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UK trade and the environment: Our position

The UK's exit from the EU represents a critical juncture for shaping the future role of the UK in global economic systems, and the way in which future UK trade actions impact upon the environment. Here we set out our key recommendations for future UK trade policy.

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Summary

Trade can affect the environment both positively and negatively. It has real potential to support improvements in environmental protections and sustainable livelihoods when backed by robust governance provisions and enforcement mechanisms. However, trade can also lead to environmental harm, with greater trade flows intensifying unsustainable patterns of production and consumption. Competition from export lower standards can create pressure to reduce standards in other countries.

The UK's exit from the EU represents a critical juncture for shaping the UK's role in global economic systems and the way in which its trade impacts the environment. The UK government has committed to being "at the forefront of global efforts to protect and improve the natural world, driving the international community to adopt higher standards".

The UK must meet this commitment and take the lead in embedding environmental sustainability "at the very heart of global production and trade". The UK's future trade policy must actively support high environmental standards at home and abroad, and dramatically reduce the UK's global environmental footprint.

Trade and the environment

The environment should come first

Trade policy should be dictated by the kind of nation we want to be and meet UK strategies to protect and restore the environment. The environment should not be used or traded away to secure trade. Nor should environmental policy be dictated by economic ambitions.

Friends of the Earth is calling for a clear overarching mandate for future trade policy (including the future EU-UK relationship) in whatever way possible and for a clear link between the UK's trade strategy and its aspirations for climate and nature.

Our environment needs protecting and improving

Trade drive environmental impacts. Therefore, a key aim of policy should be to trade in ways which don't directly or indirectly undermine or threaten high standards and regulation in the UK or abroad.

As far as possible trade deals should seek to maximise opportunities to decrease input usage, support environmental sustainability and promote trading in ways that decrease parties' contributions to global climate emissions.

We're calling for non-regression to be a key feature of the future UK-EU relationship and future free trade agreements (FTAs), challenging any calls for deals featuring Investor-State Dispute Settlement (ISDS) mechanisms or allowing the import of goods that do not meet current standards, and looking for ways to increase the join-up between environmental and economic ambition.

The impacts of trade on the environment are complex and ongoing

Trade deals impact the environment from the initiation of talks, through the ratification process, to implementation and beyond the life of the deals themselves – and the environmental impacts of trade are often subjugated to the economic impacts. So trade's environmental impacts and its interaction with wider environmental regulation must be monitored and evaluated on an ongoing basis, with strongly enforced protections.

We call for broad impact assessments to take place during the negotiation of trade deals, with ongoing opportunities to mitigate possible impacts and clear routes for both governments and civil society to enforce the environmental provisions of FTAs (and the future UK-EU relationship), including a strong UK watchdog.

Transparency and scrutiny are vital

Trade affects us all and the environment we live in. So it's important that civil society has a clear understanding of the opportunities it has to influence trade policy. And it has clear routes to engage in the development of future trade policy and deals to ensure they support a healthy environment.

We support improvements to transparency and consultation throughout the coming process of negotiating and implementing new and rollover free trs, and the future relationship with the EU.

Recommendations

Mandating, negotiating, adopting and implementing future free trade agreements

Overarching trade policy

The UK needs a clear trade policy that sets out an overall framework for the negotiation of free trade agreements and provides an overarching mandate for them. This policy must be enshrined in new primary legislation rather than non-binding policy guidance. The policy should outline how environmental considerations, including our recommendations below, will be addressed in the negotiations process. Environmental sustainability must be integral to the UK's future trade policy,

and it must be as good as or better than current best practice.

This means either the existing Trade Bill or an additional trade bill must:

- **Legislate for trade policy proposals.** These proposals must be urgently developed in close consultation with the devolved administrations and legislatures; and published and subject to public consultation.
- **Address trade that takes place outside of free trade agreements.** This must include commitments that existing standards will not be weakened in order to permit any imports – including those which are not governed by a free trade agreement – and that all imports are required to meet the UK's existing standards.
- **Include a commitment that the UK will not accede to any existing FTA where its terms have already been agreed,** meaning the UK would be unable to influence them.

Scrutiny and oversight

Free trade agreements must be negotiated with adequate parliamentary scrutiny and proper democratic oversight.

This means the new primary legislation establishing the UK's trade policy must incorporate the following requirements for the development of all future free trade agreements:

- **Adoption of a transparent negotiating process,** including the publication of a negotiating mandate at the outset, as well as the consolidated agreement text during the negotiating process, unless there are overriding reasons for a confidential approach.
- **Establishment of a clear role for Parliament,** and the devolved legislatures where relevant, in setting and voting on the terms of the negotiating mandate, in addition to comprehensive public consultation.
- **A requirement that the remit laid out by the negotiating mandate is followed** and where there's a reason to diverge from it, Parliament is guaranteed a vote on any changes.
- **A guarantee that the International Trade Committee, and relevant committees in the devolved legislatures, will have the opportunity to scrutinise,** comment and feed back on negotiations as they progress.
- **Meaningful consultation with devolved governments and parliaments** to ensure that free trade agreements are jointly designed and owned by the UK's four nations, including seeking legislative consent where relevant.
- **Ensuring Parliament has a final vote** to agree or reject the final negotiated agreement.

Impact assessments

Future free trade agreements should be subject to independent, robust and transparent impact assessments that are as good as or better than existing best practice. Impact assessments should take place during the negotiating process, prior to the final agreement and throughout its life.

This means:

- **All future free trade agreements must be subject to environmental, social and economic impact assessments**, with input from government departments and wider stakeholders. Preliminary assessments must be laid before Parliament (and devolved administrations) before negotiations start and must form part of Parliament's scrutiny of proposed FTAs. Adequate mitigation measures consistent with the mitigation hierarchy must be developed and where applicable, implemented before negotiations can progress. The first step of the mitigation hierarchy is avoidance – this might require policy changes or changes to the proposed FTA terms.
- **Environmental impact assessments must include consideration of the environmental impacts within the UK and globally**, enabling the international sustainability footprint of the UK's trade to be assessed and addressed.
- **All future free trade agreements must include a requirement that their impacts are monitored and reported to Parliament** on a regular basis, and no later than 10 years after the agreement comes into force. FTAs or chapters and provisions within them must be subject to suspension or termination if impact assessments show negative effects and adequate mitigation measures are not implemented.

Content of future free trade agreements

Maintaining standards and protections

The government's trade policy should promote high environmental standards. It should ensure that existing standards are not lowered, support strengthened environmental governance, and reinforce existing multilateral environmental agreements (MEAs) and the UN Sustainable Development Goals.

This means all future free trade agreements must:

- **Not be contingent on the UK lowering its existing standards.**
- **Include an obligation on all parties** to effectively implement and enforce their existing and future domestic environmental laws.
- **Include a core list of environmental principles** that guide all future free trade agreements and the activities conducted under them. Ideally, these agreements would require that this list is enshrined within each of the parties' domestic legislation.
- **Require all parties to ratify and effectively implement a list of existing international environmental agreements** (including MEAs) before the free trade agreement can enter into force.
- **Where appropriate, incorporate high environmental standards** covering areas such as pollution, deforestation, chemicals, land use, energy efficiency and plastics, among others. Where free trade agreements include prescriptive environmental provisions, these must reflect the wording and aims of existing international agreements as closely as possible.
- **Include enforceable commitments to non-regression** that prohibit any weakening of environmental laws and standards. Such commitments must not be linked to motivations or

consequences related to investment arrangements between the parties or to the distortion of trade.

- **Promote co-operation in improving market access for environmental goods and services** and sharing knowledge on protections, including building on the WTO [Environmental Goods Agreement](#).
- **Include a hierarchy clause** stipulating that nothing in the free trade agreement may prejudice the effective implementation of international or domestic environmental, labour and human rights agreements.

Future free trade agreements must include provisions that require imports to meet the UK's relevant high animal welfare and environmental standards, including in relation to food and animal feed. This will ensure a level playing field between imports and domestic production. Imports must not undercut or put pressure on domestic standards or the ability of UK producers to meet UK standards – a situation which could result in risks to the environment in the UK and overseas.

New free trade agreements must include modernised "Exceptions Chapters" that set out the circumstances in which measures that may have the effect of restricting international trade (potentially conflicting with the agreement's objectives) are permitted. These chapters must reflect the range, complexity and severity of threats faced by our planet and its inhabitants, and new scientific evidence where appropriate. In particular, parties must be guaranteed the freedom to develop regulations that go beyond the high standards required by the free trade agreement in relation to recognised public interests such as environmental protection, consumer protection, human rights, animal rights, labour protection and climate change.

Implementation, monitoring, enforcement and dispute settlement

All future free trade agreements must include robust procedures for monitoring the implementation and enforcement of the parties' domestic environmental law and for monitoring their implementation and enforcement against non-compliance. These procedures must go beyond state-to-state dispute resolution and include effective processes for domestic and bilateral monitoring and enforcement including complaints mechanisms.

To achieve this, the UK's future trade policy (enshrined in primary legislation) must require that all future free trade agreements include:

- **Effective transparency requirements and monitoring mechanisms** in relation to the implementation of the parties' domestic environmental laws and the terms of the agreement.
- **Provisions requiring that domestic environmental law is enforceable through domestic administrative, quasi-judicial and judicial proceedings.** These proceedings must be fair, open and equitable and provide access to environmental justice, consistent with rights protected through international law including in the Aarhus Convention and Escazú Agreement.
- **Binding commitments to the creation of a domestic statutory requirement for civil society participation** in monitoring implementation of the free trade agreement's

environmental provisions, and reiteration of the standing of civil society organisations to participate in these mechanisms.

- **A process which strengthens the capacity of citizens and civil society organisations to participate effectively in adequate monitoring and enforcement of domestic environmental law** and the environmental provisions in the free trade agreement. This must include mechanisms allowing these groups to lodge formal complaints about non-compliance, including non-compliance with the agreement's environmental terms, or where a party fails to apply the terms of trade in a way compatible with MEAs.
- **Environmental principles should be incorporated** into future UK trade deals.

The environmental provisions of the UK's future free trade agreements must be enforceable through adequate procedures and in the same way as the economic terms of the deals.

This means:

- **Making maintenance of environmental protections integral to core trade chapters, or part of robust and enforceable environment chapters**, covered by state-to-state dispute resolution.
- **Requiring that environmental experts**, including experts in environmental law and in ecological humanities and sciences, serve as panellists in disputes which affect the environment.
- **Incorporating binding decisions, including the possibility of financial penalties, into dispute settlement procedures** in the event that environmental conditions are breached, to discourage non-compliance. To strengthen the deterrent effect, these fines should not be capped. Penalty monies should be used in specific ways, such as improving environmental law enforcement.
- **Ensuring that no new free trade agreements include ISDS** or other similarly problematic investment protection mechanisms.