

## International Trade Committee Written Evidence

# UK trade negotiations: Agreement with India

### Summary

1. Which? welcomes the opportunity to submit evidence on the implications of the launch of trade negotiations with India. A trade agreement with India could create opportunities for UK businesses and benefits for UK consumers. But it will also raise a number of challenges given the very different policy and regulatory environments.
2. As we have highlighted in previous evidence, Which? has sought to understand consumers' priorities for trade deals by conducting in-depth deliberative consumer research. Our "National Trade Conversation", held in 2020, explored the breadth of issues that could be included within trade deals. This highlighted that, while people welcomed the potential for a greater choice of goods and services and lower prices, the overall priorities that they wanted to guide negotiations were maintaining food and product standards, maintaining data protection and digital rights, protecting the environment and ensuring regional equity, so that all parts of the UK could benefit. A follow up with participants in 2021 reinforced that these issues are priorities for consumers.
3. These priorities are particularly key for negotiations with India. The trade talks will be challenging given the different national contexts and policy priorities. Furthermore, it will be a real test of how the government balances its desire to open up export and investment opportunities, while also standing firm on its commitments around maintaining UK food and data protection standards and ensuring that the negotiations align with the UK's net zero ambitions.
4. The UK already has relatively low tariffs compared to India. Sixty per cent of Indian exports to the UK are already tariff-free, but only 3% of UK exports to India are. This therefore means that the UK may be under pressure to give ground on non-tariff barriers and standards in order to secure market access for UK businesses. India has very different regulatory regimes, both nationally and regionally, and very different approaches to standards and their enforcement. It is therefore crucial that the government stands firm on its commitments to uphold UK standards and ensures that consumer protections are not weakened - whether for food or wider consumer products.
5. The government has also made it clear that digital trade will be an important focus of trade talks. There are opportunities to open up data flows in order to enhance the range of goods and services that consumers have access to. We welcome the government's commitments to maintain UK standards for data protection but have concerns that provisions already agreed within the Japan and Australia free trade agreements if replicated here would undermine this.
6. More generally, the UK should also use trade talks to try and enhance cross-border consumer protections and access to redress. The UK should build on the Consumer Protection chapter that has been included in the Agreement in Principle with New

Zealand and seek to agree a cross-cutting consumer chapter that reinforces consumer interests throughout the trade deal.

## Introduction

7. Which? welcomes the opportunity to submit evidence on the UK's approach to trade negotiations with India. Our evidence focuses on the potential impacts of an agreement on consumers, drawing on the research we have conducted to understand what people across the UK think the government should prioritise as part of its trade policy.
8. In 2020 Which? conducted the 'National Trade Conversation' (NTC) – a series of public dialogues around the UK, with people from a wide range of backgrounds, to understand in greater depth what mattered most to people about trade deals when they had a detailed understanding of the issues that could be part of the negotiations – including greater access to a range of goods and services<sup>1</sup>.
9. The Conversation took place in Northern England, the East Coast of Scotland, Northern Ireland, South Wales and Southern England. Over five virtual workshops people learned about what we trade, how trade deals are negotiated and what the key issues are for the government's priority trade deals. After much debate and questioning, four issues emerged as the overall priorities for most of the people who took part. These four issues were identified as priorities by the majority of participants across all of the locations after hearing a wide range of evidence and in-depth discussions:
  - a. Maintain health and safety standards for food and products
  - b. Maintain data security regulations that protect consumers' digital rights
  - c. Protect the environment
  - d. Help address regional inequalities by protecting and promoting jobs, skills and industries across the UK.
10. Four core principles also underpinned the way that people explained what mattered most to them:
  - a. Fairness and trade for good
  - b. Longevity – deals that are future-proofed
  - c. Deals should represent the whole of the UK
  - d. Transparency in trade negotiations.
11. A year on from our NTC, Which? reconvened some participants from the NTC in a multi-day online research community to understand their views on the development of the government's approach since the first conversation, and to see if their priorities had shifted<sup>2</sup>. Which? also supplemented this deliberative research with a survey<sup>3</sup> in June 2021 that was representative of the UK population to find out people's views on how trade negotiations were progressing and what they considered to be most important. This new research reinforced the importance of the four priorities and in the case of environmental protection, showed that people felt even more strongly that the government needed to ensure trade deals supported efforts to tackle climate change.

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<sup>1</sup> <https://www.which.co.uk/policy/euexit/6731/nationaltradeconversation>

<sup>2</sup> <https://www.which.co.uk/policy/euexit/8502/consumer-priorities>

<sup>3</sup> Yonder, on behalf of Which?, surveyed 3,263 UK adults online between 23rd and 24th June 2021. Data was weighted to be representative of the UK population by age, gender, region, social grade, tenure and work status. We boosted the number of respondents from the devolved nations to ensure we had a large (500+) sample for each.

12. These priorities have implications for many aspects of a free trade agreement, or related trade talks, with India and the trade-offs that the government should be prepared to make.

### **Consumer priorities and the UK's strategic approach**

13. The government published its strategic approach to negotiations with India in January, following consultation. This states that "*A trade agreement with India will make trade easier and cheaper for UK exporters, whilst improving choice and value for UK consumers*". It goes on to suggest that the removal of tariffs and the provision of greater legal certainty by a free trade agreement would support UK businesses in industries that are keen to export to India such as the automotive, agri-food, machinery, and pharmaceutical industries. In terms of how consumers would benefit – it suggests that manufacturers will be able to save costs by accessing cheaper parts for their products and that UK consumers would benefit from improvements in the variety and affordability of available products.
14. Our public dialogues and surveys have shown a strong desire for the government to stand up for UK standards – whether in relation to food and product standards, data protection or environmental protection, as part of the negotiations. Any benefits delivered in terms of greater choice and lower prices will therefore be judged in these terms. It is therefore encouraging to see the government make a number of overarching commitments in this respect. The government states in its strategic approach that one of its overall objectives is to "*Ensure high standards and protections for UK consumers and workers and build on our existing international obligations. This will include not compromising on our high environmental protection, animal welfare and food standards, as well as maintaining our right to regulate in the public interest*".

### **Food and product standards**

15. More specifically in relation to food and product standards, on sanitary and phytosanitary (SPS) measures, it states that it will uphold the UK's high levels of food safety, animal and plant health, and animal welfare and the UK's right to regulate in these areas in the public interest. It will also seek to enhance cooperation on animal welfare and antimicrobial resistance.
16. In terms of technical barriers to trade (TBT) provisions, which relate to technical standards for both food and wider consumer products, the government has set out an objective to "*reduce technical barriers to trade by removing and preventing trade restrictive measures in goods markets, while upholding the safety and quality of products on the UK market*".
17. These are therefore very welcome commitments. We have however seen with recently agreed trade deals and deals agreed in principle, such as those with Australia and New Zealand, that a range of measures included within trade deals can make it very difficult to assess the extent to which these will be maintained longer term – particularly where provisions relating to determination of equivalence of standards or mutual recognition are included and subject to further negotiation and implementation once the deal has been signed.
18. In this regard, it needs to be ensured that the objective to "promote the use of international standards to further facilitate trade between the parties" in relation to TBT measures does not lead to a weakening of standards. International standards are

generally set by consensus and so can represent a 'common denominator' level of protection, rather than necessarily reflecting UK standards and UK consumer expectations. The UK therefore needs to ensure that it maintains standards that go beyond these where necessary and in line with the regulatory approach consumers expect.

19. As we have seen with the Australia trade deal, the UK's ability to maintain its food standards, will be undermined if market access provisions allow imports that are produced to lower standards, including environmental and animal welfare standards, than UK producers, undermining the UK's longer-term shift to a more sustainable food system which will be essential to meet net zero commitments, as well as deliver on the values that matter to UK consumers. We therefore support the recommendations of the Trade and Agriculture Commission<sup>4</sup> (TAC) and Henry Dimbleby in his National Food Strategy<sup>5</sup> that the government should urgently establish the core standards that it will apply across all trade deals.
20. More generally, we are concerned about how the UK will be able to deliver on its commitments to standards when non-tariff barriers are likely to be a large part of the negotiations in return for the tariff reductions the UK will be seeking from India. As the Department for International Trade's note on trade with India that informed its consultation paper set out very clearly, the UK already has relatively low tariffs compared to India. The UK's average is 4.2%, compared to India's average of 14.6%. Sixty per cent of Indian exports to the UK are already tariff-free, but only 3% of UK exports to India are. Six per cent of goods to the UK have a tariff above 15%, but 23% of UK exports to India do.
21. While India has a much higher number of SPS and TBT measures as well as quantitative restrictions and tariff-rate quotas, the UK's measures will also be an issue for negotiation. India has a very different regulatory regime and very different standards. The enforcement regimes that underpin these regimes across each country will also face very different pressures. It is therefore crucial that the government stands firm and delivers on its commitments.

### **Digital trade and data protection**

22. There are many opportunities for digital trade. The government has stated that it will seek commitments on free and trusted cross-border data flows, prevent unjustified data localisation, and maintain the UK's high standards for personal data protection. This is in line with people's priorities and it is also welcome that the objectives refer to promoting online consumer protection. There are opportunities to collaborate to enhance cross-border consumer protections.
23. Recently agreed deals with Japan and Australia have, however, raised concerns about the treatment of UK consumer data. If the same wording were used in an agreement with India, we are concerned that it would undermine the protections consumers expect under the UK General Data Protection Regulation (GDPR) because the wording used allows for recognition of international guidelines and voluntary undertakings that offer less protection. If this wording were replicated in a trade deal with India, we would have concerns that consumers data would not be subject to the same protections when transferred to India and potentially on to other jurisdictions. The government should

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<sup>4</sup> Trade and Agriculture Commission, Final Report, March 2021.

<sup>5</sup> The Plan, National Food Strategy independent review, Henry Dimbleby, July 2021.

review its approach and give assurances that it will be able to deliver on its commitment to maintain the UK's current high standards for data protection.

### **Environmental protection**

24. The government has set out a number of objectives relating to the environment and green growth. It states that it will include measures which: allow the UK to protect our regulatory sovereignty; maintain the integrity - and provide meaningful protection - of the UK's environment and climate legislation; and that it will ensure that both countries reaffirm international environmental and climate protections, including Multilateral Environmental Agreements such as the United Nations Framework Convention on Climate Change and the Paris Agreement. It will also seek provisions that support and help further the government's ambition on environment, climate change and achieving Net Zero greenhouse gas emissions by 2050, including promoting trade in low carbon goods and services and supporting research and development collaboration in pursuit of clean growth. These are all to be welcomed, but given the different starting points of the two countries in terms of climate change ambitions, it is important that the impact of the deal on the environment is assessed in terms of the whole deal, including changes to trading patterns and potential for 'carbon leakage' if goods are imported produced to lower standards than the UK's.

### **Ensuring all parts of the UK benefit**

25. In terms of the fourth priority that was emphasised in our consumer research around regional equity, the strategic approach does set out the objective of delivering for people across the UK, stating that it will "*secure an agreement which works for the whole of the UK and takes appropriate consideration of the UK's constitutional arrangements and obligations*". It is therefore important that as negotiations progress, it seeks input from people across the UK so that it understands their priorities and can deliver on this in a meaningful way.

### **Consumer protection and wider interests**

26. The strategic approach sets out objectives in relation to competition and consumer protection, which is positive – including effective cooperation between enforcement agencies. Building on the recent agreement in principle with New Zealand, we hope that the UK can also push for a specific consumer chapter to be included within any trade agreements. This would reinforce the importance of consumer rights law and cross-border consumer protections, but should go beyond the consumer protection chapter developed with New Zealand to also reinforce consumer interests that run throughout the whole deal, including those set out above.

27. Investment will be a strong focus of the negotiations, as set out in the UK's strategic approach. Investor-State Dispute Settlement which allows companies to take action against countries for alleged discriminatory practices should not be included within any trade agreement. This approach has no place in agreements that the UK is signing up to, as the UK already has a functioning court system.

### **Communication**

28. Negotiations with India could bring many benefits for the UK, but will be complex and involve trade-offs. It is therefore essential that the government ensures that it regularly informs the public about progress and seeks public input in order to inform the positions that it takes and ensures that any agreement will deliver meaningful benefits. Which?

research has highlighted that many people feel that they do not know enough about the government's approach to trade deals and they want the government to be more open. The government should develop more accessible ways for people to find out about its trade deal negotiations, including through regular updates online.

**Which?  
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**Which? is the UK's consumer champion. As an organisation we're not for profit - a powerful force for good, here to make life simpler, fairer and safer for everyone. We're the independent consumer voice that provides impartial advice, investigates, holds businesses to account and works with policymakers to make change happen. We fund our work mainly through member subscriptions, we're not influenced by third parties and we buy all the products that we test.**