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UK TRADE POLICY AND ANIMAL WELFARE

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Design by Blond Creative.

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1. INTRODUCTION

Since leaving the EU in January 2020, the UK has been free to pursue its own independent trade policy, deciding on the level of tariffs it applies to all imports — known as the UK Global Tariff (UKGT) — and negotiating its own trade deals. These have mostly involved rolling over deals which the UK was party to as a member of the EU, but the UK has now signed two entirely new Free Trade Agreements (FTAs) with Australia (December 2021) and New Zealand (February 2022). These have come under significant scrutiny as the UK finds its feet as a wholly independent trading nation for the first time in more than 40 years.

Agri-food is always a highly contentious issue in trade agreements for many reasons, not least due to the role of domestic agriculture:

- In providing national food security
- As a sector employing around half a million UK citizens and providing a key source of income in rural areas
- As a guarantor of food quality (produce) for domestic use, including food that ends up on kitchen tables, as well as in schools and hospital canteens (where consumers have less choice)
- In managing, cultivating and curating the natural environment
- In guaranteeing high standards on animal welfare

As the UK continues to forge ahead with its independent trade policy, it will sign further bilateral trade deals with a range of partners that give them preferential access to the UK market through lower tariffs than those in the UKGT. It is crucial that we appropriately account for the shared concerns of farmers, animal welfare

campaigners and the wider public in the UK who are worried that our world-leading animal welfare practices will be undermined by lower cost imports produced to lower environmental and animal welfare standards.

In the drive to establish the UK's trading strategy, the nation has a chance to firm up its ambition to be a global leader in best practice in animal welfare, helping to drive up standards around the world via its trade policies. It must not allow existing high animal welfare standards in the UK to be undercut by lower standard imports. That would only undermine the efforts of UK farmers and food producers, and make poor animal welfare practices carried out elsewhere yet more permissible, further entrenching unacceptable treatment of animals. Moreover, undermining domestic production of high-quality, high-welfare food in an era of threatened supply chains and new global shortages seems doubly unwise.

PROGRESS TO DATE

Given the significant concern about the potential impact of new trade agreements in these areas, the UK Government established an interim independent Trade and Agriculture Commission (TAC) in July 2020 to provide advice on how trade policy should be managed in a manner that safeguards UK standards. The Commission reported its recommendations in March 2021, setting out clear concerns that our 'high environmental, ethical and animal welfare standards that have been built up in our domestic food system, over many decades... appear to be threatened by the potentially pernicious impact of signing agreements with countries whose food standards appear to be weaker than our own' (p8)¹. The report then sets out as one of its key principles that should underpin future FTAs that the UK should aim to 'match tariff-free market access to relevant climate, environment, animal welfare and ethical standards, remedying competition issues arising where permitted imports do not meet relevant UK and international standards'(p12).

The Government provided its response to the TAC's report in October 2021. In particular, it made commitments to 'undertake an ambitious approach to cooperation and collaboration in many of our new FTAs where we are seeking commitments to work with trading partners on animal welfare', and that 'this will form part of public negotiating objectives in future'². Crucially the Government did not accept the TAC's recommendation that preferential access to the UK market be conditional on meeting certain UK-aligned standards. Instead the Government adopted the softer approach of seeking 'cooperation and collaboration' in future trade objectives, which potentially amounts to warm words but not much more³.

Both the Australia and New Zealand FTAs contain a chapter on animal welfare to 'provide a forum for ongoing cooperation' on animal welfare standards. But this is juxtaposed with a 'goods chapter' which phases out tariffs on beef and lamb without any conditionality or commitment as regards animal welfare standards.

Studies have shown that there are clear differences between Australian and UK animal welfare and environmental standards including Australian live animal transport times that are double those in the

UK, permitted practices of mutilations that are prohibited in the UK, and the clearing of tropical forests for beef production. Whilst the extent to which such differences provide a competitive advantage to Australian producers is contested, the FTA contains very little in terms of “hard measures” to disincentivise such practices. For example, it is notable that UK import tariffs on most pig and poultry products were not liberalised, ostensibly due to concerns over animal welfare standards in these sectors in Australia. This demonstrates that market access can be linked to animal welfare – but in this instance only for sectors that are not an offensive interest for Australia and so the economic impact is very limited.

It remains to be seen if the voluntary commitments contained in these chapters will prevent high standards in the UK from being undercut in practice. Disappointingly, they do not link trade liberalisation to production standards as recommended by the TAC, and the commitments around animal welfare, and to some extent the environment, are not enforceable under the terms of the FTA’s dispute resolution mechanism. If the UK government continues to take such an approach in signing FTAs, the risk is that economic advantage may accrue to those who treat animals and the environment with scant regard, whereas those who try to abide by the highest standards do so at the risk of their own erasure.



2. TRADE AND FOOD PRODUCTION STANDARDS – THE CHALLENGE WE FACE

Since the EU Referendum of June 2016, and in particular the UK's formal departure from the EU following the end of the transition period in January 2021, there has been considerable debate about the approach to food and farming standards that the UK should pursue in the years ahead. In taking back control, the UK has created the space to independently review the regulatory framework in which farmers operate. Theoretically, this almost unique vantage point gives the UK an unprecedented opportunity to positively impact the welfare of farmed animals and the natural environment on which farms depend. While many farms go over and above the legal and regulatory baselines, and while there remains a lively debate about what more UK farmers can do - whether through mandatory or voluntary approaches - there is widespread agreement that the UK's standards on animal welfare and environmental protection are comparatively high in global terms.

But there are also real concerns about the future of our food and farming standards as the UK embarks, by definition, on a more distant relationship with the EU and seeks to secure closer trading relationships with other countries across the world. This reality does not have to mean that UK standards come under pressure, or that the UK public finds goods produced to lower standards form a higher proportion of the food they eat. But it is a clear risk. This report looks at those threats through the prism of our first two newly-negotiated free trade agreements with Australia and New Zealand, and draws out the lessons that can be learned from the final texts to provide a better template for a future approach to trade negotiations that ensures the UK and its farmers do not pay a penalty for the UK being a global leader in environmental and climate-friendly, high welfare farming.

THE CHALLENGE OF MANAGING FOOD AND FARMING STANDARDS IN TRADE POLICY

The challenge is best understood through the distinction between product and production standards when it comes to food and farming. Many existing standards relate to the safety of the end product, for instance where a food product is deemed unsafe to eat or could carry pathogens that pose a threat to animals or the environment. International trade rules typically allow for countries to control imports to restrict such products from entering their territory, usually under so called Sanitary and Phytosanitary rules (SPS). As long as the evidence for applying such controls is scientifically sound and not a disguised trade barrier, then import of food that is unsafe or poses a risk of harm to human, animal or plant health – in the importing country – can be banned or restricted.

Production standards, however (sometimes referred to as processes or production methods, or PPM), are treated quite differently. PPM standards relate to the way in which a good has been produced, and in food and farming often encompasses issues such as animal welfare or environmental protection. This is particularly relevant if the PPM does not affect the physical characteristics of the final product, for example a battery egg compared to a free range egg. The key feature of these standards, as they relate to trade, is that they are deemed to present no risk to the importing country as long as the end product is safe, and so are often deemed to provide insufficient grounds on which to ban or restrict imports.

Of course, there are grey areas here, particularly as related to market failure issues in globalised trade around public 'goods' and public 'bads'. Climate change, for example, is an issue that affects us all regardless of where emissions are produced, and we all have an interest in the wellbeing of animals regardless of where they live or are being reared. Indeed, there has been some recent precedent in imposing import controls on the basis of production methods, such as the upholding of the UK's right to stop imports of seal products based on how they were produced⁴. Nevertheless, global trade rules are far less advanced and developed with respect to PPMs than they are for product standards. It is certainly possible to apply controls on imports on the basis of production standards, but it is generally considered much more controversial among trading partners and, bluntly, such approaches are harder to enforce and may often lead to disputes being raised.

There can also be confusion amongst the public and policy-makers over whether an import control relates to product or production standards. The oft-cited example of "chlorine-washed chicken" provides a good illustration of this. Many of the arguments around the practice of washing chicken carcasses in chemical disinfectants revolve around issues of animal welfare and the fact that such measures serve to mask shortcomings in the standards of husbandry during the lifetime of the animal which make such practices necessary. However, the ban on these imports is not on animal welfare grounds, but instead over concerns of the safety of the end product – the chicken - with regard to the final consumer. Even though such concerns are disputed, there is much clearer framework to justify the ban on these SPS/product safety grounds rather than on animal welfare or production grounds.

These complexities and the confusion they generate is why our government, having made such strong pledges to safeguard our food and farming standards, needs to clearly set out how it intends to meet those commitments. Warm words will simply not survive the cut and thrust of international trade, despite the firm commitments made by the UK Government

THE NATURE OF THE CONCERN ON ANIMAL WELFARE AND THE ENVIRONMENT

Domestically, many of the questions about our future post-Brexit approach to animal welfare and environmental standards also remain unanswered, although some details are beginning to emerge, with the government bringing forward legislation on animal welfare and the details of a new “public money for public goods” system of farm support now in development.

However, we have still to answer the key question of: How will these standards will be safeguarded as we embark on our independent trade policy and begin to secure trade deals that open up our market to food imports from around the world? Following the Free Trade Agreements recently signed with the Australian and New Zealand Governments, we have confirmation that the UK intends to use these trade deals to significantly liberalise its agricultural markets. Specifically, the FTAs will eliminate import tariffs on the vast majority of agri-food products over time, making it much more cost effective for foreign producers to export to the UK. The UK will then have to manage increasing volumes of imports from these markets, as well as potentially other agricultural powerhouses such as the USA and South America, who often have very different standards, whilst achieving its own objectives on animal welfare and environmental protection. A natural corollary question then arises: What measures and mechanisms are available to the UK to ensure that our own standards are not undermined or compromised, and that the farmers we are asking to meet those standards are not put out of business? A very real economic possibility and surely an egregious outcome in an age of supply chain insecurity and impending global food shortages.

To begin with, we should carefully analyse some of the language that has been used in addressing the debate. As set out in the introduction, we are often told, in reassuring tones, that in pursuit of economically beneficial new trade deals we will not undertake any reductions in our own high standards. But this could mean that the UK simply maintains current regulatory requirements for UK producers, while allowing lower standard imports to undercut those farmers, particularly as they relate to production rather than product standards. If our new trade deals completely remove current tariffs without alternative ways of managing imports on the basis of how they've been produced, then there is a real risk we will see a significant increase in the imports of such food and a decrease in the farms producing that food in the UK. In a worst case scenario we could have some of the highest farm standards in the world but no one producing to them. Such a scenario is not as far-fetched as it sounds. In the 1990s, the use of “sow stalls” was banned in UK pig production due to animal welfare concerns, but not in other European countries. It was believed that UK shoppers would vote with their wallets and support the move by continuing to buy British pork. Instead, UK

pig meat imports from Denmark and Germany rocketed, while the number of UK producers fell from almost 10,000 in 1999 to less than 6,000 within ten years. UK self-sufficiency in pig meat fell from 80% to 50% over the next 20 years.

The risk of this approach – continuing with an imbalance in the standards of production of the food we produce ourselves and the food we import - is important for two key reasons:

1. The negative impact it could have on attempts to maintain, or even raise, the high standards of our own farmers. If UK farmers struggle to compete with imports produced more cheaply to lower standards elsewhere, they effectively have two options: they can argue that the UK's standards should be reduced to allow them to compete, or they can stop producing food altogether. Neither of these are options UK farmers want to entertain. But in either case, the proportion of food available in the UK produced to lower standards will increase. Meanwhile, the ambition for the UK farmed environment to be home to climate-friendly, high welfare farming will be lost, and the fabric of rural communities could start to be picked apart.
2. The negative impact it could have on the standards of animal welfare and environmental impact across the world. The UK has made a strong case that we should be global leaders in rising to the challenges of climate change, biodiversity restoration and animal welfare in the 21st Century. If our trade deals and trade policy merely reflect this in the comforting language of increasing cooperation but with little ability to enforce these aspirations, they are dangerous and misleading euphemisms. It is certainly arguable, with the right approach, that free trade can be an effective tool in improving animal welfare standards. But equally, if the terms of an FTA are not suitably robust, opening up a market of almost 70 million consumers regardless of the standards to which imported food has been produced can incentivise and reward lower standards, rather than seek to phase them out. We find ourselves providing fuel to the very practices we have pledged to end.

Together, these outcomes would risk lowering rather than improving the treatment of farmed animals worldwide, put at risk the livelihoods of farmers in high-welfare systems such as the UK, and reduce the availability of high-welfare products for consumers.

POSSIBLE SOLUTIONS

Maintaining and supporting high standards in UK farming is a multi-faceted challenge, and clearly goes beyond simply trade policy and the detail of trade deals. Consumers have a role to play in the way they exercise choice in what they buy - but that involves significant improvements in labelling and food information, especially with regard to the large proportion of food consumed outside the home, an enormous challenge that has proved difficult to tackle despite many years of trying. It is also important to be realistic about the extent to which consumer information is an adequate tool in managing concerns about

production standards. In particular, a labelling regime needs to provide complex information in an easy-to-understand format, while navigating the complexities and trade-offs between environmental and welfare objectives. All the while, in the face of rising food prices, the vast majority of consumers will continue to buy food largely or entirely on the basis of price, trusting retailers and food outlets themselves to ensure all the food they sell meets their expectations around high standards.

The Government is currently consulting on mandatory labelling schemes and this is an area of importance that should not be ignored. At the very least British consumers should have access to verifiable information about product provenance, production standards and animal welfare standards to enable them to make informed choices about the food they buy.

There is also an ongoing role for voluntary assurance schemes, such as the Red Tractor, LEAF Marque or RSPCA Assured. These can provide additional reassurance of the standards food is produced to, and help consumers exercise greater choice. But again, this does not address large areas of our food market such as processed food or the food service sector where information is scant, and consumers are often in the dark about the provenance of the goods they buy. It also has little to no impact on the standards of producers abroad, which is often as much of a concern to the public as standards at home.

Trade policy, on the other hand, can prove an effective tool if deployed properly both in safeguarding standards at home and incentivising higher standards abroad. UK farmers have the opportunity to be world leaders in high quality, high standard food - but only if they are allowed to compete on equal terms. Section 4 below sets out how that can be achieved, in a way that means the UK can truly claim not only to be a liberal, free-trading nation, but also a pioneer in rising to the challenges of achieving more sustainable models of consumption and production across the globe.



3. WELFARE STANDARDS IN THE UK

Before going on to examine how to create a fairer set of trading principles that address production standards in the UK's agri-food sector in the following section, this section looks at some of the specific concerns relating to the UK's comparatively high food-production standards.

The principle of free trade agreements with any country - including Australia and New Zealand, which seek to boost opportunities for trade and investment - is admirable, provided that any agreement upholds production standards for the parties involved. As this principle relates to animal welfare, it is also clearly the Government's own view, having set out in their 2019 manifesto that "in all of our trade negotiations, we will not compromise on our high environmental protection, animal welfare and food standards"⁵.

When looking at how this guiding principle is to be maintained, any process of agreeing a trade agreement should be governed by two key questions, namely: What are the differences in the animal welfare standards between the two countries in the agri-food sectors under consideration; and: how important are each of these sub-sectors, whether they be eggs, beef, dairy, pig meat, poultry meat or lamb to the respective countries trade agenda? The latter can be teased out by looking at the difference in volumes produced in each country, the amounts exported and imported in the respective countries, and the self-sufficiency of each sector. There are of course important differences in different sub-sectors. The UK imports more than it exports for many animal derived products. For instance, the UK imports more than half of pig meat consumed in the UK, with imports entirely coming from the EU, compared to the beef industry where the UK is 76% self-sufficient in beef production, and with only 10% of total beef imports coming from outside the EU. In the chicken industry, the UK is 65% self-sufficient, but a third of total imports already come from

outside the EU. The type of farming for which different trading nations are comparatively advantaged is highly influenced by climate and land. The UK for example, is a group of islands with a mostly temperate climate, and is well suited to pasture type grazing for dairy and beef cattle in particular. Australia, with a landmass 32 times bigger than the UK and a largely subtropical and tropical climate subject to droughts, has focused on larger farms, particularly in relation to beef and lamb production.

Turning to our recently signed trade deals, the UK government has signalled that it will liberalise imports of agricultural products with large and competitive agricultural producers. Export trade, especially in agri-food sectors such as lamb and beef, is integral to Australia and New Zealand, who both have relatively large shares of employment in agriculture for developed nations, and are founding members of the Cairns group of countries who prioritise the liberalisation of agricultural trade. The UK is still feeling its way on trade issues, having only recently detached from the EU's trade, agricultural and commercial policies. With its first independent trade deals, the UK is beginning to signal the direction in which it wishes to go, favouring a strongly liberal approach over a more cautious approach protecting standards in-line with that of the EU.

Looking at farm welfare standards, the UK inherited around 19 farm animal welfare legislative standards from the EU built up over the past 47 years providing specific minimum standards for husbandry of laying hens, chicken, pigs, and calves. Indeed, in some cases the UK has gone further than these EU agreements, including putting bans on sow stalls and ensuring better levels of stocking density for chickens. In addition, the UK's devolved nations have all adopted farm codes for many animals which recommend specific and detailed production standards. England is currently updating its farm codes and has recently agreed new codes for laying hens and broilers and is in the process of updating the code for pigs. There are also codes for beef and dairy cattle, deer, sheep and goats all of which are due to be updated in the near future. The UK's farm standards are all in excess of the World Organisation for Animal Health's (OIE) 12 farm welfare global Codes and set specific standards in legislation for all the farm species covered by the OIE Codes aside from beef and dairy cattle.

As set out in section 2 above, *none* of these animal welfare laws on 'production' are currently underpinned by trade measures such as import bans on countries not using similar standards, other than the mandatory labelling system on eggs for the treatment of hens, and the import ban on meat not slaughtered to UK standards.

In addition, the UK has inherited four animal health 'product' laws, including the aforementioned chlorine chicken ban and also the well-known beef-hormone ban, which do have trade elements as they stop the use, sale and import of these products.

Taking Australia – our first new FTA partner - as a comparator, there are some notable differences in animal welfare practices. In Australia there are very few national laws on farm animals and the voluntary Model

Codes of Practice for livestock are still being developed and will not be legally binding in the individual States when completed. Whilst Australia meets the standards in the OIE Codes for live transport and slaughter of animals (although these are non-specific on issues such as journey times), there are a number of areas where it does not meet standards or lags UK standards. For example, a number of States would not meet the OIE specific Codes on beef, chicken and dairy farming. Additionally, for beef, Australia allows transportation of animals for double the time permitted in the UK, it has no mandatory CCTV in its abattoirs, which are required in England and Scotland and soon in Wales, and one million beef cattle are kept on feedlots with no shade⁶. On sheep farming, in both the wool and lamb sectors, it permits mulesing whereby the back end of the merino sheep is cut off to prevent flystrike, a practice banned in the UK. Over 60% of its eggs are produced in conventional battery cage systems that were prohibited in the UK in 2021⁷, and its pig industry permits the use of sow stalls, which ended 22 years ago in the UK⁸.

It remains to be seen what the implications of the trade deals with Australia and with New Zealand will be, but it *is* clear that the UK has not negotiated adequate safeguards should imports of food produced to lower standards increase under the terms of this deal. For instance, the UK currently imports little wool that has been derived from Australian flocks where mulesing is permitted. However, there is nothing in this deal that would prevent such imports increasing in future. Furthermore, while it is to be welcomed that both FTAs contain chapters on animal welfare and the environment, the environmental chapter only applies to national level regulations and laws in Australia where many laws in fact exist at state level. The provisions in the animal welfare chapter are not enforceable, and represent a positive intention to cooperate but little more.

There may be some debate as to the extent of poor welfare in reality on farms in Australia, as opposed to the absence of legislation which requires high animal welfare approaches. But what is clear is that the FTA does little to address the issue should animal welfare standards be lower in practice – in this instance the UK has limited “hard” powers to address such differences. While there are clear concerns with some animal welfare standards in our new FTA partners, it might be hoped that the inclusion of animal welfare and environment chapters provides a helpful framework for collaboration and engagement between like-minded countries. But this “fingers-crossed” approach is clearly too weak in addressing real concerns that might arise once trade deals become operational and imports potentially increase. It should not be relied upon as we continue to negotiate future trade deals with other countries. It is interesting to note that the UK has excluded chicken, eggs and pork from tariff liberalisation under the Australia FTA, apparently on the basis that animal welfare standards do not meet UK expectations. However, Australia exports negligible volumes of these products, so this approach will likely have little impact in practice. Nevertheless, it does provide an important point of principle that the UK should pursue in future with other trade partners seeking an FTA, in particular where such products may be traded in meaningful volumes.

The UK is rightly proud of the animal welfare standards it has built up over two centuries. Indeed, the first welfare standard introduced, for protecting cattle, has its 200th birthday in 2022. But with higher standards

comes obligations and responsibilities. Giving animals a better quality of life, such as through more space per animal, typically raises costs in food production. Analysis from the eggs industry shows production costs may increase by a third when moving from the conventional battery cage to the free-range system. Separately, analysis in the pig industry comparing the intensive sow stall with extensive outdoor bred pigs shows a 17% price difference in production costs for a slaughter pig between higher welfare and lower welfare standards⁹.

These are clearly pertinent facts as they underline the risk that imports under FTAs may have been produced more competitively directly or partially on account of lower welfare standards, and so could see UK farmers being undercut for producing to higher, but more expensive, welfare standards. Unless trade deals include safeguards, such as making preferential access to the UK market conditional on meeting specific standards, the UK will risk offshoring its food production where it has little or no control over animal welfare standards. In short, it will become meaningless for the UK to have some of the highest farm welfare standards in the world but with its food coming from farmers in other countries who are not adhering to them.

Fortunately there are solutions, which can be implemented and enforced via effective trade deals. These are set out in detail in the sections below, but broadly include: Strong and specific wording in the trade agreement to encourage and enable cooperation on animal welfare standards internationally, and agreement to cooperate on research on animal welfare standards; strong and specific language to recognise the right of individual countries to regulate their own food health and safety standards and which permit these standards to be maintained (e.g. as with the beef-hormone and chlorine chicken bans); freedom to introduce labelling regimes on both home produced and imported products. And most importantly, conditional language that permits freer trade but only in those products that have produced to equivalent standards to those produced domestically, combined with a clear framework of those domestic core standards.

Indeed, there are precedents for strong animal welfare provisions in an FTA. The EU has agreed to two FTAs which had specific language included on animal welfare - with Chile in 2002 and South Korea in 2011. The EU-Chile FTA successfully improved slaughterhouses in Chile, leading to an improvement in animal welfare there and a liberalisation in trade from Chile to the EU saw poultry exports from Chile rise 20-fold between 2003 and 2020¹⁰.



4. AN APPROACH TO FUTURE TRADE POLICY – DEVELOPING CORE STANDARDS

The report of the first Trade and Agriculture Commission in 2021 set out some important recommendations on how a country like the UK can safeguard its standards of production. This means both preventing domestic production standards being undermined by lower standard imports, as well as incentivising higher standards abroad by allowing access to the UK's highly prized market of nearly 70m consumers for food produced in a certain way.

The focus of the first Trade and Agriculture Commission report was how to approach this challenge through specific Free Trade Agreements. The 2022 report of the Trade and Agriculture Commission on the UK-Australia FTA continued this approach by assessing the impact of the deal on UK legislative standards. This makes sense given that FTAs essentially allow the parties to derogate from, and build on, commitments they would otherwise need to observe as WTO members, and so offers some flexibility for the parties to look at creative ways of addressing production standards. However, if the UK government is to be truly ambitious in relation to safeguarding and promoting high standards through its trade policy, it should look to adopt an approach that applies both to trade agreements and broader trade outside specific deals governed by WTO rules and commitments.

In this respect, many stakeholders have supported the notion of developing a set of core standards, something the first TAC itself recommended. These would be recognised by the FTA parties, forming the basis of a commitment both to meet certain standards of production, and then agreeing mechanisms to enforce those commitments. Moreover, the attractiveness of this approach is that it would mean the UK could develop a set of core standards that stands independent of trade deals, and which could form the basis of its import policy and broader trade policy whether within or outside of specific FTAs.

These core standards would reflect the UK's own production standards. They would be developed independently by the UK government in consultation with farmers and food businesses, NGOs and civil society organisations, and the wider public. These core standards would therefore be predicated on the regulatory and legal requirements relating to animal welfare and environmental protection that farmers and growers in the UK are required to adhere to.

The process of developing a set of core standards would need to take into account a number of key questions, as follows:

- 1. Which standards should be prioritised?** Given the administrative challenge and the potential trade frictions of requiring imports to meet a defined set of core standards, the UK should seek to prioritise specific standards that currently apply to UK producers. Those to be omitted may include standards and requirements that are clearly UK specific or that involve negligible additional cost on UK producers. In both cases, it will need to be demonstrated that omitting standards in relation to imports would not have a negative effect or otherwise incentivise or reward poor practice in relation to animal welfare and/or environmental protection, either in the UK or in the exporting country.
- 2. How should the core standards be structured?** The government should take a two-tiered approach, introducing a top tier of "red line" standards and a second tier of "aspirational standards". Food imports, whether from an FTA partner or not, that fail to meet standards in the top tier would be subject to simple bans, and so these red line areas would need to include and proscribe the most environmentally damaging or low welfare practices and would reflect commensurate bans in domestic legislation. The second tier would then cover more aspirational standards. These could be included in FTAs and provide preferential access under low or zero tariffs. Imports that do not meet these standards would not be banned but would not be allowed any preferential tariff treatment below that set out in the current UK global tariff (UKGT).
- 3. How can the UK's approach be future-proofed?** There will be ongoing debate about how best to regulate for environmental and welfare outcomes in the UK, and the legal framework within which farmers and food producers operate will no doubt continue to change and adapt in the years ahead. The system of core standards must be flexible in order to accommodate these changes and to ensure that trading partners are not discriminated against by these changes in a way that might contravene the UK's WTO commitments.

4. How can exporting countries practically demonstrate adherence to core standards? In relation to FTAs, the terms of any agreement can include specific mechanisms for enforcing agreed standards. One option would be to reflect the approach the UK government has already taken with the EU through the Trade and Cooperation Agreement, which agrees zero-tariff, zero-quota trade on a conditional basis, and that allows such preferences to be suspended in instances where significant regulatory differences exist. Under the two-tiered approach set out above, only imports that qualify under the second-tier would be provided tariff-free access, which could be suspended if it is shown that such standards are not being met.

With respect to general import policy - i.e. applying import controls or restrictions on products that do not meet the tier-one core standards - it will be important to develop systems of demonstrating adherence that do not result in *de facto* discriminatory treatment of imports compared to domestic products. There are a number of initiatives currently in train looking to develop a harmonised set of agreed international standards around the sustainability of food production which may form the basis for such a system. Ultimately, the exporter / importer will need to demonstrate that their product meets the requisite standards, and the economic benefit of doing so can drive the development of appropriate systems of monitoring compliance. The 2022 TAC report highlighted that the Australia-UK FTA does not restrict the UK Government's ability, under GATT (General Agreement of Tariffs and Trade) Article XX (the General Exceptions), to exercise trade-restrictions where justified. For example, this could be on the basis of public morals (Art XXa), which has previously been held to include animal welfare concerns (for example, in the WTO's 2013 upholding of EU restrictions on products derived from seal hunting). The Government needs to be bold in defending restrictions on the basis of animal welfare in the WTO, taking care to ensure compliance with WTO disciplines in appealing to Article XXa.

Additionally, as of June 2022, the European Commission has further proposed that there is scope under the same principle to extend EU production and animal welfare standards to imported agricultural and agri-food products¹¹. In this context, the proposal for core standards as set out in this paper looks increasingly like being an emerging norm in trade negotiations and moreover is a clear raising of international standards in animal welfare which the Government has already committed to equalling if not exceeding.

The UK government can also look at agreeing, on a case-by-case basis, equivalence for environmental and animal welfare regulations where they are deemed to offer a similar level of protection to those that exist in the UK. The UK government should also seek to facilitate as close alignment as possible between domestic standards and international standards. By reflecting international standards agreed by such bodies as the OIE, Codex Alimentarius Commission, and the International Plant Protection Convention (IPPC), the UK's core standards will be far less likely to fall foul of international disputes. Nevertheless, UK standards do and will continue to exceed international standards in some cases. Where this is the case the UK should seek to ensure those domestic standards are reflected in the core standards in our import policy.

By developing this core set of standards and placing them at the heart of our FTAs and our general import policies, the government can ensure that UK consumers have the confidence that any products that they buy will not result in the offshoring of environmental harm or animal welfare standards to countries with lower regulatory protections.

There are clearly some significant complexities involved with developing core standards, not least due to the different approaches in different countries to tackling common problems, which may lead to a mix of outcome-based and management-based standards. In practice this is not a problem - the standards should be developed on a case-by-case basis depending on what best achieves the intended aims of the approach - but it does highlight that there is no time to lose in kicking off this process.



5. CONCLUSIONS AND RECOMMENDATIONS

The UK can and must go further than the recent trade deals with Australia and New Zealand to ensure that animal welfare and environmental standards in food production are maintained in the UK, that consumers are not met with products produced to lower standards, and that UK farmers are not undercut by products not produced to their same high standards. The risk is that if we don't draw the line after agreements with relatively similar nations we dramatically expose ourselves, our farmers and our farm animals, when engaging in agreements with countries whose practices diverge far more widely than Australia and New Zealand do from ours.

The precedents established in trade deals agreed now set the tone for future trade deals. Full liberalisation on tariffs and quotas without conditionality with countries like Australia and New Zealand demonstrate the direction of travel of the UK government's trade policy – the liberalisation of trade in agriculture with other major agricultural producers, potentially with lower animal welfare and environmental standards, such as North and South America and Asia.

It is welcome that the UK has inserted chapters on animal welfare in both the Australia and New Zealand FTAs, but the final texts fall short of the clear and specific measures and conditionality on core standards needed to ensure that the Government holds itself to previous statements made, including in response to the Trade and Agriculture Commission's report.

The following recommendations would ensure that the Government's commitments are realised in future: -

- Trade liberalisation in the form of tariff and quota reductions should be linked to meeting environmental and animal welfare standards in production. Additionally, on the most important issues, the UK should seek to control imports not only on the grounds of the safety of the final product, but also on the basis of how it has been produced.
- In order to achieve this, the UK should adopt – in collaboration with appropriate industry and civil society partners – a set of core production standards in the agri-food industry that will apply to any future trade deals and import policy more broadly. These standards should be explicitly recognised in future FTAs and the government should also seek to adopt WTO-compliant measures to control imports of products contravening the most important of these standards. Any liberalisation should be conditional on meeting such core standards.
- FTAs should contain strong and specific wording which commits all parties to: promote cooperation on welfare standards internationally; cooperate on future research on animal welfare standards; recognise and maintain food safety standards in the country where these are strongest; and freedom to introduce labelling regimes on both home produced and imported products.
- The UK should work towards harmonisation of animal welfare and environmental standards within trade agreements, ensuring there is no regression in standards and mutually raising such standards where appropriate. This should include provision for trade agreements to be jointly amended as animal welfare and environmental standards are improved over time.
- The UK should seek all possible opportunities to show leadership in international forums, including the Organisation for Animal Health (OIE), International Plant Protection Convention (IPPC) and Codex Alimentarius for food safety standards, to drive global agreement and recognition of high standards in food safety, animal welfare and environmental protection. This should be a clear and stated objective of UK trade diplomacy at WTO and in other international forums. Where other nations have signed up to international guidelines these can be used to assess adherence to standards. Where there is a lack of implementation through legislation, training and assistance programmes can be considered.
- The UK should take opportunities at the WTO to promote agreement that Article XXa of the General Exceptions covers animal welfare, using the language in both Australia and New Zealand FTAs which encourages cooperation in the WTO and allows use of Article XXa in trade policy decisions.
- The UK government should mirror the approach it has already taken with the EU through the Trade and Cooperation Agreement, which agrees zero-tariff, zero-quota trade on a conditional basis, and that allows such preferences to be suspended in instances where significant regulatory differences exist.
- FTAs should include provision for the creation of forums which can facilitate the checking of production standards in importer countries

ENDNOTES

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In the post-Brexit drive to establish the UK's trading strategy, the nation has a chance to firm up its ambition to be a global leader in best practice in animal welfare in the agri-food sector, helping to drive up standards around the world via its trade policies. However, in the new trade deals signed to-date a concerning precedent has been set which could see British farm produce undercut by imports from countries with lower animal welfare standards.

The UK must not allow our existing high-standard animal welfare practices to be undercut by imports that have been produced in countries with lower production standards for animal welfare. That would undermine the efforts of UK farmers and food producers to improve animal welfare in the agri-food sector, and make poor animal welfare practices carried out elsewhere yet more permissible, further entrenching unacceptable treatment of animals.

The UK has some of the best farm practices for animal welfare in the world, but in the future we risk having some of the highest animal welfare standards with no one producing to them.



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