

UK Trade Negotiations: Agreement with New Zealand

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Introduction

1. This submission of evidence contributes to the inquiry by the International Trade Select Committee into UK Trade Negotiations: Agreement with New Zealand.
2. Dr Jasem Tarawneh is a Lecturer in Law at The University of Manchester. Jasem's research and teaching interest lie within the field of International Dispute Resolution and Intellectual Property Law. His main areas of research are Law and Economics, Intellectual Property Law and Globalization as well as Alternative Dispute Settlement Mechanisms with an emphasis on International Arbitration. Jasem worked and continues to work with a number of distinguished international organisations. He currently holds the position of a Legal Academic Associate at Kings Chambers.
3. Dr Nicolette Butler is a Senior Lecturer in Law at The University of Manchester. Nicolette's research and teaching interests lie within the sphere of International Economic Law and International Dispute Resolution. Nicolette's research focuses primarily on International Investment Law, as well as Global Trade Law and Alternative Dispute Resolution Mechanisms (especially International Arbitration). Nicolette has advised a number of different organisations on matters relating to international trade and investment, and she is currently a Scientific Advisor to the European Public Health Alliance.
4. We declare that we receive no financial benefits from any beneficiaries or stakeholders in preparing this written evidence.

How good a deal does the Agreement in Principle (AiP) represent for the UK?

5. The UK-NZ FTA AiP has a major drawback; namely, the lack of transparency and the provisional nature of the text. This lack of transparency and detail is evident in the limited quantity and quality of the publicly available literature and related documents about the negotiation process and its outcome. As a result, one cannot really assess whether the AiP represents a good deal for the UK, and the extent to which the Government has achieved its stated negotiating objectives, without a more comprehensive set of data being made available. This is why Government should make negotiating documents available and provide regular updates on specific progress to both stakeholders and the wider public.

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

6. In terms of its communications about the negotiation and conclusion of this agreement, the Government is performing poorly. This poor communication hinders any non-governmental observers' ability to fully assess the implications, challenges and opportunities provided by the deal.
7. The lack of transparency in relation to Government activities when it comes to the negotiation and conclusion of international trade agreements (including the New Zealand deal) makes it difficult, if not impossible, to assess whether the Government's negotiating objectives have been met. This problem must be

addressed to allow the proper scrutiny of important agreements that have a direct socio-economic impact on UK citizens, otherwise such agreements will be shrouded in a cloak of illegitimacy. This lack of legitimacy will breed mistrust and will ultimately undermine the Government's efforts to engage with interested business stakeholders and civil society.

What is likely to be the impact of the agreement on: the UK's economy as a whole?

8. By the Government's admission, and as supported by its own evidence, the deal is unlikely to boost UK growth in a significant manner (as only a tiny 0.2% of UK trade is done with NZ). There has been speculation that the deal actually has the potential to shrink UK GDP.
9. The only obvious potential benefit of the deal is political in nature; to gain leverage and to add momentum to the Government's Indo-Pacific tilt, and its ongoing quest to join the CPTPP. Unfortunately, this legitimate rationale has not been acknowledged and communicated honestly by the Government. The EU is attempting a similar Indo-Pacific shift, however the EU has produced a document discussing their ambitions in this regard, in which they explain that their rationale is to level the playing field with emerging economic and political powers like China. Despite potentially similar policy objectives, the UK Government has not been frank about its overall aims in this regard.
10. The UK's possible economic and political underlying aims of undermining Chinese influence in NZ is unlikely to materialise, given that the value of UK trade to NZ pales in comparison to the value of NZ's trade with China. It is unlikely that any political ambitions or leverage that the UK is hoping to achieve will be feasible, as NZ will not wish to cause any potential harm to its more significant Chinese trading partner. Further, there is no obvious foreseeable noteworthy economic gain for the UK economy, despite debateable gains in the digital trade chapter pertaining to the mining and exploitation of financial data.

What is likely to be the impact of the agreement on: social, labour, environmental and animal welfare issues?

11. The Government appears to ignore its own advice on tackling climate change and the promotion of sustainable trade liberalisation policies by encouraging importation of agricultural products from thousands of miles away. This is despite the fact that many of these products can be locally sourced at a much lower monetary and environmental cost.
12. This contradictory approach in the context of the government's declared environmental policies, as evidenced by the recent COP26, is compounded by the apparent risk of lowering UK food standards by virtue of this agreement. Such risk and its potential impact on UK manufacturers and consumers cannot be ignored despite assurances from both the UK and NZ Governments to the opposite. Another real risk of the deal pertains to farmers in Northern Ireland whose livelihoods will be under threat due to tariff-free imports from NZ as a result of the deal. This is particularly dangerous, given the delicacy of the Northern Irish situation post-Brexit. Thus, the UK-NZ deal risks further alienating Northern Ireland.

Recommendations for policy makers:

13. There is a gaping hole in the government's approach to the initiation and completion of trade negotiations. This oversight lies in the government's inability and unwillingness to complete comprehensive impact assessment studies before treaty negotiations begin, which aim to determine the true potential impact of any proposed trade and investment agreement in important areas such as the wider economy and the environment. Strong early impact mapping will help to improve the current fragmented approach to trade. The government should adopt a comprehensive and inclusive impact assessment framework that takes into consideration trade-related issues. Such assessments should also include a regular ex post impact update (5 year intervals). Moreover, the government's current approach to impact assessment is heavily focused on basic economic outcomes that are predicted using flawed CGE modelling which does not take into account the investment angle in trade and investment agreements.
14. The few committees and councils that provide advice to government on its trade and investment policy are limited in terms of membership numbers and diversity. This much discussed subject has not yet been tackled, therefore the Government should take serious steps to create a formalised approach that takes into consideration the views of civil society. At present, calls for evidence to parliamentary committees are not well publicised or easy for lay persons to access and engage with. There is a clear emphasis on the inclusion of stakeholders in business and industry rather than civil society and academia. This lack of transparency and engagement puts the UK at a competitive disadvantage with our negotiating partners, who in most cases, have a more transparent and robust process of stakeholder engagement. Take for example the EU, who have very inclusive and open dialogues around trade negotiations.
15. In trade and investment agreements, the government should strive to uphold and implement the highest possible regulatory standards, especially in key sectors such as food, agriculture, animal welfare, data protection, and digital services, including financial services. In any negotiation, the government should make a commitment to align regulatory standards in accordance with the higher of the negotiating parties' standards. The AiP with New Zealand is a clear example of disregarding such a policy.
16. The government should develop an integrated trade and investment policy that puts at its heart core rights and values, such as environmental protections and human rights, especially when selecting and prioritising negotiating partners and sectors. This holistic approach, where the core values of a democratic society are taken into consideration, is essential for the success of any trade treaty in the long run. The AiP with New Zealand seems to ignore this integrated approach, as evidenced the agreement's its high environmental costs.

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