

UK trade negotiations: Agreement with Australia

Friends of the Earth written evidence

14 January 2022

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 75 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

2. The Free Trade Agreement (FTA) signed between the UK and Australia on 16 December 2021 is the first entirely new deal to be agreed since the UK's exit from the EU, and the most recent expression of UK trade policy. It is disappointing that the final text of the FTA confirms that the UK has rewarded Australia's lower environmental protections and slow, unambitious climate action with tariff- and quota-free market access. In summary:
 - a. **Coherence:** We remain concerned that the UK does not have an overarching, public trade strategy. Negotiating objectives for this deal were unambitious, narrowly interpreted, and could have been bolstered if supported by a wider strategy developed over time with civil society engagement.
 - b. **Evidence:** Assessment of potential environmental impacts lacks range and depth. The low level of detail makes it hard to determine true environmental and social impacts of the deal. Impact assessments do not take account of the cumulative impacts of trade deals on the environment, nor the precedent-setting nature of the Australia trade deal.
 - c. **Impact:** This deal undermines high UK standards on the environment and animal welfare by forcing UK farmers to compete with outdated, unsustainable, and industrialised models of agricultural production. It has the potential to increase the UK's global footprint and complicity in environmental harms including deforestation.
 - d. **Precedent:** The UK-Australia FTA sets a precedent for all future bilateral trading agreements. The low level of environmental ambition combined with unprecedented levels of market access will make it more difficult for the UK to secure commitments from other potential trading partners in the years to come. Yet government appears unconcerned by this.
 - e. **Ambition:** This deal does not lay down ambitious norms for international trade which promote sustainable development, prevent the exporting of environmental harms or ensure action on the climate and biodiversity. Key features of modern trade deals have not been developed upon – for example, derogation from or non-enforcement of existing environmental laws, or inaction in relation to Paris Climate goals, are unlikely to result in action under the FTA, unless conducted in ways impacting trade. The opportunity to require real delivery on these commitments was missed.
 - f. **Engagement:** Civil society engagement has been piecemeal and transparency lacking. Limited improvements to parliamentary scrutiny are not enough to ensure that there is proper engagement with MPs and relevant committees.
3. Overall, the FTA suggests little negligible economic benefit and a number of risks, that are not adequately compensated for in terms of progressive provisions and ambition within the deal.

To what extent has the Government achieved its stated negotiating objectives?

4. The stated negotiating objectives for the UK-Australia trade agreement were published in June 2020. The final deal does broadly meet many of these. However, objectives appear to have been set based on areas in which Australia was already willing to take action, while the opportunity to secure more ambition in

exchange for market access has been missed. Therefore the final FTA does not represent a development or improvement of existing practice and does not significantly or urgently further broader UK objectives.

5. Ahead of negotiations with New Zealand, the UK government set a headline objective to “seek sustainability provisions, including on environment and climate change, that meet the shared high ambition of both parties on these issues”. The version of this objective published in regard of the Australia negotiations omits the word ‘high’ from this sentence, suggesting that Australia’s poor track record on environmental issues has not only remained unchallenged in this FTA but has actively shaped what the UK government sought to achieve within it.
6. Objectives to ‘reaffirm’ commitments to international climate, environment and labour standards are secured in the FTA. However, these are a feature of all modern trade agreements and are present in many of the UK’s historic ‘rollover’ trade agreements. A stronger objective would have been to build upon these with additional support or enforcement related to achieving these international commitments. Yet the government neither sought nor secured such improvements.
7. While much has been made of the mention of the Paris Agreement in article 22.5, the clause does not reference limiting warming to 1.5 degrees nor make action which frustrates the agreement grounds to impose remedies under the FTA. The non-derogation clauses are also limited to actions taken ‘in order to encourage trade and investment’. Negotiators could have been set an objective to remove this caveat and more directly link trade benefits to ongoing compliance with domestic environmental law, but they were not, and therefore the FTA does not set the precedent it might have in this area.
8. Positively, the objective to secure ‘appropriate mechanisms for the implementation, monitoring and dispute resolution of environmental and labour provisions’ has been met through replicating the CPTPP approach, in which environmental disputes have access to the overarching dispute settlement mechanism of the agreement. This could offer valuable enforceability to these provisions. However, the animal welfare chapter remains unenforceable.
9. A number of objectives set by government pertained to the protection of environmental and food safety standards. Yet while the FTA itself does not require the removal of protections, it is questionable how far the objective of achieving “*meaningful* protection, of the UK’s world-leading environmental and labour standards” (emphasis added) has been secured.
10. In relation to the UK’s SPS objective to “uphold the UK’s high levels of public, animal, and plant health, including food safety”, the FTA permits bilateral SPS recognition. This means the agreement would pose no direct threat to UK import bans relating to hormone-treated beef or chlorine chicken. This is welcome and supports the stated objective.
11. However, in relation to wider standards related objectives, it is debatable if the FTA guarantees the “meaningful protection” promised. Australia has many lower environmental standards than the UK, and only a handful of these are covered by import bans. The rest are UK standards prohibiting procedures such as like mulesing (a painful process condemned by the RSPCA¹ where skin is stripped from the hindquarters of sheep to control pests), branding cows with hot irons, and using particular antibiotics and pesticides. This FTA provides Australian products associated with the practices with far greater access to UK markets, with a phased introduction intended to cushion the economic impact of competition rather than address the longer-term potential for downward pressure from imports produced to lower environmental standards in Australia.
12. We welcome the inclusion of an animal welfare and antimicrobial resistance chapter, which recognises the worries organisations like the RSPCA, CWIF and Alliance to Save our Antibiotics have raised about welfare standards in Australia. However, we note that a focus on animal welfare was not initially highlighted as a key objective for the UK government, and the chapter stops short of including any concrete requirements for Australian goods to meet specific welfare standards, instead reaffirming the right of each party to establish its own policies and priorities for the protection of animal welfare.
13. In the Commons debate² on this FTA on January 5th, the Secretary of State repeatedly made reference to the fact that this deal marks the first time Australia had committed to either an animal welfare or an

¹ <https://kb.rspca.org.au/knowledge-base/what-is-the-rspcas-view-on-mulesing-and-flystrike-prevention-in-sheep/>

Written evidence submission from Friends of the Earth (AUS0009) environment chapter. However, this is incorrect. A number of Australian FTAs contain environmental provisions, and some, including Australia -US and the Comprehensive and Progressive Trans-Pacific Partnerships (CPTPP), contain full environment chapters, albeit of varying quality.

What is likely to be the impact of the agreement

14. The UK-Australia FTA as proposed would not impact upon existing import standards. However, as outlined above, provide tariff-free, quota-free access for goods produced to lower standards presents the potential for the undermining of existing standards in future. If UK producers are unable to compete while maintaining high standards, government will face pressure to downgrade these standards in response. This would present a huge concern for UK consumers, who consistently report a desire for high animal welfare, environmental and food health standards in trade deals. Which? Consumer Priorities survey 2021 found that maintaining food standards in trade deals is a top concern for 91% of people. 87% of respondents were also concerned about animal welfare standards, and 84% about environmental protection³.
15. However, this agreement has the potential to increase the UKs global footprint and the environmental damage associated with supply chains, even if this does not come in the form of lower UK standards. The government's impact assessment suggests overall greenhouse gas emissions "associated with UK-based production" are likely to be largely unchanged by this FTA, while emissions associated with transport are expected to increase by up to 0.3MtCO₂eq a year. No mention is made of changes to the UKs consumption footprint, either in terms of emissions or ecological impacts, which means that opportunities to prevent or mitigate impacts may have been missed, and may be inadequately monitored in future.
16. The impact assessment suggests that the UK will import an additional £4.2bn worth of goods from Australia⁴. That means UK consumers will be made increasingly responsible for negative environmental impacts in Australia – where farmers used 16x times more antibiotics in chicken production (in the last year figures were available) than the UK⁵, sediment from beef production has been linked to declines in the great barrier reef, and deforestation increased by 34% between 2016 and 2018⁶. In Queensland alone, more than a hectare of bushland is cleared every two minutes, for beef and sheep production⁷. Australian agriculture also uses 71 highly hazardous substances, and thousands of other pesticides, that are banned in the UK⁸, including neonicotinoids.
17. Australia operates a patchwork of state-level biodiversity offset schemes, applicable to various forms of development and extraction. A number of Australian mining companies have also opted to work towards carbon neutrality commitments reliant on the use of emissions offsetting. However, these offsetting approaches have been criticised for both failing to address the root causes of climate change and biodiversity loss and for ongoing inadequacy and mismanagement.^{9,10} It will be impossible to fully quantify the extra-territorial impacts of UK imports without a clear understanding of the functioning and efficiency of the Australian offsetting market.
18. Even where this FTA has the potential to increase the supply of goods and services necessary for a 1.5-compliant future, the potential consequences for nature are currently ill-understood. The impact

² <https://hansard.parliament.uk/Commons/2022-01-05/debates/0D922D6F-9A97-455D-90DE-275AA45D1AEB/UK-AustraliaFreeTradeAgreement>

³ <https://www.which.co.uk/policy/euexit/8502/consumer-priorities>

⁴ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1041629/impact-assessment-of-the-free-trade-agreement-between-the-united-kingdom-of-great-britain-and-northern-ireland-and-australia.pdf

⁵ <https://committees.parliament.uk/writtenevidence/12245/pdf/>

⁶ https://www.wwf.org.uk/sites/default/files/2020-07/RiskierBusiness_July2020_V7_0.pdf

⁷ <https://www.beef.org.au/report>

⁸ <https://www.pan-uk.org/toxic-trade/>

⁹ https://www.fauna-flora.org/app/uploads/2017/12/FFI_2015_Biodiversity-Offsets-Australia.pdf

¹⁰ <https://www.theguardian.com/environment/2021/sep/08/coal-companies-allowed-to-delay-environmental-offsets-on-nsw-mines-for-up-to-10-years>

assessment concludes that as the largest global producer of lithium, and third largest of cobalt, Australia could provide the resources to support “emerging UK industries”. However, it does not provide any further detail on the environmental impacts which might be associated with increasing UK imports of resources mined in Australia. These could be significant, particularly if production continues to expand as anticipated.

19. Mining concerns in Australia include failures to respect Indigenous rights, polluted waterways, land clearing and the legacy issues of abandoned mining sites and communities. Cobalt production is heavily dependent on fossil fuels, while high concentrations of cobalt have been linked to the death of crops and worms¹¹ vital for soil fertility. Lithium mining and processing are associated with the seepage of metals into groundwater. The Greenbushes lithium mine in Western Australia is located within an area defined by UNEP WCMC data as containing global critical habitat¹², and adjacent to a river considered a sacred site by the First Nations Noongar people, yet there is limited data available on existing and current impacts from the mine or measures taken to mitigate these.
20. Other minerals used in renewables technology, including iron and copper, are also linked to violations of environmental protections and free, prior and informed consent of indigenous peoples. In 2020 Rio Tinto destroyed sacred Aboriginal rock shelters at Jukan Gorge and prevented local communities from mounting a defence through a gagging clause, highlighting the ongoing nature of abuses and provoking a standing committee inquiry¹³. Furthermore, Native Title law does not allow First Nations people to say no to mining or exploration¹⁴.
21. Australian mining companies are already moving to take advantage of increasing global demand and rising prices by expanding production – and a number of new companies have been granted licenses for exploration in recent years. The combined impacts of this expansion on Indigenous peoples and the environment are currently unclear. While some Australian mining companies have made sustainability claims, these are voluntary, and compliance is complex to substantiate.
22. If the sustainable extraction of resources necessary for ending UK reliance on fossil fuels is to be identified as an area of potential future trade growth, further data should be sought on the potential for increased and cumulative impacts, and assurances sought on the progress made by Australian regulators in preventing abuses. The UK should focus on limiting consumption, assuring the highest possible standards for imports to support a green transition, and ensuring full respect for the rights of local communities, rather than rushing to secure access to resources linked with further detriment.
23. This agreement is likely to negatively impact UK farming. The lower production costs of agri-food products in Australia will increase competition, in addition to presenting challenges to standards as outlined above. DIT’s own Impact Assessment of the UK-Australia FTA suggests that “part of the gains [from the deal] results from a reallocation of resources away from agriculture, forestry, and fishing (around -£94 million) and semi-processed foods (around -£225 million). This is in favour of growth in manufacturing sectors, in particular manufacture of motor vehicles and manufacture of machinery and equipment.”
24. The UK Agricultural and Horticultural Development Board’s November 2021 modelling confirm this pessimistic view: “With Australian producers enjoying considerable cost of production advantages, the implications of lower priced material coming into the UK at some point (possibly quite soon) is very real and potentially substantial. When we include the change to farm support payments in the years ahead, the opening of trade represents a real risk to domestic farm supply chains.¹⁵”
25. It is unclear what impact the animal welfare and antimicrobial resistance chapter might have in practice, given its lack of enforceability and focus on cooperation over commitments to raise standards. The UK impact assessment does not consider the issue in detail, beyond noting the potential for collaboration.

¹¹ https://www.researchgate.net/publication/303871730_Biological_activity_of_soil_contaminated_with_cobalt_tin_and_molybdenum

¹² https://www.researchgate.net/figure/4-Location-of-Australian-lithium-mines-in-areas-of-critical-habitat_fig5_354253801

¹³ <https://theconversation.com/juukan-gorge-inquiry-puts-rio-tinto-on-notice-but-without-drastic-reforms-it-could-happen-again-151377>

¹⁴ <https://www.creativespirits.info/aboriginalculture/land/native-title-issues-problems>

¹⁵ https://projectblue.blob.core.windows.net/media/Default/Market%20Insight/HorizonImpactofUK-AustraliaTrade_211019_WEB.pdf

Given the lower baseline from which Australia begins and the tariff liberalisations discussed above, it appears likely that the overall impact of the deal will be to increase the complicity of UK supply chains in low welfare practices and those linked with growth in treatment-resistant disease unless further action is taken to guarantee import standards.

26. The first incarnation of the Trade and Agriculture Commission (TAC) recommended that government consider setting out core UK standards prior to further trade negotiations¹⁶. Such action could mitigate the potential for this FTA to negatively impact upon UK farming, standards or global footprint. However, thus far the government has made extremely limited progress in progressing TAC recommendations. Government has also thus far failed to clearly set out to what extent and how the recommendations of the newly formed, permanent TAC will be applied to the FTA, if further possible negative agri-food impacts are identified. When questioned directly as to whether government would follow recommendations of the TAC in relation to the Australia deal in the Commons on January 5, the Secretary of State was able only to say that government would await the report and is ‘hopeful we will pass its examination well’¹⁷.
27. Neither the Government’s impact assessment, nor the brief of the TAC, allow for the consideration of the cumulative impact of trade deals the UK is planning to negotiate. This could be particularly significant in some areas given the precedents set by this FTA. The zero-tariff, zero-quota offer extended to Australian agriculture now represents a goal for US and Mercosur negotiators to aim for and could lead to significantly higher cumulative effects, which would not be caught by any single impact assessment.

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

28. Levels of transparency and meaningful engagement have been disappointing across the board, including in relation to negotiations with Australia. The lack of an overarching trade strategy or meaningful action to lay out UK core standards and guiding principles has also hampered efforts to consider or debate the cumulative impacts of and precedents set by new FTAs. Updates within parliament and via stakeholder forums have been extremely high level, indicating only subjects under discussion, rather than whether UK negotiators were taking an ambitious or a regressive approach on them.
29. There are some signs that the government is listening to civil society concerns – since the initial consultation on this FTA, the Department for International Trade (DIT) has set up further stakeholder advisory mechanisms and offered quarterly updates on progress. However, these have been marred by confidentiality requirements and a lack of clear feedback. Equally, while the establishment of a Trade and Agriculture Commission (TAC) to provide recommendations on maintaining standards, and the placement of the TAC on a statutory footing to provide future scrutiny were both welcome, progress on responding to recommendations and establishing the permanent body have been slow.
30. The extent to which civil society concerns have actively informed negotiations is also unclear. There is no clear feedback loop between concerns fed in during the consultation or stakeholder engagement sessions and the positions taken by the UK government, nor the outcomes of negotiations.
31. For example, Friends of the Earth was pleased to see that this deal will not contain an ISDS mechanism. 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, there was little transparency or discussion on the issue and public concerns were regularly dismissed by government. On May 27 2021 Trade Minister Greg Hands was asked to rule ISDS out of the Australia deal but did not, saying “It is a live negotiation, and there will be a chapter on investment. We are huge investors in each other’s markets, and I remind him that the UK has never lost an ISDS case.”¹⁸ Weeks later, in June 2021,

¹⁶ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/969045/Trade-and-Agriculture-Commission-final-report.pdf

¹⁷ <https://hansard.parliament.uk/Commons/2022-01-05/debates/0D922D6F-9A97-455D-90DE-275AA45D1AEB/UK-AustraliaFreeTradeAgreement?highlight=australia#:~:text=%20am%20very-,hopeful,-that%20we%20will>

¹⁸ <https://hansard.parliament.uk/commons/2021-05-27/debates/759585C3-375D-4EBA-BB6A->

Written evidence submission from Friends of the Earth (AUS0009)

the Agreement in Principle was published without an ISDS mechanism, alongside Australian government FAQs clearly stating that Australian negotiators had no interest in pursuing ISDS¹⁹. It is therefore unclear whether ISDS was omitted to any degree due to public concern, or simply ruled out by Australian negotiators. It has proven difficult to engage with government to determine how ISDS may be approached in future negotiations, or to get clear feedback on the level to which stakeholder concerns and evidence are informing the government's position.

32. The exact nature and timings of remaining parliamentary scrutiny is still unclear, as is the extent to which existing and new stakeholders will be engaged in scrutiny, impact assessment and the monitoring and oversight of the deal.

How well has the Government communicated the possible impact of the FTA, to enable you or other stakeholders to prepare for its implementation?

33. Thus far, communications on the possible impact of the agreement have been extremely high level, with many possible impacts ill-explored. While the Impact Assessment recognises that agricultural activities, especially beef and dairy production, contribute to deforestation in Australia, it does not take into account emissions due to deforestation and land use change (p. 46), and limits consideration of impacts to a predominantly economic assessment within the borders of the UK.
34. The relationship between potential issues identified and planned mitigations or changes made over the course of negotiations is also unclear. For example, while the preliminary scoping assessment published in July 2020 suggested that a “resulting shift in sectoral output will marginally move the composition of UK output from sectors that are relatively less CO₂-intensive towards sectors which are, on the whole, more CO₂-intensive”²⁰ it is not clear if or how the government has used this information to reduce the impact of the deal, or what steps stakeholders might take to mitigate impacts.
35. Finally, impact assessments have not been published to a schedule which allows their findings to be considered by stakeholders before and during negotiations. This means that civil society has been unable to engage with potential impact or propose modifications to the deal which could mitigate concerns. UK trade policy should require environmental impact assessments (EIAs) are provided before negotiations commence and regularly updated during the negotiating process. These assessments must inform the development of trade policy at all stages and should affect how trade agreements are agreed, and how environmental impacts are understood and mitigated. 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 Australia?

36. The UK-Australia trade deal highlights a number of inadequacies in the way the UK government is approaching trade policy, and a range of ways in which this could be addressed in future:
 - a. The lack of a clear, published trade policy to inform consideration of negotiating partners, priorities and cumulative impacts means that the UK government risks undermining climate policy and international development objectives via trade deals. The UK should urgently set out such a policy to

[08B217C75017/AgriculturalExportsFromAustraliaTariffs#:~:text=Gentleman%20asked%20about-,ISDS,-%20It%20is%20a](https://www.dfat.gov.au/trade/agreements/negotiations/aukfta/australia-uk-free-trade-agreement-negotiations-frequently-asked-questions-june-2021#isds)

¹⁹ <https://www.dfat.gov.au/trade/agreements/negotiations/aukfta/australia-uk-free-trade-agreement-negotiations-frequently-asked-questions-june-2021#isds>

²⁰ <https://www.gov.uk/government/publications/uks-approach-to-negotiating-a-free-trade-agreement-with-australia/uk-australia-free-trade-agreement-the-uks-strategic-approach#chapter-4-scoping-assessment-for-a-bilateral-free-trade-agreement-between-the-united-kingdom-and-australia>

Written evidence submission from Friends of the Earth (AUS0009)
ensure a joined-up approach across departments, avoid friction and maintain credibility on the international stage.²¹

- b. The lack of early, detailed assessment of impacts, both within the UK and via the UKs global footprint, or consideration of the cumulative impacts of the multiple FTAs currently under negotiation, means it is difficult to fully comprehend and mitigate potential negative effects. This should be addressed in any future negotiations, with a full sustainability impact assessment and monitoring process embedded in the negotiation and implementation of all FTAs. Further consideration of under-explored impacts should take place before this FTA is considered for ratification.
- c. In removing tariffs and quotas on Australian agri-food products, without setting in place UK standards or mechanisms to prevent the import of goods produced to lower standards this FTA also sets a worrying precedent for future negotiations. It suggests that the UK will disregard the climate record of potential trade partners and the environmental impacts of their imports, while simultaneously allowing the undermining of domestic standards. The government should set in place clear UK environmental standards prior to any further negotiations, and make clear that no further market liberalisation will be agreed until protections are in place.
- d. The FTA text does not currently suggest a high level of ambition. Much of the text replicates existing trade agreements – particularly CPTPP – and achievements on animal welfare and climate have been marred by a lack of enforceability and reports of a rollback in the UK commitment to a 1.5 degree target within the text. If the UK government wishes to signal international leadership on trade and climate, it should look to build upon existing best practice and innovate new measures to ensure trade better supports climate objective in future deals.
- e. Transparency and scrutiny around this FTA have been extremely limited. Stakeholders and parliamentarians had no opportunity to review the details of the deal after prior to its signing, and parliament will have only limited opportunity to practically influence outcomes over the coming months of scrutiny. Greater parliamentary scrutiny in the formation of trade policy, alongside improved transparency in stakeholder engagements, would ensure FTAs can be developed in a way that supports rather than hinders measures to address the climate and nature crisis.

For more information please contact:

Kierra Box, campaigner

²¹ <https://greenallianceblog.org.uk/2021/06/10/how-can-the-uk-be-a-credible-trading-nation-without-a-trade-policy/>