



**TRADE JUSTICE  
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# UK-India trade negotiations: why both countries must put development first

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**October 2022**

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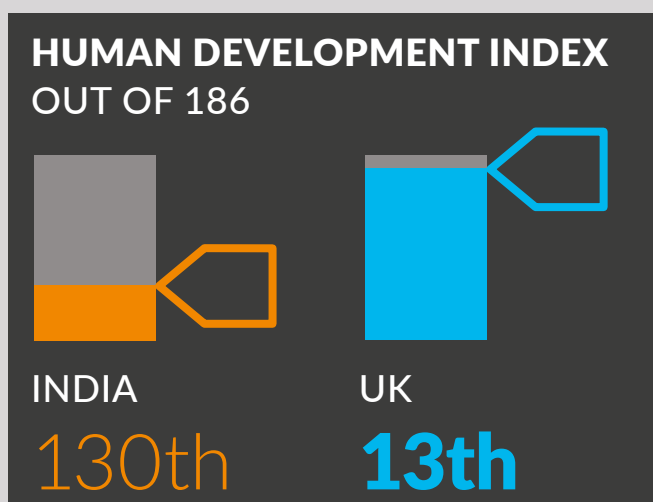
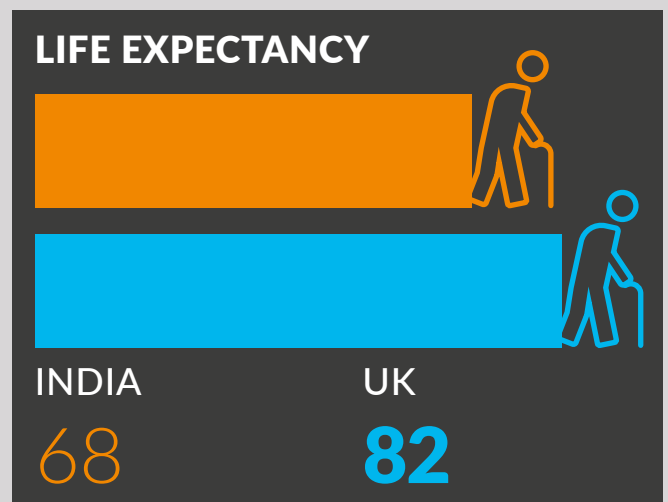
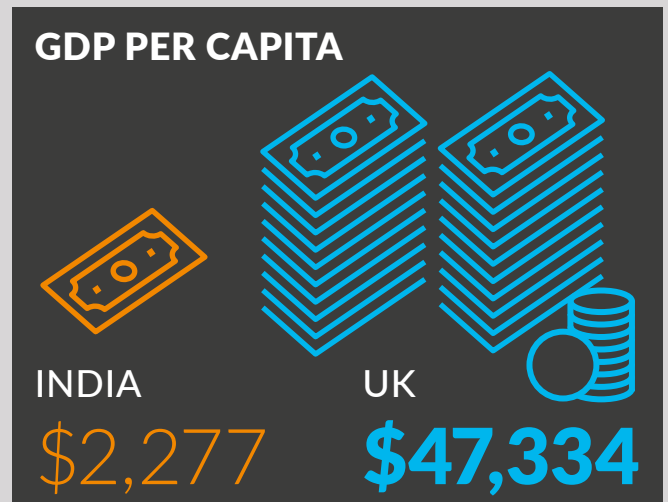
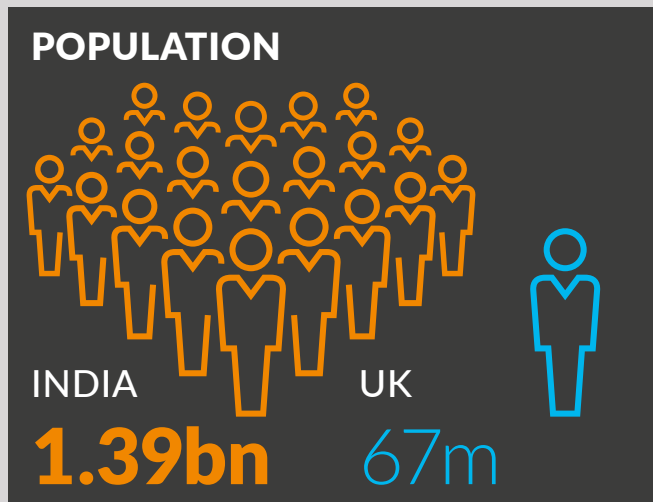
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# Key development indicators: India and the UK



Sources: [World Bank data](#)

# Executive summary

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**This report, launched to coincide with the original deadline set by UK and Indian leaders, calls for a pause in the pursuit of a trade agreement until the serious human rights situation in India is rectified. It also calls for both parties to ensure a future FTA is fully aligned with their commitments to the United Nations Sustainable Development Goals (SDGs).**

Serious human rights concerns have been raised by both domestic and international organisations in response to events in India. Allegations include disappearances, torture, excessive use of force and arbitrary arrests, unlawful and arbitrary surveillance of citizens, and listing academics, journalists and lawyers as “enemies of state.”<sup>1</sup> The Trade Justice Movement (TJM) believes that India’s poor track record on human rights abuses should be adequate reason for the UK to rethink its pursuit of a trade agreement with India altogether.

The UK should work with India to address this situation and ensure it has ratified and is implementing the UN Convention Against Torture, of which it is currently only a signatory, and ILO conventions 87 (Freedom of Association and Protection of the Right to Organise) and 98 (Right to Organise and Collective Bargaining). TJM believes that such conditions should apply to all of the UK’s trade partners, as has been the case for countries benefiting from enhanced preferences under the European Union’s (EU) Generalised System of Preferences (GSP) scheme.

Once the conditions are in place for negotiations to continue, both parties should ensure that they are undertaken with the explicit aim of aligning the agreement with the United Nations SDGs, including revisiting existing texts. It can be easy to overlook the fact that whilst India’s Gross Domestic Product (GDP) is roughly the same as the UK’s, it is still home to one quarter of the global total of people living in extreme poverty.<sup>2</sup> Despite its SDG commitments and India’s status as a developing country, the UK’s published strategic approach to the FTA references the SDGs only once, in a footnote. Instead, the focus is very

clearly on increasing exports from UK businesses and achieving geopolitical objectives.

Putting the SDGs at the heart of trade negotiations is essential to ensuring the benefits of FTAs are evenly distributed. Both the UK and India have committed to achieving ‘policy coherence for development’ in SDG 17, this means that trade policy must be coherent with their other SDG commitments. In the absence of a clear strategy to do this, according to the UN Conference on Trade and Development (UNCTAD), trade liberalisation can displace workers, negatively impact on social and environmental protections and facilitate bad business practices.<sup>3</sup> So far, the UK has not indicated that it will consider the interaction of trade and development in adequate detail when negotiating an FTA with India.

The FTA is currently predicted to increase overall greenhouse gas (GHG) emissions, in direct contradiction of SDG 13. Most of the direct emissions would come from increased transport emissions but the agreement could also prevent both the UK and India from introducing important policy measures. The UK has already had experience of this: it narrowly avoided being taken by the EU to World Trade Organisation (WTO) dispute settlement when it tried to ensure local benefits from its renewables contracts.<sup>4</sup> Both countries are signatories to the Paris Climate Agreement and the UK has committed to achieving net zero emissions by 2050. Neither country should therefore be contemplating signing an agreement that actually increases emissions or limits their ability to meet their climate commitments.

Achieving gender equality, as set out in SDG 5, must be a key focus. The UK government has committed to a blanket objective to promote women’s access to the full benefits and opportunities of this agreement, without any recognition of the complex labour market situation for women in India.<sup>5</sup> The most obvious of which is that less than one-fifth of Indian women are actually in work.<sup>6</sup> Discrimination against women is widespread in India; women living in the poorest areas have almost no access to financial



services, land and inheritance rights. Domestic violence, rape, harassment, acid attacks and ‘honour killings’ are frequently reported.<sup>7</sup> The Government’s objectives must go beyond women’s access to international trade and ensure any agreement does not reinforce these norms. It must also ensure provisions in the agreement are oriented towards ameliorating the specific difficulties of women working in sectors most vulnerable to the negative impacts of liberalisation such as agriculture and textiles, where women comprise 33% and 60% of the total labour force respectively.

This report sets out the ways in which an FTA interacts with specific goals including those on: policy coherence for development, decent work for all; climate change and environmental protection; and gender equality. It identifies context-specific recommendations for the current UK-India FTA to support the realisation of those goals, as well as advocating for and extrapolating recommendations for a broader UK trade strategy. The report concludes with recommendations for a democratic and meaningful public and parliamentary scrutiny as an essential means of ensuring all FTAs are aligned with the SDGs.

#### **This report recommends that the UK:**

- **Does not progress an FTA any further** until ongoing serious human rights abuses are addressed.
- **Commissions a third party to undertake robust impact assessments** that include human rights, labour rights, gender equality and climate and environmental impacts.

- **Seeks to prevent or mitigate negative impacts** identified in impact assessments.
- **Includes enforceable human rights obligations on businesses and investors** and binding provisions on human rights, climate and the environment, including a monitoring process and dispute system.
- **Pays particular attention to the impact of the FTA on labour rights** and seeks to shape the FTA so that it does not drive the expansion of insecure, poorly paid work in the UK or India.
- **Ensures that the FTA is fully aligned with the UK and India’s commitments under the Paris Climate Agreement.** The UK and India should consider inserting a climate waiver so that policies taken in pursuit of their climate commitments cannot be challenged under the trade agreement. The agreement should recognise the principle of Common But Differentiated Responsibilities (CBDR), include binding environmental provisions and ensure that it does not constrain either country’s ability to take important policy measures in support of climate commitments.
- **Takes steps to significantly improve the process for public engagement and parliamentary scrutiny** of FTA negotiations and signed agreements.
- **Publishes a full trade strategy** that sets out how UK trade policy will align with its other international commitments, in particular the SDGs.

More detailed recommendations are contained in each separate chapter. This report will be complemented by a full technical analysis once the text of the FTA is published.

# List of acronyms

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<b>ASCM</b>	Agreement on Subsidies and Countervailing Measures (WTO)
<b>CBDR</b>	Common But Differentiated Responsibilities
<b>CRaG</b>	Constitutional Reform and Governance Act (UK)
<b>CSO</b>	Civil Society Organisation
<b>DIT</b>	Department for International Trade (UK)
<b>EU</b>	European Union
<b>FTA</b>	Free Trade Agreement
<b>GATS</b>	General Agreement on Trade in Services
<b>GATT</b>	General Agreement on Tariffs and Trade
<b>GDP</b>	Gross Domestic Product
<b>GGGR</b>	Global Gender Gap Report
<b>GHG</b>	Greenhouse gas
<b>GSP</b>	Generalised System of Preferences
<b>IAC</b>	International Agreements Committee (UK, House of Lords)
<b>ILO</b>	International Labour Organisation
<b>IP</b>	Intellectual Property
<b>IPCC</b>	Intergovernmental Panel on Climate Change (UN)
<b>ISDS</b>	Investor-to-State Dispute Settlement
<b>ITUC</b>	The International Trade Union Confederation
<b>JCHR</b>	Joint Committee on Human Rights (UK, Parliament)
<b>LDC</b>	Least Developed Country
<b>LIC</b>	Low-Income Country
<b>LMIC</b>	Lower-Middle-Income Country
<b>MEA</b>	Multilateral Environmental Agreement
<b>RCEP</b>	Regional Comprehensive Economic Partnership
<b>SDG</b>	Sustainable Development Goal
<b>TAC</b>	Trade and Agriculture Commission (UK)
<b>TB</b>	Tuberculosis
<b>TCA</b>	EU-UK Trade and Cooperation Agreement
<b>TJM</b>	Trade Justice Movement
<b>TRIPS</b>	Agreement on Trade-Related Aspects of Intellectual Property Rights (WTO)
<b>TSD</b>	Trade and Sustainable Development
<b>UK</b>	the United Kingdom
<b>UNCTAD</b>	UN Conference on Trade and Development
<b>UNFCCC</b>	United Nations Framework Convention on Climate Change
<b>US</b>	United States
<b>WTO</b>	World Trade Organisation

# Introduction

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This report, launched to coincide with the original deadline set by UK and Indian leaders, calls for a pause in the pursuit of a trade agreement until the serious human rights situation in India is rectified. This is in line with the UK's commitments under UN Sustainable Development Goal (SDG) 16 as well as its other human rights commitments.<sup>8</sup> The UK should make signature of a agreement conditional on India ratifying the UN Convention Against Torture, of which it is currently only a signatory, and International Labour Organisation (ILO) conventions 87 (Freedom of Association and Protection of the Right to Organise) and 98 (Right to Organise and Collective Bargaining). These conditions should apply to all of the UK's trade agreement partners.

Assuming these concerns can be addressed, the report sets out the opportunities and challenges provided by the trade agreement for both parties in achieving their development objectives. India is the first developing country with which the UK is negotiating a full FTA, providing the UK its first opportunity to align an FTA with its commitments under the SDGs. It makes reference to specific SDGs identified as being of particular relevance to the

FTA negotiations: goal 17 on policy coherence for development; goal 8 on decent work for all; goal 13 on climate change and environmental protection; goal 5 on gender equality and empowering all women and girls; goal 3 on ensuring healthy lives and promoting well-being for all at all ages; and goal 2 on ending hunger and all forms of malnutrition.<sup>9</sup> It sets out context specific recommendations for the current UK-India FTA to have sustainable development at its heart, in order to fulfil the promise to 'leave no one behind' as part of both parties' endorsement of the UN SDGs.<sup>10</sup> The report concludes with recommendations for a democratic and meaningful public and parliamentary scrutiny of all FTAs and extrapolates recommendations for a broader UK trade strategy.

TJM will release a second, technical report based on the content of the FTA when the text of the agreement has been published. This will analyse the development implications of the agreed provisions such as regulatory cooperation, investment protection, trade in services, government procurement, intellectual property rights, health and agriculture.



# Section 1:

## Trade agreements and SDG 16: Human rights

### KEY POINTS

- **The UK has a number of human rights commitments under international agreements, including UN SDG 16 which commits parties to ‘promote just, peaceful and inclusive societies’.**<sup>11</sup>
- **The human rights situation in India is very concerning: allegations include disappearances, torture, excessive use of force and arbitrary arrests, unlawful and arbitrary surveillance of citizens, and listing academics, journalists and lawyers as “enemies of state.”**<sup>12</sup>
- **The UK must pause negotiations until this situation has been resolved and India has signed and is implementing important international human rights conventions.**

### Human rights in India

India’s constitution contains a set of fundamental rights that guarantee Indian citizens civil liberties, such as the right to equality and the right to freedom.<sup>13</sup> India has in the past played an important role in highlighting human rights issues at an international level and was a key contributor to the framing of the UN’s Universal Declaration of Human Rights.<sup>14</sup> However there are a number of serious concerns about the current human rights situation in India. Allegations include disappearances, torture, excessive use of force and arbitrary arrests, unlawful and arbitrary surveillance of citizens, and listing academics, journalists and lawyers as “enemies of state.”<sup>15</sup> Human rights are often poorly protected both in law and in practice. This poor track record on human rights abuses should be adequate reason for the UK to rethink its pursuit of an FTA with India.

UK national Jagtar Singh Johal was detained in 2017 and at the time of writing has been held for five years

### Deterioration of human rights protections in India

- In 2019, India passed a controversial bill, The Citizenship Amendment Bill, which fast tracks citizenship for illegal immigrants from neighbouring countries providing they are not Muslim.<sup>16</sup> Critics of the bill say it is exclusionary and violates the Constitution, which prohibits religious discrimination and guarantees the right to religious freedom.<sup>17</sup> The UN Human Rights Office has described the act as “fundamentally discriminatory in nature.”<sup>18</sup>
- In August 2019, the Indian Government removed constitutional autonomy from the disputed state of Jammu and Kashmir and systematic human rights abuses have since been reported, such as the restriction of free expression, peaceful assembly and arbitrary detentions.<sup>19</sup>
- Under India’s Unlawful Activities Prevention Act a number of journalists and campaigners have faced interrogation, raids, threats or physical assault,<sup>20</sup> which independent human rights experts at the UN have condemned.<sup>21</sup>
- Wider systemic issues in India include caste-based discrimination towards Dalits and Adivasis.<sup>22</sup> The 2022 US Commission on International Religious Freedom’s report found that in 2021, “religious freedom conditions in India significantly worsened...during the year, the Indian government escalated its promotion and enforcement of policies that negatively affect Muslims, Christians, Sikhs, Dalits, and other religious minorities.”<sup>23</sup>

without charge. Indian authorities claim that Singh Johal was involved in a number of murders and in funding a terrorist organisation but have failed to provide evidence of this. The UN has described his detention as having no legal basis.<sup>24</sup> Singh Johal alleges that he has been tortured and forced to sign blank pieces of paper that a confession was later added to. In August 2022, it was reported that MI5 and MI6 spies supplied information that led to the torture of a British citizen in India, thought to be Singh Johal, in breach of Britain's commitment to human rights.<sup>25</sup>

## Human rights in the UK

Human rights in the UK are protected by the 1998 Human Rights Act, based on the European Convention on Human Rights.<sup>26</sup> It can be used by UK and foreign nationals, companies and organisations and explicitly protects rights such as the right to a free trial, freedom of speech and thought, and protections against slavery, torture and discrimination. However there are a number of concerns about the UK's track record in upholding these rights, some of which are listed below.

- **Migrant rights** The UK routinely fails to uphold the rights of refugees and migrants, including long waiting times for asylum decisions, housing in inhumane conditions and proposals of mass deportations of migrants to Rwanda. The new Nationality and Borders Bill will penalise asylum seekers who failed to claim asylum in a safe country they travelled through to reach the UK. Whilst it will correct discrimination that excludes many British people, including the 'Windrush generation', from citizenship rights, it also includes provisions that allow the government to deprive a person of their British citizenship without notice.
- **Freedom of assembly** The Police, Crime, Sentencing and Courts Bill (the PCSC Bill) drastically curtails the right to freedom of peaceful assembly. It expands police powers significantly in the face of protest, including by introducing the power to ban, limit or impose undue restrictions on "noisy" or "disruptive" protests.
- **Racial discrimination** The PCSC Bill contains provisions that extend the use of police stop-and-search powers and provisions to criminalise "residing on land without consent in a vehicle." The government has conceded that these provisions will

impact Black men and Gypsy, Roma and Traveller communities disproportionately. Black men continue to face excessive and disproportionate use of force by the police. The UK has been condemned by the UN Working Group of Experts on People of African Descent following a report that rejected the existence of institutionalised racism in the UK.

- **Military impunity** There has to date been no accountability for past violations in Northern Ireland or for UK complicity in the US-led secret detention.
- **Police criminality and misconduct** Individual police officers have been found guilty of murder, rape, deception, inhumane and degrading treatment and sharing photos of murder victims. The Metropolitan Police force in London has received repeated criticism for institutional corruption and racism.<sup>27</sup>

## The UK-India FTA and the potential impact on human rights

As Secretary of State for International Trade, Anne Marie Trevelyan made statements that appeared to support the principle of aligning FTA negotiations with human rights commitments. For example she stated that "more trade will not come at the expense of human rights" whilst in 2021 the then Secretary of State for the Foreign & Commonwealth Office said "we shouldn't be engaged in free trade negotiations with countries abusing human rights."<sup>28</sup> This sentiment is also reflected in UK public opinion surveys which find that participants believe the human rights record of trading partners should be taken into account when choosing trade partners and in the course of negotiations. In the latest round of the Department for International Trade's (DIT) public attitudes to trade tracker, 'respecting human rights' is identified as the top consideration for potential trading partners.<sup>29</sup> This ranked higher than 'country specialises in goods and services the UK doesn't produce'.

Aligning trade policy with human rights commitments cannot be limited to the choice of partner. There is evidence to suggest that trade agreements themselves can limit the options for countries to fulfil their human rights obligations. A clear example of this is the Investor-to-State Dispute Settlement (ISDS) system, which allows international investors to sue governments in secretive international tribunals for any measures which harm their profits. The private

arbitration courts that hear ISDS cases are not bound to recognise or take account of states' obligations on human rights. As the UN's Independent Expert concluded, ISDS does "not oblige the arbitrators to give priority to human rights treaty norms."<sup>30</sup> This means that a state could be successfully sued for enacting legislation to protect human rights. These controversial clauses have been criticised by human rights groups such as Amnesty International.

Examples of challenging human rights include cases against anti-discrimination legislation in South Africa, workers' rights in Egypt, and health legislation in Australia.<sup>31</sup> A challenge was brought by US oil company Burlington against Ecuador for failing to protect the company's interests against violent attack from the indigenous community.<sup>32</sup> The arbitration court did not take into account the fact that the InterAmerican Court of Human Rights had already ruled that allowing oil extraction in that area violated the human rights of indigenous communities. There was nothing to ensure the court took into account these human rights rulings.<sup>33</sup>

Despite these potential impacts, there is little evidence the UK Government has actively considered the human rights implications of the UK-India FTA. Its stakeholder consultation on the UK's approach to the agreement did not ask for views on how best to approach the issue and the only commitment the UK Government makes in its negotiating mandate is to "work with India bilaterally and in a range of international fora to promote democracy and human rights."<sup>34</sup> To ensure the UK-India FTA does not undermine either party's international human rights obligations or UN SDG 16, the Government should have completed a comprehensive and independent human rights risk assessment to identify any key risks the agreement poses to human rights and ways to mitigate these risks. This is in line with the approach the EU has taken since 2015.<sup>35</sup> The UK's failure to do so sets a worrying precedent for future trade agreements.

In the absence of such an ex-ante assessment, the UK should commit to undertake an impact assessment of any trade agreement it signs with India. The findings of this assessment should be made available well in advance of the ratification process to ensure suitable time for engagement with parliamentarians and civil society. The UK must also be prepared to suspend ratification of the agreement or return to negotiations if the assessments find negative human rights impacts.

This should help to ensure that the human rights implications of the UK's international obligations are considered fully before the UK becomes bound by those obligations.

## UK approach to trade and human rights

In March 2019, the Joint Committee on Human Rights (JCHR) published a report on human rights in international agreements, with a number of recommendations for the UK Government to consider after it left the EU.<sup>36</sup> These recommendations included: negotiating teams to have access to human rights expertise, future agreements to contain clauses which protect human rights and for a human rights analysis of any complex trade and investment agreement. However, the Government's response to this report rejected the call for a standardised approach to human rights in trade agreements, instead opting for "existing diplomatic and coercive levers" and a flexible approach to each trade agreement to promote human rights.<sup>37</sup>

This was a significant missed opportunity to implement the UK's commitment to "take appropriate steps including through the incorporation of human rights clauses as appropriate" made in its UN Guiding Principles on Business and Human Rights National Action Plan.<sup>38</sup> The ability of the UK to exert influence has diminished given that it is no longer part of the EU and given the emergence of other influential actors such as China on the world stage; it seems unlikely that human rights diplomacy alone will be sufficient. Given the rejection of the JCHR suggestions and the lack of a published trade strategy, it is unclear what the UK's approach is to ensuring its trade policy is aligned with its human rights commitments.

The FTA should be contingent on India making significant changes to its human rights situation and on the mutual implementation of core United Nations (UN) and ILO human rights conventions. In particular, alongside ratification of the two ILO Conventions (87 and 98) discussed in the next section of the report, the UK should work with India to facilitate ratification of the UN Convention Against Torture of which it is currently only a signatory.<sup>39</sup>

If the UK does pursue an FTA, it must contain enforceable human rights provisions, as well as provisions that allow for ongoing monitoring of

human rights in both countries, in partnership with civil society, with enforceable consequences in the event of a violation of a convention. This is in line with United Nations independent expert Alfred de Zayas call, in 2016, for all future trade agreements to stipulate the primacy of human rights in order to support a democratic and equitable international order.<sup>40</sup> It must also shape the provisions of the agreement so that they are aligned with human rights commitments, and exclude those, including ISDS, that pose serious risks to those commitments.

If the UK insists on pursuing non-binding parallel discussions on human rights, it should use the FTA as an opportunity to formalise the structure and nature of such discussions. As a bare minimum, the UK and India should sign a joint memorandum of understanding on human rights, which would signal both sides' commitment on the matter. The UK could also learn from other examples of cooperation, including the EU-India Human Rights Dialogue.<sup>41</sup>

## Recommendations

Given the human rights situation described in this section, we believe ratification should not proceed. Once the conditions are in place to continue discussions, the following recommendations apply:

- **The UK should produce a trade strategy** that demonstrates how its approach to signing new FTAs, including with India, is **consistent with its broader international obligations to human rights**.

### DURING NEGOTIATIONS

- The UK-India FTA should **not include ISDS**.
- The UK-India FTA should **contain binding provisions on human rights conditions**, including a monitoring process and dispute system.
- The UK-India FTA should **contain enforceable human rights obligations on businesses and investors**. This recommendation is covered in more detail in the labour rights section.

### BEFORE IMPLEMENTATION

- In the absence of an ex-ante impact assessment of the India FTA, **the UK should conduct a comprehensive, independent ex-post human rights risk assessment** and take timely and proportionate action to address any issues that are found.

## Section 2:

# Implications of an UK-India trade agreement for social and developmental objectives

### KEY POINTS

- **The UK and India are committed, as parties to the UN SDGs, to achieving progress on 17 social and environmental objectives.**
- **It is widely recognised that trade agreements have significant implications for many of these goals.**
- **Given India's status as a developing country and the fact that it is home to one-quarter of the world's poor, it is particularly important that a trade agreement with the UK is shaped to align with the SDGs.**

There has long been recognition that international trade has significant implications for development goals. The World Trade Organisation's (WTO) founding agreement (the Marrakesh Agreement) specifically states that trade relations should be conducted with a view to achieving "the optimal use of the world's resources in accordance with the objective of sustainable development."<sup>42</sup> This is complemented by SDG 17 that commits signatories, including the UK, to a number of goals intended to ensure international trade benefits developing countries.<sup>43</sup> This section sets out some of the development challenges in India which the UK needs to take into account while negotiating an FTA to meet its WTO and UN commitments. These include persistent poverty, food insecurity, structural inequality, lack of access to healthcare and the impact of climate change.

There are ongoing debates about whether international trade is an effective tool to support international development goals. However there is growing consensus that whilst international trade may support economic growth, the benefits are often marginal and unevenly distributed.<sup>44</sup> Trade liberalisation can displace workers, negatively impact

on social and environmental protections and facilitate bad business practices.<sup>45</sup> In addition, growth in international trade over the past decade has tended to be much smaller and less durable than in the 1990s and 2000s, with developing countries bearing the brunt of global economic fluctuations.<sup>46</sup> Some evidence suggests that current global trade rules can undermine development strategies rather than facilitate poverty reduction.<sup>47</sup>

The SDGs are 'global goals' and therefore apply to all countries, but the UK-India FTA is the first new, comprehensive agreement that the UK is negotiating with a developing country, which makes the SDGs particularly relevant. India is classified by the World Bank as a lower-middle-income country (LMIC) whilst the UK is classified as a high income country.<sup>48</sup> Although India's Gross Domestic Product (GDP) is roughly the same size as the UK's, its population is over 20 times larger.<sup>49</sup> This means that, despite significant growth in India's economy over the last few decades, India's GDP per capita is at about the same level as Angola, Bangladesh and Mauritania, countries that are classified as Least Developed Countries (LDCs).<sup>50</sup>

India has high levels of economic inequality: it has both the world's third highest number of billionaires and one quarter of the global total of people living in extreme poverty.<sup>51</sup> While the middle class in urban areas has grown, the vast majority of Indians live in rural areas in relative poverty. According to the World Bank, 10.2% of the Indian population, approximately 138 million people, were living below the international poverty line in 2019, more than double the entire population of the UK.<sup>52</sup> Poverty is often highly correlated with food insecurity and India is home to a quarter of all undernourished people worldwide, ranking 101 out of 116 on the 2021 Global Hunger Index.<sup>53</sup>

In addition to poverty, food insecurity and inequality, many Indian workers face insecure employment in



the informal economy, or employment in agricultural industries which are vulnerable to fluctuating prices, weather conditions and climate change. The lack of a robust legal system means that corruption, child labour, human trafficking and illicit industries such as the unregulated production of cigarettes and alcohol remain a problem. Furthermore, the Indian caste system means that certain demographic groups suffer particular forms of economic and social disadvantage. In its 2021 World Report, Human Rights Watch describe an increase in inter-communal violence including crimes against Dalits.<sup>54</sup> Women in India also face widespread discrimination with domestic violence, assault and 'honour killings' frequently reported. Structural discrimination has kept many women out of the workplace and female participation in the workplace has fallen from 30% in the early 1980s to just 19% in 2022.<sup>55</sup>

India also faces challenges in its healthcare provision where accessibility and affordability are of particular concern. India is experiencing a chronic shortage of doctors with a density rate of 9.28 per 10,000 persons in 2019.<sup>56</sup> Healthcare spending as a proportion of GDP stood at just 3% in 2019 compared to a global average of 9.8% and the LMIC average of around 5.2%.<sup>57</sup> The health system is heavily financed by out of pocket payments and more than 55 million people in India are impoverished each year because of expenses for ill health.<sup>58</sup>

Climate change is a global threat and India has been identified as one of the countries most vulnerable

to its effects. In 2018, India came 5th in the Global Climate Risk Index of countries most likely to be affected by climate change.<sup>59</sup> The latest assessment from the United Nations Intergovernmental Panel on Climate Change (IPCC) found that India is particularly at risk of climate-induced extreme events such as flooding, heat stress and droughts such as the unprecedented and deadly heatwave in 2022 which caused the deaths of at least 90 people in India and Pakistan.<sup>60</sup>

A 2018 study looking at the social cost of carbon found that India is the country carrying the highest economic burden of carbon emissions, with every tonne of carbon dioxide emitted globally costing India about \$86.<sup>61</sup> The cost of climate change mitigation and adaptation for India is likely to be substantial. If the average global temperature increases by 1 degree Celsius, the impact on agriculture, sea levels and human health would cost India an estimated 3% of its GDP.<sup>62</sup>

With this in mind, an FTA with India needs to be designed to take into account not only the needs of businesses but also of the most vulnerable and marginalised. These groups often have the smallest voice in negotiations, making it challenging to ensure their concerns are heard. Increasing incomes is only one part of sustainable development and trade agreements need to reflect the range of ways trade and development interact. So far, the UK has not indicated that it will consider this interaction in adequate detail when agreeing a FTA with India.



## Section 3:

# Trade agreements and SDG 17: Policy Coherence for Development

### KEY POINTS

- **UN SDG 17 recognises that there needs to be global collaboration and alignment of multilateral processes, and that richer countries will need to assume greater responsibility.**
- **It also underlines the need for policy coherence for development.**
- **A UK-India FTA will have implications for development objectives both in India and other developing countries, with the potential for negative impacts in various sectors.**
- **The UK must urgently set out how it will align a trade agreement with India with its SDG commitments including avoiding or mitigating for negative impacts on third countries.**

The UN SDG most directly relevant to trade and investment is SDG 17. It recognises that progress will only be made on the SDGs if there is global collaboration and alignment of multilateral policies and agendas, and that richer countries will need to assume relatively greater responsibility for achieving this. Target 17.14 underlines the need for policy coherence for development: countries should design their trade (and other) policies to be compatible with the SDGs.

Target 17.15 recognises the need to “respect each country’s policy space and leadership to establish and implement policies for poverty eradication and sustainable development.”<sup>63</sup> This means that trade agreements should not limit countries’ policy space for achieving the SDGs, an ambition that many previous FTAs have failed to live up to.<sup>64</sup>

## The UK’s role in achieving the SDGs in India

The UK’s international development strategy indicates that the government sees trade liberalisation and investment as a key component of its future international development policy.<sup>65</sup> However, there is nothing setting out the principles that will ensure UK trade agreements support positive developmental outcomes.

The UK’s negotiating objectives for the India agreement are focused on facilitating and expanding trade of UK goods and services and there is no attempt to relate the agreement to SDG 17. The references to trade and development are vague, and limited to “cooperation between the UK and India on trade and development activities.”<sup>66</sup> In the Department for International Trade’s report setting out its strategic approach to the UK-India FTA, the UN SDGs are referenced only once, in a footnote.<sup>67</sup> The UK’s reluctance to commit to anything substantial in this space is concerning; a more equitable and responsible approach would be to consider strategically how the UK-India FTA can support the SDGs and help achieve the targets under goal 17.

## Impact of a UK-India trade agreement on development in other countries

UN SDG target 17.11 is to “Significantly increase the exports of developing countries, in particular with a view to doubling the least developed countries’ share of global exports by 2020.”<sup>68</sup> An FTA between India and the UK will have implications for other developing

countries if increased trade with India comes at the expense of trade with them. The main ways that this could happen are preference erosion and trade diversion. This where a country loses a trade advantage, usually lower tariffs, because equivalent tariffs are offered to a new trade partner.

At the moment, because India is classed as an LMIC, the majority of its exports to the UK are traded under the Developing Countries Trading Scheme (DCTS), the UK's revised version of the Generalised System of Preferences (GSP) which it inherited from the EU. The DCTS reduces tariffs to zero on everything except arms exports for LDCs, and on 85% of products for Low-Income Countries (LICs) and Lower-Middle-Income Countries (LMICs). The UK's scoping assessment found that the UK-India FTA is likely to erode trading preferences for a number of LDCs and LMICs as a result of tariff reductions for Indian and UK exporters agreed under the FTA.<sup>69</sup> This includes countries benefiting from the LDC provisions such as Bangladesh, Nepal and Cambodia.

The scoping assessment found that the textiles, clothing, and footwear sectors in developing countries are the ones most likely to be negatively affected by increased UK-India trade liberalisation. Apparel exporters in countries like Bangladesh, which benefits from the LDC framework, and Sri Lanka and Pakistan, which have historically benefited from an 'enhanced' GSP scheme, currently have a tariff advantage of about 10-11% compared to India.<sup>70</sup> The UK's impact assessment estimates that Sri Lanka and Bangladesh are the countries that will see the largest negative impact, with GDP reductions of between 0.01 and 0.02 billion pounds, as Indian exports displace theirs in the UK market.<sup>71</sup> The UK government describes this negative effect as 'minimal', although there are a number of worrying impacts that abrupt and unmonitored preference erosion can have. Reducing a country's export competitiveness can often lead to a 'race to the bottom' in terms of standards, as countries seek to compete on price.<sup>72</sup> This could mean that a FTA between India and the UK could lead to poorer working conditions and undermine existing social and environmental protections in third countries. The UK must do more to understand the implications of tariff reductions and ensure mitigation strategies are in place for countries that are likely to see negative impacts as well to ensure coherence between its development and trade policies.

## The Bangladesh garment industry

Bangladesh's total apparel exports stand at almost 90% of the country's total with an estimated 4 million Bangladeshis employed in the sector.<sup>73</sup> The UK is an important market for Bangladesh: 11.3% of its ready-to-wear garment exports went to the UK in 2018-2019, and data collated by DIT shows that over 90% of the UK's imports from Bangladesh are clothing or textiles.<sup>74</sup> In terms of value, Bangladesh was the developing country with the highest value of apparel exports to the UK between 2017 and 2019.<sup>75</sup> Bangladesh currently trades with the UK under the LDC framework, meaning there is no tariff levied on its apparel exports to the UK. However, Bangladesh is due to graduate from LDC to LMIC status in 2026, creating a further tariff disadvantage in respect of its giant neighbour which is concluding an FTA. Increased competition from India through the UK-India FTA coupled with Bangladesh's graduation from LDC status is likely to lead to a downward pressure on prices, which could lead to some businesses in Bangladesh to compromising on working conditions, livelihoods and social and environmental protections in order to compete.<sup>76</sup>

The UK's impact assessment failed to identify risks in the horticulture sector. India has been investing significantly in this sector and tariff reductions in an FTA with the UK could have implications for producers in African countries. Cut flowers currently represent 25% of UK imports from Kenya, 16% from Ethiopia, and 11% from Tanzania, under a zero import tariff (Kenya as part of the UK-Kenya EPA, Ethiopia and Tanzania as LDCs under the EBA scheme), against the 4.5% currently faced by India under the rolled over General GSP. Vegetables represent 34% of UK imports from Kenya, 39% from Uganda, 41% from Senegal, and 44% from the Gambia, all under a zero import tariff (with all LDCs except Kenya), against tariffs for Indian exports ranging from 6.5% on green beans to 8.5% on aubergines.<sup>77</sup> This clearly illustrates that the UK must consider not only the impact on India's immediate neighbours but also on

other developing countries whose sectors could be vulnerable to increased competition.

The UK must do more to understand the implications of tariff reductions for third countries and ensure mitigation strategies are in place for the countries that are likely to see negative impacts.

## Recommendations

- **The UK should produce a strategy** that outlines how it will align its trade policy with its commitments under the SDGs.

### DURING NEGOTIATIONS

- The UK-India agreement should **champion UN SDG target 17.15** and respect the right for both countries to use their policy space for sustainable development policies.
- **Developing countries who are at risk of preference erosion and trade preference should be consulted** proactively about the effects of the FTA. They should be given observer status whilst negotiations are ongoing and the UK should establish a mechanism for engagement during the negotiations and after the FTA is signed. Provisions that have a negative impact should be avoided or mitigating strategies put in place.

### AFTER NEGOTIATIONS

- There must be **ongoing monitoring** of the impacts for development commitments and third countries.

## Section 4:

# Trade agreements and SDG 8: Decent work for all

### KEY POINTS

- **UN SDG 8 commits the parties to promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all.**
- **Both the UK and India have significant room for improvement in upholding labour rights and ensuring decent work.**
- **The UK's own assessment finds that the FTA is likely to drive significant changes in the labour markets of both the UK and India.**
- **The UK should work with India to ensure it signs and implements two outstanding ILO conventions. Both parties should ensure provisions in the deal do not drive down standards and include a binding labour chapter.**
- **Given the central role of business in upholding labour rights in international supply chains, provisions in the trade agreement must be matched by obligations on businesses to ensure thorough due diligence processes.**

UN SDG 8 is a commitment to “promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all.” An FTA between India and the UK could impact the ability of both the UK and India to achieve this SDG. It is widely recognised that trade agreements create ‘winners and losers’: jobs will be created in some sectors and lost in others as the agreement causes expansion or contraction.<sup>78</sup>

## Labour rights in India

In 2022, The International Trade Union Confederation (ITUC) ranked India as a 5 ‘no guarantee of workers’ rights’ on its Global Rights

Index, the second lowest ranking.<sup>79</sup> This is the same rating as, for example, Zimbabwe, Haiti, Brazil and Egypt. India has not ratified 2 of the 8 fundamental ILO conventions – Convention 87 (Freedom of Association and Protection of the Right to Organise) and Convention 98 (Right to Organise and Collective Bargaining) and it has a weak recent track record of upholding labour rights. There is no functional tripartite dialogue, with trade unions in India increasingly marginalised from the political process following economic reforms by successive governments since 1991.<sup>80</sup>

The vast majority of Indian workers are employed informally, meaning they have no written contract, paid leave, health benefits or social protection.<sup>81</sup> Low pay and exploitative working conditions are a feature of a number of industries, such as textiles, silk and shipbreaking.<sup>82</sup> In 2020, many expressed concern about three Indian labour law amendments, which reduced job security, made it harder for workers to strike and made it easier for some businesses to opt out of health and safety protocols.<sup>83</sup>

## Labour rights in the UK

In 2022, the ITUC ranked the UK as 3 ‘regular violations of rights’ on its Global Rights Index.<sup>84</sup> It finds, for example, that whilst the right to freedom of association is protected in law, the means of implementation are inadequate, that unions are subject to greater levels of scrutiny than other actors, such as companies and other civil society organisations (CSOs), and that the requirements for undertaking strike action are too restrictive. There have been a number of recent examples of labour rights violations in the UK: clothing retailer Boohoo was found to have endemic issues in its supply chains, including non-payment of the minimum wage and fire hazards and Uber workers had to take the

company to court to secure their rights as workers.<sup>85</sup> In addition, there have for many years been frequent reports of the exploitation of migrant workers, from the deaths of cockle pickers in Morecombe, to the exploitation of workers in care homes.<sup>86</sup>

### **Weaknesses in UK labour law: P&O mass sacking**

In March 2022 P&O Ferries sacked 800 staff on a Zoom call, with no prior notice. Staff were replaced by agency workers, with the explicit intention of reducing the company's wage costs. The RMT union claimed that replacement crews from India were being paid as little as £1.80 an hour.<sup>87</sup> Despite widespread protests and condemnation from across the political spectrum, the company refused to reinstate the workers.

P&O claimed that its actions were driven by losses of £100 million per year, however it had received significant support through the UK's Covid furlough scheme, which covered up to 80% of wages and in August 2022 the parent company announced £600 million in profit.<sup>88</sup> In the same month, the Insolvency Service announced that it would not bring criminal proceedings against P&O.

The case illustrates the weakness of UK employment law, including a failure to hold companies to account for poor practice, the failure to ban fire and rehire practices and a lack of effective enforcement of employee consultation processes. A civil proceeding is ongoing and MPs have called for a change in the law.

## **The UK-India FTA and the potential impact on workers**

SDGs are global goals which means that both the UK and India are committed to ensuring labour rights are not negatively impacted by an agreement between them. The FTA is likely to drive changes to labour markets in both India and the UK and, if not designed properly, could exacerbate labour rights issues.

Depending on how comprehensive the agreement is, the UK estimates an increase of exports from India to the UK of between 31% and 64%.<sup>89</sup> This means the UK-India FTA could directly contribute to an expansion of sectors such as textiles and horticulture, creating additional jobs.<sup>90</sup> Indian workers in these and other sectors experience significant insecurity and poor working conditions, from poor wages and lack of access to basic rights like sick pay to forced labour.<sup>91</sup> Provisions of the FTA must therefore be explicitly designed to help ensure that any new jobs in the textile sector provide good pay and decent working conditions.

The UK Government's initial scoping assessment also finds that the UK's distribution of employment across sectors is likely to shift if an agreement is implemented.<sup>92</sup> The assessment describes the long-term shift as 'slight' but it does not give a clear picture of short term impacts such as job losses, and the Government has not set out how it would support workers during any period of transition.<sup>93</sup> Other analysis has also found the UK's scoping assessment understated both the potential positives and negatives of the agreement.<sup>94</sup> For example, it found that a trade agreement with India could expose UK firms to 'unpredictable competition' given the rapid rate with which India's export specialisms are changing. The impact on workers as a result of such competition depends on a number of factors, including whether the workforce can access quality training to develop skills for work in the new sectors created and whether the new jobs are of a high quality: secure, well paid, with the rights of workers to organise, etc. Research into public attitudes to trade agreements found that a top priority for UK trade policy was for the Government to have a robust plan to monitor impacts on UK jobs across all sectors and to minimise regional inequality.<sup>95</sup> The UK should make sure it has a sufficient plan for dynamic monitoring of such sectoral changes.

## **Is a 'labour' chapter in the UK-India FTA the way forward?**

Labour provisions in trade agreements are becoming more common – a dedicated chapter on labour rights is present in 85 of the 293 FTA in force in 2019.<sup>96</sup> However, such provisions generally lack effective enforcement mechanisms.<sup>97</sup>



The UK's FTAs with Australia and New Zealand contain labour chapters, however they are not binding and are therefore unenforceable. It is likely that the UK will seek a similar non-binding chapter in its agreement with India, which the latter may find more palatable than the EU's binding trade and sustainable development (TSD) chapters. Given the significant potential implications of a trade agreement for workers in both India and the UK, a non-binding labour chapter would not deliver on either country's commitments to UN SDG 8.

The language in the UK's negotiating mandate on labour rights in the UK-India FTA is vague and unspecific. They cover a commitment to uphold the UK's domestic standards, a general reference to ensuring parties 'reaffirm' their commitments to international standards and the intention to prohibit reductions in workers' protection that could create a competitive advantage. The mandate includes a number of generic objectives that are phrased almost identically in the UK's other FTA negotiating mandates and have therefore not been tailored to the specific circumstances in India. The House of Lords International Agreements Committee (IAC) assessment of the mandate criticised the objectives on labour rights as not going into sufficient detail and highlighted that the Government did not make clear whether it would seek to improve labour conditions in India.<sup>98</sup>

India's existing FTAs with Australia, Japan and the United Arab Emirates do not contain labour chapters. One of the roadblocks of an India-EU FTA was the EU's insistence on a TSD chapter, which would have included provisions on labour rights, and was resisted by India because they saw it as an infringement of their sovereign right to legislate.<sup>99</sup>

There is substantial evidence that pre-ratification conditionality of a trade agreement is more effective than engagement on labour rights issues after an agreement has been signed.<sup>100</sup> The UK should therefore make the FTA with India conditional on their signing of ILO Conventions 87 and 98. The UK Government must take steps to ensure the FTA does not drive the expansion of insecure, poorly paid work.

If a labour chapter is included, it should be as effective and ambitious as possible. Firstly, like many US and EU labour provisions, the terms of the labour chapter should be binding, so the sentiment behind the inclusion of a chapter is matched by its enforcement powers. Secondly, the chapter

should establish a robust model and methodology for monitoring compliance with the provisions and a clear process for raising disputes, which include accessible and effective enforcement proceedings. ILO analysis of labour provisions in trade and investment agreements found that the success of such provisions often depended on comprehensive implementation strategies that involved a variety of stakeholders, including trade unions and employer organisations.<sup>101</sup> The labour chapter should also exclude the common requirement in trade agreement dispute processes to demonstrate that a violation has not only occurred, but has a causal relationship on trade or investment, as this is often difficult to prove.<sup>102</sup> Lastly, the labour chapter should incorporate trade sanctions that can be implemented if provisions are systematically violated. This can help the chapter retain some robustness after the FTA is in force.<sup>103</sup>

## Guiding principles for businesses

While labour provisions within trade agreements are agreed by governments, it is the businesses making use of the provisions in the agreement that will have the direct impacts on labour rights by the way they buy and invest. An FTA between India and the UK will increase the number of Indian workers involved directly and indirectly in the supply chains of UK businesses.<sup>104</sup> Obligations expected of trading partners as part of an UK-India FTA must therefore be matched with equivalent obligations on UK businesses to conduct appropriate due diligence on their supply chains and investments.

One way for the UK FTA to recognise the obligations of UK businesses would be to place binding responsibilities on corporations; examples of such initiatives include the UK's Modern Slavery Act and the EU's Conflict Minerals Regulation and the proposed EU Directive on corporate sustainability due diligence.<sup>105</sup> The UK could strengthen the current voluntary obligations of UK companies sourcing from Indian suppliers, by creating a legal duty to assess and combat labour abuses and to follow a fair purchasing framework that ensures employees are paid a decent wage. This would help shift the focus of attention from failures by Governments to effectively enforce labour laws, to the need for companies to be responsible for labour rights in the sites of production where goods are actually produced.



## Recommendations

- **The UK should work with India to achieve ratification and implementation of the two outstanding ILO Conventions** and address labour rights issues both in the UK and India.
- **The UK should produce a strategy that outlines how it will align its trade policy with its commitments under the SDGs**, and in particular how the deal will support the promotion of labour rights and decent work.

### DURING NEGOTIATIONS

- The UK should ensure the **provisions of the FTA do not exacerbate poor working conditions**.
- **Labour provisions contained in the FTA should be binding and enforceable**. The chapter should set out a robust model and methodology for monitoring compliance with the provisions and should not include a requirement to demonstrate a linkage to trade and investment.
- **Both the short term and long term impacts need to be fully considered** in order to support individuals whose livelihoods may be affected by shifts in employment patterns.<sup>106</sup>

### BEFORE IMPLEMENTATION

- **A dynamic and responsive mechanism should be established to monitor the impact of the FTA on employment in the UK and India**, and ensure that any affected workers are able to access quality training and support to transition to other sectors.
- **The UK should set out a framework of guiding principles for UK businesses** that source from Indian suppliers with a set of legal responsibilities, for example a legal duty for businesses to assess and combat labour abuses.
- In order to support the proper functioning of such a framework, **the trade agreement should include a mechanism that allows workers and trade unions to trigger investigations of labour rights abuses** with appropriate sanctions if these are systematically violated.

## Section 5:

# Trade agreements and SDG 13:

# Climate change and environmental protection

### KEY POINTS

- UN SDG 13 commits the parties to take urgent action to combat climate change and its impacts.
- FTAs have significant implications for the ability of countries to achieve their climate ambitions: they can drive an increase in emissions and also reduce the policy space available to parties to deliver on their climate commitments.
- A UK-India FTA must be explicitly aligned with both parties' commitments on climate change, including keeping global warming to 1.5 degrees and the UK's net zero target. This means ensuring all provisions are actively shaped with a view to reducing emissions.
- The UK should consider working with India to include a climate waiver, which would exempt climate action from challenge under the deal.

### UNFCCC STATUS

INDIA

Non-Annex I

(receives common but differentiated responsibilities treatment)

UK

Annex I

### NET ZERO



INDIA

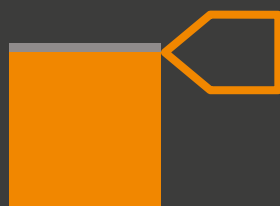
Pledge by 2070



UK

In law by 2050

### GLOBAL CLIMATE RISK INDEX RANK OF COUNTRIES MOST AFFECTED BY CLIMATE CHANGE IN 2018



INDIA

5



UK

78

### CUMULATIVE CO<sub>2</sub> EMISSIONS 2020 (BILLION TONNES)



INDIA

54.42



UK

78.16

UN SDG 13 commits the parties to “take urgent action to combat climate change and its impacts.”<sup>107</sup> Combating climate change requires actions on two fronts: reducing global carbon emissions and meeting the development needs of developing countries. Both countries are also signatories to the 2015 Paris Climate Agreement.

Both countries are taking steps to combat climate change. The UK has declared a climate emergency, has committed to achieving net zero carbon emissions by 2050, and was the host of COP26 in November 2021. In 2021, Indian Prime Minister Modi announced a 2070 net zero target as well as a series of commitments to combat climate change over the next decade, known as its ‘Nationally Determined Contribution’ as part of the formal United Nations Framework Convention on Climate Change (UNFCCC process).<sup>108</sup> Both countries are party to a number of Multilateral Environmental Agreements (MEAs), including the Paris Agreement and Kyoto protocol, as well as the Montreal protocol. If badly designed, the UK-India trade agreement could hamper these efforts to tackle climate change and environmental degradation. It is important that any bilateral trade agreement is fully aligned with the countries’ commitments under MEAs.

An important factor in supporting developing nations to combat climate change is the principle of Common But Differentiated Responsibilities (CBDR), formalised in the UNFCCC. The principle reflects the fact that whilst climate change is a shared global concern, developed countries have been responsible for greater climate emissions and more environmental destruction than developing countries. This combined with their greater level of resources means they must bear a greater share of the responsibility for addressing the issues.

## The UK-India FTA and the potential impact on climate change

It is important to recognise the ways in which FTAs can interact with climate change. Trade can lead to greater availability of the raw materials and goods countries need to tackle climate change, and cooperation on trade issues can help end destructive policies such as overfishing or deforestation.

However FTAs can have direct environmental effects by increasing trade in goods and trade-related transport emissions. The obligations parties sign up to in FTAs can reduce the policy space they have to tackle climate change, and can expose them to disputes and lawsuits. Trade measures, including bans on the use of local content provisions and extensive intellectual property provisions, can have unintended consequences on developing country trade and supply chains, making it harder for them to access climate-friendly technology or ensure benefits to their local populations. India has already been successfully challenged at the WTO for local content requirements in its ‘National Solar Mission’, which had ambitious targets for the expansion of solar provision.<sup>109</sup>

The absence of an overarching UK trade strategy means that it is not clear how, or whether, the UK will align its trade agreements with its climate commitments. There are environment chapters in its agreements with the EU, Australia and New Zealand, however they vary significantly in their scope and enforceability and therefore appear to have been led by the negotiating partner, rather than the UK.<sup>110</sup> In its mandate for the India negotiations, the UK has stated that an agreement will “ensure parties reaffirm international environmental and climate protections” and “ensure parties do not waive or fail to enforce their domestic environmental ... protections in ways that create an artificial competitive advantage.”<sup>111</sup> It also goes on to say that they will seek to “secure provisions that support and help further the Government’s ambition on climate change and achieving Net Zero GHG emissions by 2050, including promoting trade in low carbon goods.”<sup>112</sup> This language may appear reassuring but it is almost identical to the environmental objectives in the Australia and New Zealand negotiating mandates.

The House of Lords IAC has criticised the environmental objectives on the UK-India FTA as “overly generic and appearing to lack ambition”<sup>113</sup> and point out a number of omissions in the mandate, such as how the agreement could support India’s decarbonisation efforts. The objectives are instead largely limited to considering how the UK can seek “economic opportunities in India’s growing low-carbon sectors.”<sup>114</sup> The primary objective therefore appears to be to grow UK exports rather than to foster genuine collaboration for climate change adaptation and mitigation. The UK’s disappointingly high level and modest objectives underscore the

need for the UK to publish a comprehensive trade policy that clearly sets out how it will support the UK's existing commitments on climate change and environmental protection.

## Impact of the UK-India FTA on climate emissions

The UK's scoping assessment of the UK-India FTA predicts a number of environmental impacts including an increase in overall GHG emissions, generated primarily by an increase in trade related transport emissions, and multifaceted environmental degradation including deforestation, habitat and biodiversity loss, air and water pollution.<sup>115</sup> As it stands, the FTA is going to undermine rather than contribute to the UK's path to Net Zero. The scoping assessment estimated overall GHG emissions associated with increased UK production as a result of the FTA to have a net increase of between 0.08% and 0.14%, and trade-related transport emissions to increase by 18% to 36%, depending on the depth of the agreement. It is astonishing that such increases should be contemplated when there have been repeated calls for rapid and significant decreases in emissions.

The House of Lords IAC criticised the Government for not setting out how it would mitigate these predicted increases in emissions.<sup>116</sup> The assessment also did not attempt to estimate the impact on GHG emissions on Indian production, aside from acknowledging there may be some 'carbon leakage' to India as a result of the FTA. This is a striking absence, especially as the scoping assessment acknowledges that the emissions intensity of Indian production of the sectors most affected by the FTA is "significantly greater" than the equivalent sectors in the UK.<sup>117</sup> Conducting only a partial assessment of the effect on emissions of the FTA and the omission of any distinct plans to mitigate the predicted increases undermines the UK's existing commitments on climate change.

It is important that the UK conducts a comprehensive, independent environmental impact assessment upon the conclusion of any FTA with India, especially given the estimates of the scoping assessment. This should be conducted before ratification to ensure proper scrutiny of the findings. This assessment should include areas omitted from the UK's initial scoping assessment,

such as extraterritorial emissions, in order to have a full understanding of the FTA's impacts. A systematic and co-operative approach to such an assessment, including engagement with the public and transparent communication of the findings, would help the UK progress towards meeting its commitment to the SDGs more efficiently.<sup>118</sup>

It seems likely that the UK will seek to include an environment chapter in the FTA. However, given India's resistance to the kind of binding chapters advocated for by the EU, it is unlikely that the chapter will be enforceable. In addition, it is unlikely the UK will seek to replicate provisions in the EU-UK Trade and Cooperation Agreement (TCA) which removed the requirement to demonstrate that derogation from climate commitments was done in order to achieve a trade advantage. This requirement is notoriously difficult to prove and consequently environment chapters that contain this requirement are yet to be used to challenge a country who is weakening its climate or environment laws.

There is growing support for the principle of a climate waiver, which would exempt from challenge under trade agreements all actions taken with the aim of tackling climate change and environmental degradation.<sup>119</sup> There remains work to do to develop the details of how this would be applied however there is a precedent at the WTO for waivers, including a waiver for the Kimberley Process on 'conflict diamonds' and for Covid vaccines.<sup>120</sup> A waiver presents an opportunity to clearly establish that climate actions take precedence over trade agreements and that countries must have maximum policy space to address this issue.

Climate provisions in the FTA should be binding, with an appropriate enforcement mechanism.

Provisions should include:

- Reaffirmations of existing multilateral commitments such as the Paris Agreement and each country's respective Net Zero commitments, clarifying that the terms of any FTA will not preclude either side from taking a measure in order to comply with obligations under MEAs and any domestic environmental commitments.
- A commitment not to derogate from existing domestic environmental laws. Any non-derogation measure on environmental protection should not be subject to demonstrating an impact on trade or investment.

- The FTA should allow both the UK and India sufficient discretion to decide what measures are needed for their respective environmental objectives and ambitions. The FTA should seek to go beyond WTO rules on General Exceptions to General Agreement on Tariffs and Trade (GATT) rules, which allow exceptions for environmental reasons only if they are ‘necessary’ and by ‘the least restrictive trade means’.<sup>121</sup> Removing these conditionalities would allow the UK and India more flexibility in their ability to legislate on environmental issues. These existing exception requirements can sometimes work to dissuade public policy action on the environment by “failing to provide states with a wide enough margin of appreciation to introduce public policy measures they consider necessary or important.”<sup>122</sup>
- A joint obligation to commit to monitoring the climate impacts of the FTA when it is in force. As the UK’s scoping assessment makes clear, it is difficult to accurately predict such impacts and so monitoring will play a key role in making sure any environmental impacts are identified and minimised in a proactive way.
- Civil society should also have a formal role in monitoring the impacts, such as a binding commitment in the FTA to create a domestic statutory requirement for their participation.

## Implications for climate and environment policy

The FTA could reduce the ability of both India and the UK to introduce and execute policies to tackle climate change and environmental destruction. This could be caused by a number of potential provisions within the agreement including ISDS, local content restrictions, bans on subsidies, and intellectual property provisions.

### Investor-to-State Dispute Settlement

The inclusion of an investment protection chapter could deter both parties from introducing important climate and environmental legislation. If ISDS is included in an investment chapter, it would allow international investors to directly challenge policy measures that undermine the profitability of their investments. A review of global ISDS cases has

revealed that climate and the environment are by far the most-challenged policy areas.<sup>123</sup>

The threat ISDS poses to climate action has been widely recognised. For instance, the sixth report from the IPCC has warned that climate action is being compromised by the existence of ISDS. The report states, “these agreements have tended to protect investor rights, constraining the latitude of host countries in adopting environmental policies.”<sup>124</sup> Cases have been brought by fossil fuel corporations against: governments in Germany over increased environmental protection; the Netherlands and Canada over the phaseout of coal power; in Canada over bans on new shale exploration; in Italy over cancellation of a new crude oil extraction site; and in the US over cancellation of the extension of the Keystone Pipeline.<sup>125</sup> In August 2022, the UK company Rockhopper was successful in suing the Italian Government for a ban on oil and gas exploitation within 12 nautical miles of its coastline and awarded 190m Euros.<sup>126</sup>

Aside from the financial cost of defending a case and the cost of settling, the threat of a case being brought under ISDS also contributes to climate inaction. The IPCC report points to the risk of ‘regulatory chill’, where countries are discouraged from regulating to protect the environment.<sup>127</sup> For example, France retreated from plans to legislate to ban fossil fuel extraction following threats by the Canadian fossil fuel corporation Vermillion.<sup>128</sup>

### Local content restrictions

Another problematic aspect of investment protection provisions for climate policy has been the ban on local content requirements, which routinely appears in such treaties and prevents countries from requiring international investors to demonstrate local benefits to particular schemes. Countries have often included such measures in environmental schemes for good political reasons, for example the shift from fossil fuel to renewable energy can generate job losses, investment in the latter therefore needs to be attached to the creation of new local jobs. Bans on such requirements have already caused a number of renewable energy schemes to be curtailed: most recently the EU threatened to take the UK to WTO dispute settlement when the Department for Business, Energy and Industrial Strategy inserted a question about local content into its tender for renewable energy contracts.<sup>129</sup>

Similar local content restrictions are included in WTO agreements such as the Agreement on Trade-Related Investment Measures (TRIMs Agreement) and the Agreement on Subsidies and Countervailing Measures (ASCM). These have been successfully relied upon to challenge efforts by India, Canada and the UK to spur domestic development and production of renewable energy technologies while expanding deployment of renewable energy sources.<sup>130</sup>

## **Bans on subsidies and intellectual property provisions**

The ability to adopt and adapt new technology will be vital to reducing emissions, adapting to climate change, and creating a just transition in developing countries like India. Widespread access to green technologies is a crucial tool for the world to meet the Paris Agreement goal of limiting the increase in global temperatures to well below 2 degrees Celsius. The World Bank found that mass deployment of existing technology in just four sectors: energy, industry, transport and buildings, could account for two-thirds of the emissions reductions needed by 2030.<sup>131</sup> This means that maximum technology transfer will be required from developed to developing countries, as set out in the UNFCCC.<sup>132</sup>

India itself signalled in its 2015 climate action plan that its successful implementation is contingent on developed countries providing technology transfer and support.<sup>133</sup>

However, trade agreements often ban subsidies for local industries and introduce stronger intellectual property (patent and copyright) protections that can hamper this transfer.<sup>134</sup> The absence of subsidies can make it harder for companies to develop or scale up new technologies, whilst long patent and copyright terms can mean that prices for new technologies remain too high to allow rapid adoption. The UK has specified securing an intellectual property chapter as one area of its objectives in its negotiating mandate for the UK-India FTA, including specific goals for the increased protection of copyright and patent provisions.<sup>135</sup> Both countries are already signatories to the WTO Trade Related Aspects of Intellectual Property Agreement (TRIPS), which already creates an environment that hinders the large-scale transfer of climate change related transfer to developing countries.<sup>136</sup> The UK should ensure the FTA effectively facilitates the diffusion of such technology and acknowledge that this needs to be adapted to local conditions in order to be effective.<sup>137</sup>



# Recommendations

The UK should recognise the principle of CBDR in its trading relationship with India as in the EU agreements with Peru and Central America.<sup>138</sup> In practice, respecting CBDR would mean allowing India the flexibility it needs to adopt measures that will adapt to and mitigate against climate change. These may differ from what the UK implements as a developed country but are entirely commensurate both with the UK's historical responsibility for climate emissions and India's vulnerability to the effects of climate change. The UK should also recognise that CBDR allows India the right to pursue policies that help its economy develop, alongside those which focus on the environment.

- **The UK Government should publish a trade strategy** that outlines how its FTAs, including any FTA between India and the UK, will **support the UK's commitments on the environment**.

## DURING NEGOTIATIONS

- All provisions of the agreement must be designed to be **compatible with the UK's climate commitments**.
- **Climate provisions within the agreement should be enforced with binding language** and be subject to the main dispute settlement mechanism.
- The FTA should include a **non-derogation provision that obligates both sides to retain their existing environmental legislation**, and this should not be subject to a demonstrable impact on trade or investment.
- The FTA should clarify that **both parties should have the right to legislate on environmental issues**, including measures that cover clean air and the atmosphere, without needing to meet the conditionalities of GATT Article XX.
- The FTA should **explicitly recognise the principle of CBDR and the UK should adhere to this** in its trading relationship with India, with any liberalisation of environmental goods and services to be accompanied by the transfer of the underlying technology
- The FTA should **not include restrictions on local content requirements**.
- The Government should **not seek to go beyond TRIPS in the FTA's provisions on intellectual property**.
- **Exclude an investment protection chapter and exclude ISDS** from the FTA.
- **Ensure flexibility in respect of subsidies** such that both countries can choose to support moves towards more climate or environment friendly industries.

## BEFORE IMPLEMENTATION

- **A full environmental impact assessment should be carried out** that considers a wider range of impacts than that of the UK's scoping assessment. This should be executed and communicated in a transparent and democratic manner.

## DURING IMPLEMENTATION

- **The FTA should establish an ongoing monitoring and assessment processes**, along with mitigation measures and termination triggers in the event of unforeseen impacts such as carbon leakage.

## Section 6:

# Trade agreements and SDG 5: Gender equality

### KEY POINTS

- **UN SDG 5 commits parties to achieve gender equality and empower all women and girls.**
- **A UK-India FTA will have important impacts on gender equality, from women's experiences of work to their ability to access essential services and the amount of time they are required to commit to caring and domestic work.**
- **The UK's approach to gender is currently limited to seeking ways to ensure women, primarily as entrepreneurs, are able to access the benefits of trade. This is out of step with the reality for women in India.**
- **The UK must commission a full, independent assessment of the impacts of the deal for women and shape the deal accordingly, taking out or mitigating for any damaging provisions.**

UN SDG 5 commits parties to 'achieve gender equality and empower all women and girls'. Women continue to experience significant social and economic disadvantage as compared to men, including higher levels of unemployment, lower pay, greater work insecurity and a disproportionate share of unpaid domestic and care work.<sup>139</sup>

## The situation for women in the UK

The Global Gender Gap Report (GGGR) ranks the UK 22nd out of the 146 countries it surveyed. Given that the UK is the world's 6th largest economy, it could clearly be doing much better, particularly when it comes to health, where it ranks 105th, behind countries like Sierra Leone and Chad.<sup>140</sup> There are ongoing concerns about low conviction rates for domestic violence and rape.<sup>141</sup> Women in the UK

are still more likely than men to be caring for family members: 41% of women vs. 25% of men have caring responsibilities; less than a third of members of parliament are women and 85% of women cook and/or do housework every day, compared to 49% of men.<sup>142</sup> However at 82.9 years women in the UK have a longer life expectancy than men (at 79 years) and 72% of women are in work, as compared with 78% of men.<sup>143</sup> Whilst far too slow, progress overall appears to be in the right direction. Given the very different situation for women in India, this section will focus on how the FTA might impact them.

## The situation for women in India

The GGGR ranks India 135th, just eleven places from the bottom of the ranking, despite India being the world's fifth biggest economy. Discrimination against women is widespread; women living in the poorest areas have almost no access to financial services, land and inheritance rights. Domestic violence, rape, harassment, acid attacks and 'honour killings' are frequently reported.<sup>144</sup> Female participation in the workplace stands at just 19%.<sup>145</sup>

Women are over-represented in both the agriculture and textile sectors, comprising 33% and 60% of the total labour force respectively. The composition of the agriculture labour market means that women bear the overwhelming burden of work, in addition to their domestic roles: women are estimated to log 3300 hours of farm labour work during a crop season, compared to 1860 hours logged by men.<sup>146</sup> Because they are generally not the landowners, they nevertheless often remain an invisible labour force. In this context, the UK's negotiating objective to ensure 'comprehensive access for UK agricultural goods into the Indian market' is particularly alarming: increased

competition could lead to downward pressure on the already precarious situation of women agricultural labourers. A truly gender-responsive agreement would acknowledge the precarious situation women agricultural labourers are in, and respond appropriately.

It is estimated that 27 million women work in the textiles sector.<sup>147</sup> The sector has already faced much scrutiny for the poor pay and conditions faced by workers, including estimates that Indian workers are paid as little as 11p an hour for goods produced for major western brands.<sup>148</sup> There are reports of appalling violations of Indian garment workers' rights since the beginning of the Covid-19 pandemic, including several instances of unpaid wages, union busting, unfair mass dismissals and forced labour.<sup>149</sup> This will be another priority sector in any prospective UK-India agreement.

The UK's dairy sector also views India as a key growth market and the UK may therefore seek greater access.<sup>150</sup> The Indian dairy industry is made up of over 190,000 small cooperatives, in which over five million women are working.<sup>151</sup> Under the WTO's Agreement on Agriculture, India's local milk producers began experiencing a decline in the real price of milk due to increased competition from imports. This led to the opposition of many milk farmers in India to any opening of its milk sectors to highly subsidised milk imports, especially from developed countries.<sup>152</sup> For this reason, further liberalisation in an UK-India FTA is likely to meet with opposition, and it is unclear how the FTA will deliver benefits for women in precarious situations in these and other sectors.

## Aligning the UK-India FTA with SDG 5

Given the context outlined here and elsewhere in this report, an FTA between the UK and India could have a range of impacts on women which need to be properly considered. Women working in sectors at risk, such as dairy or textiles, could lose their source of income and have relatively less access to opportunities for re-training.

However women are likely to experience greater impacts than men from other provisions in the agreement. For example, further privatisation of public services or locking in existing privatisation, including health services, will have a disproportionate impact on

women who are more likely to find it difficult to pay for services or to take on the burden of any additional care if other family members are unable to meet healthcare costs. Changes to intellectual property provisions which increase the costs of medicines or affect farmers' ability to save and reuse seeds will disproportionately impact women who will have less ability to cover the costs. Women in other developing countries such as Bangladesh or Ethiopia could be impacted if UK buyers reorient supply chains towards India to take advantage of lower tariffs.

Trade negotiations with India, therefore, need to be designed to ensure they do not exacerbate the inequalities experienced by women. However, governments and trade institutions currently undertake little analysis of the impacts that trade and investment rules have on women as workers, producers, consumers, and the principal providers of unpaid care. Instead, they too often make a number of assumptions, including that these rules will stimulate economic growth and that women, uniformly, will automatically benefit.<sup>153</sup>

The UK-India Scoping Assessment was a clear example of the failure to differentiate between or anticipate mitigation strategies for women; a blanket objective is included to "promote women's access to the full benefits and opportunities of this agreement, as workers, business owners, entrepreneurs, and consumers."<sup>154</sup> This reflects UK's overall approach to gender and trade, which has tended to emphasise the need to ensure more women are able to participate in international trade. Given the very low participation of Indian women in the labour market, and the fact that a significant proportion of them are workers, not international entrepreneurs, this approach appears to be totally out of touch with their reality. Other objectives relating to gender, which are to "seek cooperation to address the barriers which exist disproportionately for women in trade" and to "recognise the importance of upholding protections on gender equality", are similarly broad, and lack the necessary understanding of the specific challenges faced by women in India.<sup>155</sup> The UK's main proposal is to include a gender chapter in the FTA. However, this would be a non-binding instrument, with little influence on the rest of the agreement and therefore fails to provide a framework for identifying and mitigating the negative impacts of FTAs. There are no commitments for binding action to address the provisions that drive gender unequal outcomes.

Women in India are likely to be particularly impacted by an FTA that doesn't take their experiences into account. This is most likely to be the case if the FTA contributes to a squeeze on workers' rights, disadvantages small-scale farmers, reinforces the privatisation of public services and reduces access to affordable medicines. This can all exacerbate existing

inequalities and reinforce gender biases within the economy, increasing women's unpaid domestic and care work, reducing their access to decent employment, and worsening their financial insecurity and poverty.<sup>156</sup> All these risks are significant for the negotiation of an UK-India FTA.

## Recommendations

The Government's objectives must go beyond promoting women's access to opportunities to trade, which are highly unlikely to be realised for the vast majority of women in India, and recognise the potential impacts of the agreement in the round.

- **The UK Government should publish a trade strategy** that outlines how its FTAs, including any FTA between India and the UK, will **support the UK's commitments to promote gender equality**.
- **Commission a neutral third party to undertake a gender responsive impact assessment** that includes a comprehensive consultation with women's groups in both countries to identify priority concerns, employing a range of methodologies that are not limited to economic modelling.

### DURING NEGOTIATIONS

- **Any agreement must contain binding language** such that if there is a conflict between the provisions of trade and investment agreements and those of gender equality commitments, the latter takes precedence. This is particularly important in the case of disputes arising.
- **Exclude provisions that compel either government to liberalise public services.** Public services should instead be protected through the inclusion of strong carve-out clauses.
- Any agreement must be crafted so that it does **not prevent either government from implementing specific measures to increase gender equality**, including the use of tariffs, quotas, subsidies, TRIPS flexibilities, local content requirements, technical standards and licensing and qualification requirements.
- Any trade agreement must be **supportive of the development of a gender responsive industrial strategy** so that trade is designed to strengthen local industries, develop decent employment for women and support social and economic development. Labour law must be explicitly carved out of any trade and investment agreement.
- **Exclude intellectual property provisions** that make it harder for poor communities, and especially women, to access affordable medicines.

### DURING IMPLEMENTATION

- **Specific targets must be included in trade agreements to facilitate ongoing monitoring and evaluation.** Evidence that a trade agreement is undermining gender equality goals must trigger remedial action.

# Section 7:

## Trade agreements and SDG 3: Health

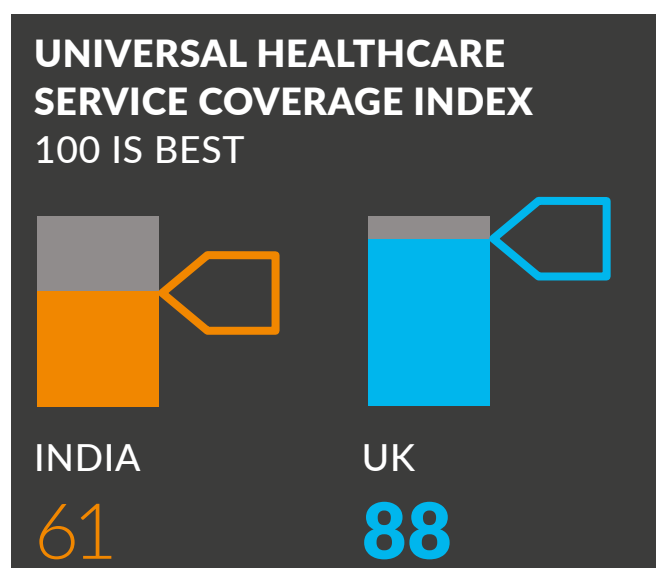
### KEY POINTS

- **UN SDG 3 commits signatories to ensure healthy lives and promote well-being for all at all ages.**
- **Trade agreements include provisions that have implications for a range of health policies, including on services, regulations, investment, patents and medical qualifications.**
- **India has been at the forefront of calls to ensure that intellectual property provisions in trade agreements don't restrict the ability of countries to produce affordable medicines, particularly in light of the Covid-19 pandemic.**
- **Both India and the UK are keen to grow their digital industries, which could have significant implications for patient data.**
- **A UK-India deal must be aligned with the parties' commitments on health. In particular it must ensure policy space is available to support the rapid development and dissemination of essential medicines, contain robust exclusions for health services, protect patient data and decent work in health services and exclude ISDS.**

UN SDG 3 commits signatories “to ensure healthy lives and promote well-being for all at all ages.”<sup>157</sup> Trade agreements have a profound impact on health. Important public policy areas such as health services, patents for medicines and even medical qualifications are increasingly brought into the trade agenda, and provisions such as those on intellectual property (IP), investment, tariffs and regulations and standards have both direct and indirect implications for health outcomes. These provisions can make it harder for people to access medicines and good-quality health services, and for governments to regulate to improve health outcomes or raise revenues to fund health programmes. The Covid-19 pandemic highlighted vividly the ways in which trade and healthcare can interact: the role of IP provisions in limiting the rollout of the vaccine was perhaps foremost among them.

In its objectives for its negotiations with India the UK has stated that it will ensure “appropriate protections remain in place for key public services such as NHS health and care services.” It also reaffirms its “continued commitment to the Doha Declaration on the Trade Related Aspects of Intellectual Property Rights (TRIPS) Agreement and Public Health, and agreed flexibilities that support access to medicines, particularly during public health emergencies in developing countries.” It also states clearly that the UK will “uphold the government’s manifesto commitment that the National Health Service (NHS), its services, and the cost of medicines are not on the table” perhaps demonstrating that the Government has understood the strength of feeling regarding the need to exclude the NHS from trade negotiations.<sup>158</sup>

The Indian healthcare system faces a series of specific challenges. Health outcomes in many respects have improved significantly in recent years, including a decline in the infant mortality rate of 64% between 1990 and 2020, but significant





problems remain around access to and affordability of medicines, vaccines, and diagnostic facilities.<sup>159</sup> India operates a mixed healthcare system via which 70% of all outpatient visits and 90% of medicines dispensed are operated in the private sector.<sup>160</sup> Medical treatment costs are rising under this system, with over 17% of Indian households incurring catastrophic levels of health expenditures annually.<sup>161</sup> There are a series of ways in which health provisions in the agreement could adversely affect health outcomes, including on provisions on IP, service provision and via ISDS. A UK-India FTA that ensures trade policy is aligned with both countries' commitments under the SDGs would ensure increased access to medicines, protect public services, promote high food standards, and much else besides.

## Impact of intellectual property provisions on access to medicines

Around the world, in both the global North and global South, people's access to essential medicines is restricted by high prices. India is no exception; despite producing 8% of the medicines available in the global market by volume and ranking 13th in world production by value, 60% (499-649 million) of the population in India does not have regular access to essential medicines.<sup>162</sup> The phenomenon of high prices is caused in part by IP rights enforced through trade agreements. IP became a central part of trade agreements in 1995 when TRIPS was introduced. The result of TRIPS is that an originator company is given an exclusive licence for a product which grants them a market monopoly for 20 years, allowing companies to push up prices by stifling competition.<sup>163</sup>

India's IP regime has to date enabled it to develop a large and successful pharmaceutical and health sector, and it is home to the world's largest vaccine manufacturer.<sup>164</sup> India's significance as a vaccine producer, and opposition to a forced liberalisation of its IP regime, long pre-date the Covid-19 pandemic; during the EU-India FTA negotiations, the EU's attempts to challenge India's IP regime were fiercely opposed by campaigners.<sup>165</sup> One of the main reasons for this was that the agreement threatened to undermine India's ability to provide HIV treatments: India provides around 80% of the developing world's HIV medicines.

The impact of strict IP regimes on human health is stark. For instance, although tuberculosis (TB) is treatable, in 2016 1.7 million people died from it, making it the world's leading cause of death from infectious diseases.<sup>166</sup> Some treatments for TB can cost over \$250,000 (£190,000).<sup>167</sup> And whilst some drug companies offer concessionary rates for low-income countries, generic medicines could be produced at a fraction of the cost. For instance, a six-month course of Bedaquiline, produced by the drug company Janssen to treat drug resistant TB, could be produced for \$50 (£38), but it is currently priced at \$900 (£686) for low-income countries, and up to \$30,000 (£22,880) for high-income countries.<sup>168</sup> In India, significant disease burden from tuberculosis remains, with rising numbers of multidrug-resistant variants.<sup>169</sup>

Pharmaceutical companies insist IP regimes are necessary to spur innovation. However a number of reports find that the extension of IP regimes in these ways has actually reduced innovation and has "not necessarily led to the discovery of new medicines."<sup>170</sup> Rather than promoting innovation, IP regimes promote rent-seeking: it can be more profitable for private companies to find ways to extend patents than to develop new medicines to address global health issues. Studies suggest that most innovation comes via government-funded research: it is estimated that roughly one third of health innovation investment comes from the public purse.<sup>171</sup> However, there is no guarantee that the public see an equitable return on this investment since the patent for an innovation almost always becomes the property of the private company. Pushing stricter IP provisions through trade agreements can support an inefficient pharmaceutical system that fails to provide value for public money, promote research into new medicines or increase access to affordable medicines.

During the Covid-19 pandemic, India has been at the forefront of calls for a TRIPs waiver at the WTO to support the rollout of the vaccine. It has sought to ensure that IP rights won't become barriers to urgent, universal, and affordable access to and development of health products including vaccines essential to combat Covid-19.<sup>172</sup> More than 100 countries backed the waiver at the WTO arguing that it would help save lives by allowing developing countries to produce their own Covid-19 vaccines at a low cost, but several countries, such as the UK, opposed the proposals for most of the discussions.<sup>173</sup>



A compromise agreement was eventually reached, but it excluded diagnostics and therapeutics, which had been a key part of India's initial proposal and could make the agreement much less effective.<sup>174</sup> It is therefore essential that these mistakes are not repeated, and that a UK-India FTA protects access to medicines. The UK and India should consider undertaking cooperation on IP outside the auspices of a trade agreement.

## Health and digital trade

Patient data is extremely valuable for the development of lucrative new health products. The debate about who owns this data and the rules and regulations to cover its use are still in their infancy, and the inclusion of provisions in trade agreements that cover health data could make it easier for this value to be captured and for data to be bought and sold by private interests. In recent years, digital trade has been a high priority at the WTO, and the UK has cited it as a key priority for its negotiations with India.<sup>175</sup> Digital provisions in a UK-India FTA could affect patient data, privacy, and health outcomes.

One significant concern is that digital trade rules aim to limit the ability of governments to introduce localisation measures or to stop data from leaving the country. This has potential privacy and security implications, including for example if sensitive patient data is held by private firms outside of the country where it is collected. Another concern regards technology transfer; digital trade rules aim to protect companies from having to disclose source code and algorithms, potentially posing problems for governments wishing to access the data these new technologies are producing or address issues that might arise, for example where technology stops working. Trade unions are concerned that developments in digital healthcare could lead to increased outsourcing of healthcare jobs, and a loss of secure roles in the UK to more insecure jobs with poorer terms and conditions in India.<sup>176</sup>

## Impact of investment provisions

ISDS clauses allow investors to sue governments for changes in policy which damage their profits. ISDS has already been used to challenge health policy, including *Achmea vs Slovakia*, in which Slovakia was

sued when it tried to partially reverse a decision to privatise the health insurance market,<sup>177</sup> *Phillip Morris vs Australia*, in which Australia was sued over the introduction of plain packaging cigarette laws,<sup>178</sup> and *Cargill vs Mexico*, in which Mexico was sued over additional taxes being introduced on fructose syrup being used in soft drinks.<sup>179</sup>

If ISDS is included in a UK-India FTA, there is a very real chance that investors will challenge regulatory decisions relating to the health policy. This could happen if a future government attempted to favour a public provider over a private one, or to nationalise parts of the health service which are currently privatised.

Simply the threat (either real or perceived) of a case being brought can be enough to lead governments to rethink their policies – known as ‘policy chill’ – in part because the costs involved in defending a claim alone average \$8 million.<sup>180</sup> For a company, even if they lose a case, the financial gains of simply delaying or deterring regulatory development can outweigh the cost of bringing a case. Companies can also offset the cost of cases via ‘third party funding’ in which a bank, hedge fund or other finance company pays part of the costs of a case in return for a percentage of any future award. To ensure equitable access to healthcare in the UK and India, ISDS must be excluded.

## Impact of services provisions

Privatisation of health services has very clear impacts on the right to health. Around the world, almost 100 million people each year fall into poverty because they have to pay for healthcare.<sup>181</sup> Research looking at 15 high-income countries has shown that competition, privatisation or marketisation in health systems has a negative effect on health equity.<sup>182</sup> In the UK, increasing use of private providers to deliver NHS services has been criticised by doctors who see it as destabilising and fragmenting the NHS.<sup>183</sup> Outsourcing of support services such as cleaning has also had a negative effect on patient care and health.<sup>184</sup>

Trade agreements have a huge bearing on how public services are run, including the ability of governments to reverse privatisation where it has been shown to have failed. Trade in services, including health services, began in earnest with the General Agreement on Trade in Services (GATS), brought

into force in 1995.<sup>185</sup> However, whilst under GATS countries had some control over which services were opened to competition, modern FTAs go much further in the ways that they force through and lock-in liberalisation and privatisation.

Firstly, modern trade agreements use an approach called 'negative listing', which means that all services are potentially opened to international competition unless a country has explicitly listed it as excluded from the purview of the trade agreement. The problem with this approach is that it leads to the creeping liberalisation of public services as negotiators are unable to predict every detail of what should be excluded or the kinds of exclusions that might be required in future. Agreements can also contain 'standstill' and 'ratchet' clauses which lock-in existing levels of privatisation and make it harder for future governments to roll back privatisation or deregulation. These measures are often then reinforced by the ISDS mechanism.

The UK government has sought to assert that the NHS will be protected under FTAs including UK-India. However, the exceptions included in such agreements mean that public services are only excluded if they are not provided on a commercial basis or in competition with other suppliers. Given that much of the care covered by the NHS is now also available from private sector suppliers for a fee, the risk that it will be covered by the agreement persists. During the development of the since abandoned Transatlantic Trade and Investment Partnership (TTIP), for example, legal advice commissioned by Unite the Union led to the conclusion that the NHS would not have been adequately protected from liberalisation under the proposed agreement.<sup>186</sup>

## Recommendations

The UK and India must ensure that any FTA is aligned with SDG3.

- **The UK Government should publish a trade strategy** that outlines how its FTAs, including any FTA between India and the UK, will **support the UK's commitments on health.**

### DURING NEGOTIATIONS

- **Exclude public services, including health services, from the negotiations.** The UK's commitments on the NHS should be enshrined in primary legislation, which would ensure protections for the NHS were built into negotiating objectives. This should include a ban on negative listing and standstill and ratchet clauses being applied to health, as well as explicit protection for NHS medicine purchasing prices.
- **Conduct discussions on IP outside of the auspices of an FTA** and ensure they prioritise the dissemination of essential medicines.
- **Ensure rules on digital trade do not lock in requirements** to allow the transfer of data across borders, or guarantee source code and algorithm secrecy, and ensure privacy is maintained.
- **Exclude ISDS.**

## Section 8:

# Trade agreements and SDG 2: Agriculture

### KEY POINTS

- **UN SDG 2 commits parties to end hunger, achieve food security and improved nutrition and promote sustainable agriculture.**
- **If an agriculture chapter is included in the deal and it goes beyond the provisions that the UK and India have already committed to under the WTO, it could have significant implications for farmers including a loss of livelihood.**
- **Provisions outside of the agriculture chapter could also have impacts on regulatory standards and there are concerns that these may be lowered in the UK.**
- **The UK must ensure an FTA does not undermine India's ability to use important policy tools to protect livelihoods and food security.**
- **The UK must also ensure that no provisions in the deal lead to downward pressure on food, environmental and animal welfare standards and should work with India to support an increase in its standards.**

UN SDG 2 commits parties to “end hunger, achieve food security and improved nutrition and promote sustainable agriculture.”<sup>187</sup> The UK’s scoping assessment of the UK-India FTA finds that, at the macro level, both countries’ agricultural sectors are set to gain from an FTA. At the same time, at the product level, it is clear that liberalisation also poses risks to producers on both sides of the agreement, including a loss of livelihood. There is also serious concern in the UK over a potential lowering of food and animal welfare standards that would allow Indian produce into the UK that exceed safe levels of permitted chemicals, and may even include banned chemicals and harm to animals in the production process.

## The Indian agricultural sector

The Government of India has not made public its negotiating position on agriculture in the UK-India FTA negotiations. However, by looking at agricultural production trends in India, the India policy environment, and the precedent set by the recently signed FTA with Australia, it is possible to infer that liberalisation of the agricultural sector will be limited.

Agriculture is the largest source of livelihoods in India and the sector as a whole (including livestock, forestry and fishing) contributed 20% to GDP in 2021.<sup>188</sup> 70% of rural households depend on agriculture for their livelihood and 82% of farmers produce on small scale farms of between less than 1 and 10 hectares. India is the largest producer of milk, jute and pulses in the world, and the second largest producer of rice, wheat, sugarcane, cotton, groundnuts, and fruit and vegetables.<sup>189</sup>

Because of the significance of the agricultural sector to both livelihoods and food security, tariffs and regulatory restrictions on agricultural products imported into India remain high. These barriers to trade prevent imports displacing locally produced food items by making imports more expensive and allow nascent industries such as food processing the space to grow. Food processing has had an average annual growth rate of 11.8% over the 5 year period up to 2020.<sup>190</sup> On some products, tariffs are not applied at the maximum rate, leaving the Government of India the policy space to increase tariffs if safeguards need to be introduced in case imports threaten livelihoods or food security. The Government of India has made significant use of this lever. In 2021, total UK exports faced an average 18.7% tariff – an increase from 13.4% in 2016. Analysis shows that there is still room

for further increases given the average 30-percentage point difference between applied and maximum tariff rates.<sup>191</sup>

In 2020, having initially participated in negotiations, India chose not to sign the Regional Comprehensive Economic Partnership (RCEP) because, amongst other concerns, of a threat of import of dairy products from Australia and New Zealand, and in the most recent 2022 bilateral trade agreement signed with Australia, India excluded dairy, chickpeas, walnut, pistachio nut, wheat, rice, bajra, apple, sunflower seed oil, and sugar from the agreement.<sup>192</sup>

### **The dairy sector in India**

**“India’s dairy industry is the largest in the world. The sector has assumed a key importance in providing employment and income generation opportunities for millions of rural families. Most dairy farmers are landless and marginal farmers who are able to produce at a very low cost, thereby making their product highly competitive in the market. The sector contributes up to a third of the gross income of rural households and nearly half for the landless and is seen as one of the most pro- poor sectors in India. There are over 100,000 village dairy cooperatives, the largest of which is the highly successful AMUL cooperative, jointly owned by 2.6 million milk producers in Gujarat and providing wide-ranging extension services to its members.**

**In addition to raw milk production, the Indian dairy sector encompasses the processing and marketing of a wide range of value-added products, from butter, to cheeses and flavoured milk and yoghurt drinks. With increasing income levels in cities, the demand for processed dairy products has been expanding – providing good opportunities for India’s dairy farmers and processors.”<sup>193</sup>**

## **The UK’s position on agriculture and impacts of an FTA**

The UK strategy states that its objective is to “secure comprehensive access for UK agricultural goods into the Indian market through the reduction or elimination of tariffs.”<sup>194</sup> Furthermore, relevant to agriculture, is the objective to “reduce technical barriers to trade by removing and preventing restrictive measures in goods markets, while upholding the safety and quality of products on the UK market.”<sup>195</sup>

Major UK interests in the Indian market include Scotch whisky, which currently faces a 150% tariff and dairy, which faces tariffs of 30% to 60%.<sup>196</sup> The UK government estimates that tariff elimination could increase Scotch Whisky exports to India by £1 billion over five years.<sup>197</sup> In May 2021, the UK and India signed an ‘Enhanced Trade Partnership’ – a precursor to the FTA – which saw phytosanitary trade restrictions being lifted on UK apple, pear and quince exports to India, enabling the UK to export apples to India for the first time in 50 years.<sup>198</sup>

The UK’s scoping assessment of the UK-India FTA identifies that UK output of vegetables, fruits and nuts could fall in the face of increased import competition from Indian produce.<sup>199</sup> Although the UK government concluded this could benefit consumers through greater choice and lower prices, UK producers will lose out.

UK producers, environmental, and public health groups are concerned that the UK-India FTA will lead to the lowering of food standards in the UK, allowing foods produced with banned chemicals or higher levels of chemicals than are legal in the UK, onto people’s plates. A number of organisations are calling on the UK government not to liberalise products where there is evidence of pesticide related harms and to negotiate provisions that reinforce the UK’s right to regulate for environmental and health objectives.<sup>200</sup> In a similar vein, there are concerns regarding weak regulations on farm antibiotic use in India, that could spread antibiotic resistance in the UK should Indian produce enter the UK food chain. Key recommendations include only granting better trade preferences to animal-based products that respect animal welfare standards equivalent to those applied

in the UK (during transport, at time of killing and on farm), and to include ambitious provisions on animal welfare cooperation in the agreement.<sup>201, 202</sup>

The impact on UK farmers and the agricultural sector of new FTAs agreed by the UK has been the subject of much discussion and debate. As a result, the Government set up the Trade and Agriculture Commission (TAC). The purpose of the TAC is “to inform parliamentarians and the public about how new Free Trade Agreements (FTAs) are consistent with UK laws on animal welfare, animal and plant health, and the environment.”<sup>203</sup> This remit has been criticised as being too narrow, as it only looks at direct effects on UK statutory provisions and not at broader impacts, including the quality of imported food and the impact on human health.<sup>204</sup> The chair of the TAC has also said it has no real power, given it can only assess the impact of a FTA on statutory protections after the deal has been concluded.<sup>205</sup> To ensure the impact on agriculture of any FTA between the UK and India is properly considered, a comprehensive impact assessment should be undertaken that looks at impacts in both countries and has a broader remit than the TAC in the UK.

## Recommendations

- **The UK must publish a trade strategy** which includes details about **how it will align its trade policy with SDG 2** and ensure parties to its trade agreements can maintain policy space to support livelihoods and uphold and improve labour, environment, animal welfare and food standards in the agriculture sector.
- **Commission a neutral third party to undertake a thorough impact assessment that considers impacts in agriculture,** including labour, environment, animal welfare and food standards.

### DURING NEGOTIATIONS

- The UK must ensure an **FTA does not undermine India’s ability to use important policy tools to protect livelihoods and food security.**
- The UK must also ensure that **no provisions in the deal lead to downward pressure on food, environmental and animal welfare standards** and should work with India to support an increase in its standards.

## Section 9:

# The need for meaningful engagement: issues with the current process of public and parliamentary scrutiny

It is imperative that democratic processes and strong scrutiny mechanisms are in place for negotiating, scrutinising and ratifying FTAs in the UK. Since the EU referendum in 2016, significant work has been done by civil society organisations, business groups and parliamentarians on this issue. However the UK scrutiny process remains extremely weak. This section summarises the main concerns that have been raised. The table in Annex 2 outlines the current processes and mechanisms in place available for public and parliamentary scrutiny.

At present neither the public, the devolved administrations nor Parliament have a formal role in trade negotiations in the UK. The Government has tended towards a presumption of secrecy across its FTA negotiations, including with India, and DIT has for the most part provided only limited updates to stakeholders; access to finalised negotiated texts has been introduced very recently and only for individuals who have signed stringent confidentiality agreements.

Parliament has no right to meaningful oversight of the Government's negotiating objectives, no guaranteed vote on any part of any trade agreement (either on the negotiating mandate or on the final agreement) and no right to see texts or receive meaningful updates during negotiations.

The only formal process set out for Parliament to assess the UK-India FTA, therefore, is found in the Constitutional Reform and Governance Act (CRaG).<sup>206</sup> CRaG requires the final, signed versions of treaties to be laid before Parliament for 21 sitting

days, during which time MPs in theory have the opportunity to scrutinise the signed texts. This is the first and only opportunity parliamentarians have to indicate dissatisfaction with the Government's negotiations. Even during this period, there are no guaranteed debates or votes, and unless MPs can orchestrate a vote against the agreement (for example using one of the 20 opposition days that are allocated during a parliamentary session), the treaty is ratified after the 21 day period (referred to as "negative procedure"). A vote in the House of Lords against ratification would not be binding. This system has faced extensive criticism from five parliamentary committees, academics and campaigners, but has so far had no meaningful reform.<sup>207</sup> In summer 2022 the inadequacy of this scrutiny system was vividly exposed when the Government reneged on verbal promises that the UK's first ever post-Brexit trade agreement would be debated by parliament, stating that the business managers of the House of Commons had not made time for it.

It remains unclear what processes will be in place to scrutinise the implementation of the UK-India FTA. It is crucial that the impact of the FTA is assessed at regular intervals in the years after ratification, to ensure it is delivering the benefits that are being promised. The UK should build on the role of the domestic advisory groups that it has established to ensure that both CSOs and parliamentary committees are given formal roles in monitoring the impact of the trade agreement after ratification, as is common in the US and EU.<sup>208</sup>



## Recommendations

The Government should ensure it meets the following criteria to ensure a meaningful and democratic scrutiny process:

- **Strategy.** The UK should publish a strategy that sets out how it will engage with the public and ensure a robust process for parliamentary scrutiny.
- **Accessible information.** There should be a single source for all information that is public to make it easier for stakeholders to engage constructively and to help ensure all voices can feel included and to work from a common baseline.
- **Scrutiny before negotiations.** A debate and vote for MPs on the government's negotiating objectives before negotiations begin.
- **Scrutiny during negotiations.** Transparency throughout the negotiating process with the release of texts and regular meaningful updates to Parliament. All texts should be open to MPs, and there should be a clear explanation provided for anything withheld. There should be a publication of offers made to counterparties during each negotiating round, with explanatory memoranda.
- **Scrutiny of the signed agreement.** Provision of a robust evidence base including evidence-based impact assessments. This responsibility should be established in primary legislation for future trade agreements. A guaranteed vote for MPs on a final agreement, with the power to seek amendments, and substantive notice given by the Government ahead of the the CRaG process being triggered.
- **Scrutiny of implementation of the FTA.** The UK should build on the role of the domestic advisory groups that it has established to ensure that both civil society groups and parliamentary committees are given formal roles in monitoring the impact of the trade agreement after ratification.
- **Engagement with devolved administrations.** Devolved administrations must be consulted throughout the negotiations, and any materials produced must fully incorporate the impacts and benefits for devolved administrations.

## Annex 1:

# Current processes and mechanisms in place for public and parliamentary scrutiny of free trade agreements in the UK

STAGES	PROCESS	SCRUTINY
<b>Before negotiations</b>	Public consultation undertaken	No publication of negotiating objectives for public consultation
	Scoping assessment and negotiating objectives published	No right for parliamentarians to see negotiating objectives
		No right for parliamentarians to debate and vote on negotiating objectives
<b>During negotiations</b>	Negotiations take place in a series of rounds covering different policy areas between government negotiators	No right for parliamentarians to receive meaningful updates on the negotiations
		No right for the public to receive meaningful updates on the negotiations
		No formal scrutiny role for devolved nations or state governments
<b>Post-signature</b>	Government signs the FTA	No set timeframes for post-ratification scrutiny
	Government publishes text, explanatory material and impact assessment	No legal obligation for Government to take advice from independent Trade and Agriculture Commission
	Government seeks independent advice from Trade and Agriculture Commission (TAC) on an FTA's 'consistency with UK laws on animal welfare, animal and plant health, and the environment.'	No guaranteed debate or vote on FTA in Parliament
	Government publishes Section 42 Report in response to the TAC	No obligation for impact assessment to go beyond economic/environmental implications of the FTA

## Current processes and mechanisms in place for public and parliamentary scrutiny of free trade agreements in the UK

*continued*

STAGES	PROCESS	SCRUTINY
<b>Ratification period</b>	Government lays FTA before Parliament under CRaG Act for 21 sitting days	No obligation for the Government to announce when it intends to commence the ratification period
	Parliamentarians are given a right to resolve against ratification of the FTA by delaying the ratification	No clear mechanism for parliamentarians to resolve against ratification
		No guaranteed debate or vote for parliamentarians on the FTA
		No legal obligation for Government to respond to select committee reports on the FTA
<b>Post-ratification period</b>	Government must pass primary and secondary legislation needed to implement the Agreement	No obligation for secondary legislation to be subject to affirmative procedure
<b>End</b>	Agreement ratified by both parties	

*continued*

## Annex 2:

# Recommendations table

ISSUE	RECOMMENDATIONS
All SDGs	The UK should produce a strategy that outlines how it will align its trade policy with its commitments under the SDGs.
<b>SDG 16: Human rights</b>	<p>Given the human rights situation in India, we believe ratification of the FTA should not proceed. Once the conditions are in place to continue discussions, the following recommendations apply:</p> <p><b>During negotiations</b></p> <ul style="list-style-type: none"><li>■ The UK-India FTA should not include ISDS.</li><li>■ The UK-India FTA should contain binding provisions on human rights conditions, including a monitoring process and dispute system.</li><li>■ The UK-India FTA should contain enforceable human rights obligations on businesses and investors. This recommendation is covered in more detail in the labour rights section.</li></ul> <p><b>Before implementation</b></p> <ul style="list-style-type: none"><li>■ In the absence of an ex-ante impact assessment of the India FTA, the UK should conduct a comprehensive, independent ex-post human rights risk assessment and take timely and proportionate action to address any issues that are found.</li></ul>
<b>SDG 17: Policy Coherence for Development</b>	<p><b>During negotiations</b></p> <ul style="list-style-type: none"><li>■ The UK-India agreement should champion UN SDG target 17.15 and respect the right for both countries to use their policy space for sustainable development policies.</li><li>■ Developing countries who are at risk of preference erosion and trade preference should be consulted proactively about the effects of the FTA. They should be given observer status whilst negotiations are ongoing and the UK should establish a mechanism for engagement during the negotiations and after the FTA is signed. Provisions that have a negative impact should be avoided or mitigating strategies put in place.</li></ul> <p><b>After negotiations</b></p> <ul style="list-style-type: none"><li>■ There must be ongoing monitoring of the impacts for development commitments and third countries.</li></ul>

## Recommendations table

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ISSUE	RECOMMENDATIONS
<p><b>SDG 8: Decent work for all</b></p>	<ul style="list-style-type: none"> <li>■ The UK should work with India to achieve ratification and implementation of the two outstanding ILO Conventions and address labour rights issues both in the UK and India.</li> </ul> <p><b>During negotiations</b></p> <ul style="list-style-type: none"> <li>■ The UK should ensure the provisions of the FTA do not exacerbate poor working conditions.</li> <li>■ Labour provisions contained in the FTA should be binding and enforceable. The chapter should set out a robust model and methodology for monitoring compliance with the provisions and should not include a requirement to demonstrate a linkage to trade and investment.</li> <li>■ Both the short term and long term impacts need to be fully considered in order to support individuals whose livelihoods may be affected by shifts in employment patterns.</li> </ul> <p><b>Before implementation</b></p> <ul style="list-style-type: none"> <li>■ A dynamic and responsive mechanism should be established to monitor the impact of the FTA on employment in the UK and India, and ensure that any affected workers are able to access quality training and support to transition to other sectors.</li> <li>■ The UK should set out a framework of guiding principles for UK businesses that source from Indian suppliers with a set of legal responsibilities, for example a legal duty for businesses to assess and combat labour abuses.</li> <li>■ In order to support the proper functioning of such a framework, the trade agreement should include a mechanism that allows workers and trade unions to trigger investigations of labour rights abuses with appropriate sanctions if these are systematically violated.</li> </ul>

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## Recommendations table

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ISSUE	RECOMMENDATIONS
<p><b>SDG 13: Climate change and environmental protection</b></p>	<p><b>During negotiations</b></p> <ul style="list-style-type: none"> <li>■ All provisions of the agreement must be designed to be compatible with the UK's climate commitments;</li> <li>■ Climate provisions within the agreement should be enforced with binding language and be subject to the main dispute settlement mechanism;</li> <li>■ The FTA should include a non-derogation provision that obligates both sides to retain their existing environmental legislation, and this should not be subject to a demonstrable impact on trade or investment.</li> <li>■ The FTA should clarify that both parties should have the right to legislate on environmental issues, including measures that cover clean air and the atmosphere, without needing to meet the conditionalities of GATT Article XX.</li> <li>■ The FTA should explicitly recognise the principle of CBDR and the UK should adhere to this in its trading relationship with India, with any liberalisation of environmental goods and services to be accompanied by the transfer of the underlying technology.</li> <li>■ The FTA should not include restrictions on local content requirements.</li> <li>■ The Government should not seek to go beyond TRIPS in the FTA's provisions on intellectual property.</li> <li>■ Exclude an investment protection chapter and exclude ISDS from the FTA.</li> <li>■ Ensure flexibility in respect of subsidies such that both countries can choose to support moves towards more climate or environment friendly industries.</li> </ul> <p><b>Before implementation</b></p> <ul style="list-style-type: none"> <li>■ A full environmental impact assessment should be carried out that considers a wider range of impacts than that of the UK's scoping assessment. This should be executed and communicated in a transparent and democratic manner.</li> </ul> <p><b>During implementation</b></p> <ul style="list-style-type: none"> <li>■ The FTA should establish an ongoing monitoring and assessment processes, along with mitigation measures and termination triggers in the event of unforeseen impacts such as carbon leakage.</li> <li>■ In order to support the proper functioning of such a framework, the trade agreement should include a mechanism that allows workers and trade unions to trigger investigations of labour rights abuses with appropriate sanctions if these are systematically violated.</li> </ul>

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## Recommendations table

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ISSUE	RECOMMENDATIONS
<p><b>SDG 5: Gender equality and empowerment of women and girls</b></p>	<ul style="list-style-type: none"> <li>■ Commission a neutral third party to undertake a gender responsive impact assessment that includes a comprehensive consultation with women's groups in both countries to identify priority concerns, employing a range of methodologies that are not limited to economic modelling.</li> </ul> <p><b>During negotiations</b></p> <ul style="list-style-type: none"> <li>■ Any agreement must contain binding language such that if there is a conflict between the provisions of trade and investment agreements and those of gender equality commitments, the latter takes precedence. This is particularly important in the case of disputes arising.</li> <li>■ Exclude provisions that compel either government to liberalise public services. Public services should instead be protected through the inclusion of strong carve-out clauses.</li> <li>■ Any agreement must be crafted so that it does not prevent either government from implementing specific measures to increase gender equality, including the use of tariffs, quotas, subsidies, TRIPS flexibilities, local content requirements, technical standards and licensing and qualification requirements.</li> <li>■ Any trade agreement must be supportive of the development of a gender responsive industrial strategy so that trade is designed to strengthen local industries, develop decent employment for women and support social and economic development. Labour law must be explicitly carved out of any trade and investment agreement.</li> <li>■ Exclude intellectual property provisions that make it harder for poor communities, and especially women, to access affordable medicines.</li> </ul> <p><b>During implementation</b></p> <ul style="list-style-type: none"> <li>■ Specific targets must be included in trade agreements to facilitate ongoing monitoring and evaluation. Evidence that a trade agreement is undermining gender equality goals must trigger remedial action.</li> </ul>

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## Recommendations table

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ISSUE	RECOMMENDATIONS
<b>SDG 3: Health</b>	<p><b>During negotiations</b></p> <ul style="list-style-type: none"> <li>■ Exclude public services, including health services, from the negotiations. The UK's commitments on the NHS should be enshrined in primary legislation, which would ensure protections for the NHS were built into negotiating objectives. This should include a ban on negative listing and standstill and ratchet clauses being applied to health, as well as explicit protection for NHS medicine purchasing prices.</li> <li>■ Conduct discussions on IP outside of the auspices of an FTA and ensure they prioritise the dissemination of essential medicines;</li> <li>■ Ensure rules on digital trade do not lock in requirements to allow the transfer of data across borders, or guarantee source code and algorithm secrecy, and ensure privacy is maintained;</li> <li>■ Exclude ISDS.</li> </ul>
<b>SDG 2: Agriculture</b>	<ul style="list-style-type: none"> <li>■ Commission a neutral third party to undertake a thorough impact assessment that considers impacts in agriculture, including labour, environment, animal welfare and food standards.</li> </ul> <p><b>During negotiations</b></p> <ul style="list-style-type: none"> <li>■ The UK must ensure an FTA does not undermine India's ability to use important policy tools to protect livelihoods and food security;</li> <li>■ The UK must also ensure that no provisions in the deal lead to downward pressure on food, environmental and animal welfare standards and should work with India to support an increase in its standards.</li> </ul>

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## Recommendations table

*continued*

ISSUE	RECOMMENDATIONS
<b>Scrutiny of the FTA negotiation process</b>	<p><b>Strategy</b></p> <ul style="list-style-type: none"><li>■ The UK should publish a strategy that sets out how it will engage with the public and ensure a robust process for parliamentary scrutiny.</li></ul> <p><b>Accessible information</b></p> <ul style="list-style-type: none"><li>■ There should be a single source for all information that is public to make it easier for stakeholders to engage constructively and to help ensure all voices can feel included and to work from a common baseline.</li></ul> <p><b>Scrutiny before negotiations</b></p> <ul style="list-style-type: none"><li>■ A debate and vote for MPs on the government’s negotiating objectives before negotiations begin.</li></ul> <p><b>Scrutiny during negotiations</b></p> <ul style="list-style-type: none"><li>■ Transparency throughout the negotiating process with the release of texts and regular meaningful updates to Parliament. All texts should be open to MPs, and there should be a clear explanation provided for anything withheld. There should be a publication of offers made to counterparties during each negotiating round, with explanatory memoranda.</li></ul> <p><b>Scrutiny of the signed agreement</b></p> <ul style="list-style-type: none"><li>■ Provision of a robust evidence base including evidence-based impact assessments. This responsibility should be established in primary legislation for future trade agreements. A guaranteed vote for MPs on a final agreement, with the power to seek amendments, and substantive notice given by the Government ahead of the the CRaG process being triggered.</li></ul> <p><b>Scrutiny of implementation of the FTAs</b></p> <ul style="list-style-type: none"><li>■ The UK should build on the role of the domestic advisory groups that it has established to ensure that both civil society groups and parliamentary committees are given formal roles in monitoring the impact of the trade agreement after ratification.</li></ul> <p><b>Engagement with devolved administrations</b></p> <ul style="list-style-type: none"><li>■ Devolved administrations must be consulted throughout the negotiations, and any materials produced must fully incorporate the impacts and benefits for devolved administrations.</li></ul>

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# Acknowledgements

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The authors of this report would like to thank the following for their contributions and advice. We also extend our thanks to those who gave their time to support the report but prefer to remain anonymous.

- **Jean Blaylock, Global Justice Now**
- **Nick Crook, Unison**
- **James Harrison, University of Warwick**
- **Alice Lucas, Fair Trade Foundation**
- **Dharmendra Kumar, India FDI Watch**
- **Liz May, Independent consultant**
- **Ian Mitchell, Center for Global Development**
- **Johnny Peters, E3G**
- **Roz Scourse and colleagues, the Médecins Sans Frontières Access Campaign**
- **Ranja Sengupta, Third World Network**
- **Parminder Singh, IT For Change**
- **Laurence Turner, GMB Union**
- **Tom Wills, Business and Human Rights Resource Centre**

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October 2022