powers, and representation of civil society groups.**

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For more information please contact David Lawrence.

²⁰ Trade Justice Movement, [Securing Democracy in UK Trade Policy](#), 2019

²¹ UK update: Department for International Trade, [Negotiations on the UK's Future Trading Relationship with New Zealand: Update](#), 30 June 2021

New Zealand update: Ministry of Foreign Affairs and Trade, [New Zealand–United Kingdom Free Trade Agreement Negotiations](#), June 2021