



Department for Business and Trade

Trade and Agriculture Commission: Advice to the Secretary of State for Business and Trade on the UK-India Free Trade Agreement

Presented to Parliament
by the Secretary of State for Business and Trade
by Command of His Majesty
October 2025



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Trade and Agriculture Commission

Advice to the Secretary of State for Business and Trade on the Comprehensive Economic and Trade Agreement between the United Kingdom of Great Britain and Northern Ireland and India, 24 October 2025

I. Executive Summary

On 24 July 2025, the Rt Hon Douglas Alexander MP, the Minister of State for Trade Policy and Economic Security, requested us to advise him on UK's agreement to enter into a Free Trade Agreement (FTA) with India. We were tasked to advise on the extent to which those provisions of the India FTA that are applicable to trade in agricultural products are consistent with the maintenance of UK levels of statutory protection in relation to (a) animal or plant life or health, (b) animal welfare, and (c) environmental protections.

The Minister of State asked us three questions, which we answer as follows.

Question 1: Does the India FTA require the UK to change its levels of statutory protection in relation to (a) animal or plant life or health, (b) animal welfare, and (c) environmental protection?

Answer: No. The India FTA incorporates a number of WTO trade liberalisation obligations and also adds some additional trade liberalisation obligations, in particular the obligation not to charge customs duties on most imports. All of these trade liberalisation obligations are, however, subject to exceptions which are at least as extensive as under WTO law, under Article 28.1, the SPS Chapter (Chapter 6) and the Environment Chapter (Chapter 21). Therefore, on the basis that the FTA does not constrain the UK's right to regulate compared to WTO law and even reinforces such a right for certain environmental matters, **it can be concluded that the FTA does not require the UK to change its existing levels of statutory protection in relation to animal or plant life or health, animal welfare, or environmental protection.**

Question 2: Does the India FTA reinforce the UK's levels of statutory protection in these areas?

Answer: Yes. These various obligations reinforce the UK's ability to maintain its levels of statutory environmental protection in two main ways. First, the UK not only has a right to maintain its statutory protections, but it has an obligation to do so, in certain cases. The UK has a (soft) obligation to provide for high levels of environmental protection, an obligation not to derogate from or waive, and not to fail to enforce, certain of its domestic environmental laws if this has the purpose of encouraging trade or investment between the parties. **Second, the UK is able to protect its levels of statutory protection indirectly by encouraging India, through dialogue based on India's obligations, not to gain an economic advantage by not properly implementing or enforcing certain of its domestic environmental laws.**

Question 3: Does the India FTA otherwise affect the ability of the UK to adopt statutory protections in these areas?

Answer: No. The India FTA does not otherwise affect the ability of the UK to adopt statutory protections in these areas.

In this context, we considered several issues. First, we examined the process of decision-making under the FTA, and how that might affect the UK's statutory protections. In this respect, we noted that the FTA foresees that the parties may agree on several types of decisions, including on interpretations of the agreement. Such decisions may affect the scope of the agreement in future. These decision-making powers do not, as such, affect the ability of the UK to adopt statutory protections in the areas at issue, but they could be used to reach decisions that do have such an effect. We note in this respect that not all of these decisions are necessarily subject to parliamentary scrutiny in the same way as amendments to the agreement, although any implementation of these decisions in domestic law would follow ordinary parliamentary procedures.

Second, we considered the impact on border controls of increased imports under the agreement. We noted that the FTA does not itself undermine the UK's statutory protections, nor are imports from India likely to place undue pressure on the capacity of the UK's border control regimes to handle any new threats that might emerge. Nonetheless, we are conscious that these regimes are adequately resourced so that Indian imports are properly subject to UK border controls.

Third, we considered the extent to which the FTA might affect the ability of the UK to regulate in response to concerns, raised during our consultations, about the potential effects of the FTA on statutory animal or plant life or health, animal welfare and environmental protections. We asked four questions in relation to each concern: (a) whether there is a practice in India that would not be permitted in the UK; (b) whether this practice, if any, might affect agricultural products that are likely to be imported into the UK at an increased rate under the FTA (for example, because of tariff reductions), (c) whether this practice, if any, results in a cost saving for Indian producers compared to UK producers, and (d) whether the FTA would prevent the UK from regulating imports of products affected by this practice.

The concerns raised involved animal welfare in relation to prawn farming and cattle farming for dairy and leather, as well as antimicrobial resistance and the effects of the use of the pesticides not permitted to be used in the UK. Some concerns were also raised in relation to products on which the FTA will have no effect, as they are not liberalised.

In relation to prawn farming, we agreed that prawns are likely to be imported at an increased rate into the UK under the FTA, and that there are certain animal welfare issues in India, particularly concerning eye ablation, ice slurry slaughter and overstocking practices. In principle, the FTA would permit the UK to ban imports of prawns produced in this manner on public morals grounds. However, this would require consistency in the UK's domestic regulatory regime. At present, the practices at issue are not prohibited by UK legislation, and only in part by private standards. As such, while an import prohibition cannot be ruled out, the UK would need to establish the proper domestic framework that would support such a prohibition.

The situation is different in relation to cattle farming for dairy and leather. In relation to dairy, we determined that while, in principle, there is tariff liberalisation, in practice it is very

unlikely that, in the foreseeable future, there will be any dairy imports from India into the UK. This is for two reasons. First, Indian dairy exports do not meet the UK's sanitary and phytosanitary standards, such that there are no dairy imports from India, and it is not foreseen that this will change any time soon. Second, even in the event that Indian production did come to meet UK standards, it is likely that Indian domestic demand will satisfy any increased production. Having said that, we do not rule out that both conditions change, and in the longer term there may be dairy imports from India. In addition, we do anticipate that there will be increased imports of leather. On the assumption, then, that there are increased imports of dairy and/or leather, and Indian production falls short of UK animal welfare standards, our legal conclusion is that the FTA would not limit the UK's WTO rights to prohibit relevant imports on animal welfare grounds, provided, as said above, that the UK's legal position on the relevant animal welfare concerns is applied consistently.

We also considered a concern raised by several consultees that the FTA might promote production of products, in particular prawns, to satisfy the UK market, the production of which is characterised by overuse of antimicrobials, resulting in increased antimicrobial resistance. We agreed that – despite India's regulatory framework – antimicrobial overuse is common in India, including in the prawn industry, and we agreed that there was a certain risk that increased trade might increase antimicrobial resistance, although we also noted that, in practice, the large retailers only import prawns that are produced in a way that meets UK production standards, including with respect to antimicrobials. To the extent there is a risk of increased antimicrobial resistance, we considered three vectors: the introduction of resistant microbes on imported food products, with effects on human health; the dispersal of these resistant microbes into the environment, and increased antimicrobial resistance in India. The first of these risks is a matter for the FSA. The second and third are potential risks, although in the scheme of things we considered the additional risk posed to be minor. We also considered whether the FTA limited in any way the UK's ability to regulate against the second and third of these risks. We concluded that it did not limit the UK's ability to protect against any harms occurring in the UK as a result of imports. As far as AMR in India is concerned, we concluded that the FTA also does not change the legal position, but in principle, as under WTO law, it is for India to protect against AMR in its own territory.

We finally considered concerns raised about the use of pesticides in India that are not permitted in the UK. We make no comment on the effects of pesticide residue on human health in the UK, that being a matter for the FSA. We are solely concerned with the effects of pesticide use on the Indian environment. As far as this is concerned, we agree that India permits the use of certain pesticides that are not permitted to be used in the UK. Moreover, this can come with cost advantages compared to domestic production, although this is not always clear cut. Our conclusion on the legal point is that the FTA does not affect the UK's rights to respond to these effects, but also that the UK has a very limited ability to do anything about this also under WTO law. In principle, it is for India to protect its own environment. We also do not rule out that the effects of pesticide use may conceivably rise to the level of a global concern that may also change the UK's rights to regulate extraterritorially, but we do not consider that this threshold has yet been reached.

II. Our mandate

A. Terms of reference and request for advice

Our terms of reference, which we adopted on 6 December 2021, state as follows:

The TAC's purpose is to provide advice under section 42 of the Agriculture Act 2020. In particular, the TAC will provide advice on whether, or to what extent, the measures provided for by new free trade agreements (FTAs) that are applicable to trade in agricultural products are consistent with the maintenance of UK levels of statutory protection in relation to a) animal or plant life or health, b) animal welfare, and c) environmental protections.

On 24 July 2025, the Rt Hon Douglas Alexander MP, the Minister of State for Trade Policy and Economic Security, requested us to advise him on UK's FTA with India as follows:

In line with the TAC Terms of Reference, which can be found on gov.uk, I request your advice on whether, or to what extent, the measures in the Indian FTA ('the agreement') that are applicable to trade in agricultural products are consistent with the maintenance of UK levels of statutory protection in relation to:

- a) animal or plant life or health;*
- b) animal welfare; and*
- c) environmental protections.*

Please produce this advice on a chapter-by-chapter basis. The TAC is welcome to include additional sections as it sees fit. In producing its report, I would envisage that the TAC would:

- 1. Conduct an initial assessment of which chapters it considers to be in/out of scope (ie which contain measures relating to trade in agricultural products);*
- 2. Consider all relevant measures within in-scope chapters;*
- 3. Regarding relevant measures within in-scope chapters, consider the following questions:*
 - Does the agreement require a change to UK domestic statutory protections in relation to animal or plant life or health; animal welfare; and the environment?*
 - Does the agreement affect the UK Government's ability to set statutory protections in these specified areas?*
 - Does the agreement underline any existing UK domestic statutory protections – or in some instances go beyond them – in relation to: animal or plant life or health; animal welfare; and the environment?*

The TAC should also:

- Consider the landscape of statutory protections across the UK, reflecting on all parts of the UK.*

- *Consult those it considers may assist in the preparation of this advice and note in the advice – where relevant – those whom the TAC consulted.*
- *Given the Government's trade agenda is of interest to many, consider how to make its advice accessible and readable to a non-technical audience.*

The following sets out our approach to our mandate.

B. Our approach

Reading our terms of reference and the request from the Minister of State together, we consider that our mandate requires us to address three questions.¹

First, we consider whether the India FTA requires the UK to change its levels of statutory protection in relation to (a) animal or plant life or health, (b) animal welfare, and (c) environmental protection.²

Second, we consider whether the agreement reinforces the UK's levels of statutory protection in these areas. In this context, we consider obligations in the agreement which require the UK and Indian parties to maintain, or improve, standards of protection in the relevant areas.

Third, we consider whether the agreement otherwise affects the ability of the UK to adopt statutory protections in these areas.

In this context, we consider several issues: how decisions are made under the agreement and how that might affect the UK's statutory protections, the potential resource implications of increased imports on border controls, and the extent to which the agreement affects the ability of the UK to respond to concerns, raised during our consultations, about the potential effects of the agreement on animal or plant life or health, animal welfare and environmental protections.

C. Our approach in detail

We consider how the India FTA, insofar as it relates to trade in agricultural products, relates to relevant UK statutory protections in relation to animal or plant life or health, animal welfare and the environment. We must therefore identify the relevant provisions of the agreement and explain how these relate to the relevant UK statutory protections in these areas.

1. The WTO and existing FTAs as a baseline

The UK-India FTA does not exist in isolation. It assumes, incorporates and, in some cases, goes beyond WTO rights and obligations which already apply to trade between the UK and India in their capacity as WTO Members.

¹ For analytical clarity, we answer these questions in a different order than posed.

² Our mandate does not include consideration of the effects, if any, of the FTA on the maintenance of UK statutory protections in relation to human health. That is being considered separately by the Food Standards Agency.

Our approach is to focus on the differences (if any) that the agreement makes to the existing legal framework. In particular, where the FTA simply replicates the UK's legal position under these agreements, we do not consider that the agreement has any added effect on the UK's maintenance of statutory protections. We explain where this is the case below.

2. Relevant provisions of the UK-India FTA

We identify four main categories of FTA provisions that are relevant to imports of agricultural products under this agreement: (a) trade liberalisation obligations, (b) rights to restrict trade, (c) obligations to maintain standards, and (d) institutional provisions.

1. Trade liberalisation obligations

The FTA contains provisions that create enhanced market access opportunities to the UK for Indian agricultural products. This is done in three main ways.

The first way that this is done is via the UK's **obligation to reduce customs duties** beyond WTO commitments on certain products. In line with our mandate, we do not quantify the extent to which these tariff reductions are likely to result in increased imports of these products. However, we do consider the UK's duty reductions in order to identify the products that are likely to be imported at an increased rate under the FTA, so that we can consider the likely effect of the FTA on UK statutory protections relevant to these particular products and any related (ie downstream or upstream) products or services.

This is not the only way that the FTA can result in increased imports. A second way that this can be done, both under the FTA (but also under WTO law), is via rules on non-tariff barriers, good regulatory practice, customs and trade facilitation. A particularly relevant means of reducing trade barriers is by means of **equivalence determinations** by which the UK can permit Indian products to enter the UK market when they are produced according to standards that are deemed equivalent to UK standards, even if these two sets of standards differ. Where this involves a cost saving for Indian production, this could have a bearing on their competitive position in the UK market. We consider this issue below.

A third way in which the FTA can increase trade in a given product is by **reducing the burden of UK import controls**, instead delegating part of this process to exporters or exporting countries prior to export. This can be done by various means, from pre-listing to so-called 'mutual recognition agreements' on conformity assessment procedures (eg accepting the results of inspection, testing and certification performed in the other contracting state).³ The FTA does not require any such reductions in the UK import control regime, but we consider below the options under the FTA for such arrangements in the future. It bears noting that it is possible for the UK to do this under WTO law; the FTA merely sets out a more detailed mechanism for how this can be done in practice.

³ A point on terminology: in this context, 'mutual recognition agreements' refer to agreements on conformity assessment procedures rather than agreements on the 'mutual recognition' of the parties' underlying standards. The term used for the latter is 'equivalence'. But there are exceptions. For example, the Trans-Tasman Mutual Recognition Agreement is an agreement on the mutual recognition of the underlying standards.

2. Rights to restrict trade in products that do not meet domestic standards

Obligations that enhance market access for products from India – which include rules on tariff reductions, non-tariff barriers, good regulatory practice, equivalence and customs and trade facilitation – are the core of every FTA. However, these obligations are always subject to exceptions and other rules which **permit the parties to protect non-trade interests**, including plant or animal life or health, animal welfare and environmental protection. Accordingly, our advice considers those provisions in the FTA which permit the UK to restrict imports of Indian agricultural products that do not meet UK standards on animal or plant life or health, animal welfare and environmental protection. The key chapters in this regard are Ch 6 (Sanitary and Phytosanitary Measures (SPS)), Ch 7 (Technical Barriers to Trade), Ch 21 (Environment), Ch 24 (Good Regulatory Practice), and Ch 28 (General Provisions and Exceptions).

3. Obligations to maintain statutory protections

The FTA also establishes certain obligations that **require the parties to maintain (or even improve) statutory protections** in relevant areas, most notably in Ch 21 (Environment). This chapter has two important functions in respect of trade in agricultural products. First, it reinforces the UK's ability to maintain its statutory environmental protections, both directly (by requiring the UK to continue certain protections) and indirectly (by serving as interpretive context to other provisions that give the UK a right to maintain statutory protections). Second, these obligations require India to enforce certain of its statutory protections, thereby preventing India from obtaining cost and trade advantages by not applying certain of its own environmental laws. We consider how these provisions relate to relevant UK statutory protections (identified below).

4. Institutional provisions

A separate set of provisions relates to the way that the FTA is administered. This involves the mechanisms by which the FTA parties are able to discuss concerns arising under the agreement, but also the mechanisms by which the parties are able to agree on enhanced market access. Most importantly, this concerns future decisions on the equivalence of standards. Another important institutional provision is the chapter on dispute settlement, which applies to several (but, relevantly, not all) FTA obligations. We consider how these institutional provisions relate to the UK's ability to maintain, adopt and enforce relevant UK statutory protections and its ability to ensure that India does the same. UK statutory protections at issue

We consider that we should not address the FTA in the abstract but, rather, as it is likely to have an impact on trade in agricultural products, in reality. This means that we focus on UK statutory protections relevant to those agricultural products likely to be affected by increased trade under the FTA.

5. 'UK levels of statutory protection'

Our mandate requires us to consider the likely effect of the agreement on the maintenance of 'UK levels of statutory protection'. We therefore need to distinguish between rules,

standards and practices that fall within the definition of ‘statutory protection’ and those that do not.

In this respect, we consider that this definition covers *mandatory* rules, standards, and practices, whatever their legal form. We consider UK levels of statutory protections to include mandatory rules, standards and practices adopted at all levels of government including, importantly, the devolved jurisdictions. We also consider, where relevant, statutory protections that are not yet in force, but are going through the parliamentary process.

However, we do not consider that ‘UK levels of statutory protection’ covers *voluntary* standards and practices, which may be followed by producers and retailers, and which are usually advertised to consumers by labels, for example the Red Tractor, LEAF Marque and RSPCA Assured labels, and which typically involve higher standards.⁴

That does not mean that such voluntary standards lack value. On the contrary, they have value, first of all to consumers, who are interested in whether products are made according to these conditions and, secondly, to producers (and others in the value chain), who may have a commercial incentive to produce according to these standards. We also note that UK agricultural products are, in many cases, almost entirely produced in accordance with such voluntary standards and these enjoy widespread public recognition. In addition, producers complying with these voluntary standards are routinely subjected to more frequent independent inspections than is required by law.

6. Products likely to be imported under the India FTA

Accordingly (and considering the Government’s impact assessment, tariff and quota reductions and previous traded quantities) we focus on statutory protections relevant to those products which we believe will be imported in greater quantities because of the India FTA. This required us to investigate which products are likely to be imported in greater quantities, which we do in Annex B.

In brief, we consider increases in imports of the following products to be likely:

- Fresh, chilled, frozen crustaceans
- Prepared or preserved crustaceans
- Rice (unmilled)
- Wheat or meslin flour
- Other vegetables, including carrots
- Grapes, fresh or dried

We expect small increases in imports of:

- Tuna
- Apples
- Molasses
- Leather
- Wool

An increase in imports is unlikely in the foreseeable future for the following products:

- Poultry other than chicken (turkey, ducks, geese and guinea fowl)
- Milk and Dairy
- Beef
- Lamb

We do not expect to see an increase in overall imports of:

- Pig meat and pork products
- Chickens
- Eggs
- Sugar (except molasses)
- Milled rice

III. Does the India FTA require the UK to change its levels of statutory protection?

A. Introduction

All trade agreements, including the WTO agreements, contain a mix of trade liberalisation obligations and exceptions to those obligations. These exceptions give the parties to these agreements (in this case, the UK, which includes its devolved jurisdictions) a right to regulate, subject to certain conditions, in order to protect important policy interests, including animal or plant life or health, animal welfare and the environment.

As noted, we consider that the UK-India FTA may have an effect on UK levels of statutory protection when it changes the legal position of the UK *vis-à-vis* India when compared to WTO law. This will occur when, in respect of any given UK statutory protection, each of two conditions is fulfilled: first, the UK has assumed more extensive trade liberalisation obligations under the FTA than under WTO law; and second, the exceptions that apply to these obligations under the FTA are more restrictive than they would be under WTO law.

If, for example, the FTA *does not* reduce tariffs on a given product or facilitate trade in that product by other means, then it cannot have any causal impact on imports of that product and hence not on any statutory protections that might be affected by imports of that product. If, alternatively, the FTA *does* reduce tariffs on a given product or facilitates its trade by some other means, but this obligation is subject to an exception that is no more restrictive than under WTO law, then the FTA cannot have any causal impact on the UK's statutory protections.

B. Provisions promoting the liberalisation of trade in goods

1. Border measures

The UK's tariff schedule sets out the UK's key trade liberalisation obligation in relation to imports of goods from India,⁵ which is an obligation not to impose **customs duties** on their imports, subject to certain time-limited quotas and safeguard measures.⁶

In addition, Chapter 2 of the FTA prohibits all other border restrictions on imports and exports, in the same terms as WTO law.⁷ This does not, however, apply to border restrictions which are enforcing domestic law, provided that they do so in a non-discriminatory manner, such as ban on sales of unsafe products. Again, this is the same as in WTO law.⁸

⁵ In this advice, the term 'trade liberalisation obligation' is taken to refer only to trade in goods.

⁶ Article 2.6 ('Treatment of Customs Duties') and Annex 2A-b ('Schedule of Tariff Commitments of the United Kingdom').

⁷ Article 2.11 ('Import and Export Restrictions').

⁸ Article 2.4 ('National Treatment').

2. Internal measures

Chapter 2 further provides that, once a product has been imported into the UK, it cannot be subject to any discrimination *vis-à-vis* 'like' domestic products.⁹ So, for example, the UK cannot impose a higher sales tax on imported beef than on domestic beef or require food manufacturers only to use raw materials originating in the UK. This 'national treatment' obligation is identical to an obligation in WTO law, so including it in the FTA does not change anything for imported products.

There are two chapters that contain rules targeted at a subset of internal measures. Chapter 6 ('Sanitary and phytosanitary measures') applies to SPS measures which are directed at risks caused by pests and diseases as well as those additives, contaminants, toxins or disease-causing organisms in foods and feedstuffs, as well as other damage caused by pests.¹⁰ Chapter 7 ('Technical barriers to trade') applies to the preparation adoption and application of all technical regulations, standards and conformity assessment procedures operating at the central level of government bodies (this will not apply to State-level regulation in India).¹¹ These chapters generally incorporate, repeat, or elaborate on existing WTO obligations and they do not contain obligations imposing liberalisation requirements on the UK beyond their WTO equivalents. Below, detailed consideration is given to the extent to which the SPS chapter imposes conditions on the UK's right to regulate to protect plants, animals and the environment more generally.

3. Equivalence

Where the SPS chapter does promote trade in goods is via its provisions on equivalence. These provisions concern the UK's treatment of Indian SPS measures as 'equivalent' to the UK's own SPS measures, even if they differ from the UK's measures. In short, equivalence amounts to better than national treatment.

As always, the baseline for our study is the position under WTO law, and Article 5.1 of the SPS Agreement already deals with equivalence. It states:

Members shall accept the sanitary and phytosanitary measures of other members as equivalent, even if these measures differ from their own or from those used by other members trading in the same product, if the exporting member objectively demonstrates to the importing member that its measures achieve the importing member's appropriate level of sanitary or phytosanitary protection. For this purpose, reasonable access shall be given, upon request, to the importing member for inspection, testing and other relevant procedures.

⁹ Article 2.3 ('National Treatment'). In the WTO, the 'most favoured nation' obligation in Article I:1 of GATT 1994 prohibits discrimination between imports from different countries. This rule is subject to an exception, in Article XXIV:5 of GATT 1994, for free trade agreements.

¹⁰ Article 6.1.2 (definition from Annex A of the SPS Agreement); definitions adopted under the auspices of Codex, the World Organization for Animal Health (WOAH), and the International Plant Protection Convention (IPPC). In the event of inconsistency, definitions under the SPS Agreement prevail (Article 6.13 UK-India FTA).

¹¹ Article 7.3 UK-India FTA. There is an obligation to take 'such reasonable measures as may be available' to the central level of government body to ensure compliance with the TBT chapter by 'regional level of government bodies which are responsible for the preparation, adoption, and application of technical regulations, standards, and conformity assessment procedures.'

This indicates that the importing WTO member has an obligation to treat the exporting WTO members measures as equivalent, provided that the exporting WTO member can objectively demonstrate that these measures achieve the importing WTO member's appropriate level of protection. The FTA does not reiterate any such obligation. Article 6.6.11 merely states that:

The final determination of equivalence, and any subsequent withdrawal or suspension of equivalence, rests with the importing party, acting in accordance with its administrative and legislative framework, taking into account international standards, guidelines, and recommendations.

This may simply be a statement of fact as to which party makes a determination of equivalence, or it may mean that the importing party has the right to refuse an equivalence request. In either case, the FTA mechanism does not limit the UK's right to deny an equivalence request when compared to its position under WTO law.

We also note Article 6.6.10, which states that, where the UK accepts an SPS measure from India as equivalent, the imported product must still 'comply with any other relevant mandatory requirements.' These 'mandatory requirements' would apply in any case, and so this clause is probably without legal effect. To the extent it does, this protects rather than undermines the UK's position.

4. Good regulatory practice

Chapter 24 of the FTA (on good regulatory practice, or GRP) establishes certain procedural conditions on the way certain regulations are made, including regulations relating to animal and plant health, animal welfare, antimicrobial resistance (AMR) and other environmental issues. It requires the parties to hold public consultations when preparing a major regulatory measure, provide a reasonable opportunity of interested persons to provide comments, and take those comments into consideration.¹² The parties are required to ensure their regulations are 'all freely and publicly available online and searchable.'¹³ The parties must also facilitate the implementation of the good regulatory practice chapter of the FTA by means of cooperation activities, like information exchanges, dialogues and meetings.

We do not consider that this chapter fetters the UK's ability to adopt regulatory measures in the areas at issue. Rather, it reflects the ordinary way that UK regulations are formed. In any event, the chapter is not subject to dispute settlement.

C. The UK's right to regulate under the FTA

1. Outline

Importantly, all of these trade liberalisation obligations (except for Chapter 24 on good regulatory practice) are fully covered by general exceptions, taken from WTO law, ensuring that the UK can regulate to protect animal or plant life or health, to protect public morals (including animal welfare) and to conserve exhaustible (living and non-living) natural resources, provided that certain conditions are met.

¹² Article 24.6.

¹³ Article 24.5.

In addition, the environment chapter of the FTA expands these rights to regulate, which gives the UK more leeway to override its trade liberalisation obligations than it would have under WTO law. The FTA also contains specific provisions on animal welfare and anti-microbial resistance, which are also relevant to the UK's right to regulate. The following explains in more detail.

2. The UK's right to regulate under the general exceptions¹⁴

1. Animal welfare

The UK's right to regulate to regulate, including by restricting imports, to protect animal welfare is secured under Article 28.1 of the FTA, which incorporates a WTO exception, Article XX(a) of the GATT 1994, which permits the UK to adopt measures necessary for the protection of its public morals.

a. Measures protecting public morals

It is clear from WTO caselaw that 'public morals' is capable of including animal welfare. In *EC – Seal Products*,¹⁵ a WTO dispute brought by Canada and Norway against the EU, the Appellate Body determined that the EU was permitted to prohibit imports and sales of seal products on the grounds that this was necessary to protect EU public morals concerning the manner in which seals were hunted. This ruling would need to be taken into account in any interpretation of 'public morals' in the FTA.¹⁶ In addition, Article 6.12.3 confirms that '[t]he Parties affirm the right of each Party to set its policies and priorities for the protection of animal welfare. Each Party shall take into account its relevant international commitments on animal welfare, when the Party adopts or modifies its law and policies.'

There are two main ways to determine what constitutes 'public morals' for any given treaty party. One is based on evidence of what the public thinks. In *EC – Seal Products*, such relevant evidence included the fact that numerous members of the public had written to the European Commission asking for a prohibition on seal products. Public petitions would therefore serve as good evidence. The second type of evidence, which is more commonly used in WTO disputes on public morals, is a pattern of legislation and other policies adopted by the country seeking to rely on the public morals exception.

In practice it has proved to be easy to demonstrate that a concern constitutes 'public morals'. However, this would be more difficult where differences in treatment are minor, and in particular where there is an inconsistent application of UK laws on the same issue, for example, between different devolved jurisdictions, and in particular if products from one of these UK jurisdictions can be sold in the other UK jurisdictions.

¹⁴ The analysis here and below is based on WTO jurisprudence. Article 28.12 ('Function of Panels') states that '[t]he panel shall also consider relevant interpretations in WTO panel and Appellate Body reports adopted by the Dispute Settlement Body of the WTO.'

¹⁵ WTO Appellate Body Report, *EC – Seal Products*, WT/DS400/AB/R, adopted 18 June 2014.

¹⁶ Article 29.11 of the UK-India FTA.

Extraterritoriality

One key question is whether the UK is permitted to protect animal welfare not only in the UK, but also in India. Critically, in *EC – Seal Products* it did not matter that the animals being protected were outside of the EU's territorial jurisdiction. On this basis, in principle, the 'public morals' exception in the FTA permits the UK to prohibit the sale and importation of products that are produced in India in a manner that violates UK public morals on animal welfare. This was therefore not a true case of extraterritoriality; the measure had a territorial basis in that it was UK public morals that were being protected.

b. Conditions on measures

Several other conditions also need to be satisfied.

Contribution

The measure must be apt to make a contribution to achieving the objective of protecting public morals (animal welfare in this instance).¹⁷ Measures that have no conceivable effect will fail this test.

Trade restrictiveness

The measure must be 'necessary' to the protection of public morals. This requires a comparison between the measure adopted and a hypothetical alternative measure. A measure will be necessary only when there is no alternative measure that: (a) is reasonably available to the regulating party, (b) achieves the same level of protection as the actual measure and, (c) is less trade restrictive than the measure that was adopted. In *EC – Seal Products*, Canada suggested an alternative of seal welfare certification and labelling requirements, but the panel and Appellate Body determined that this would not have achieved the same level of animal welfare protection as the EU's ban on sales and imports, thus not meeting condition (b).¹⁸

Unjustifiable discrimination

The third condition is that a measure may not constitute unjustifiable or arbitrary discrimination between countries where the same conditions prevail. This condition is set out in the so-called 'chapeau' (introductory paragraph) of Article XX of GATT 1994, which is incorporated by reference into the FTA by means of Article 28.1.¹⁹ The 'conditions prevailing' in different countries are to be understood in terms of the purpose of the measure adopted. For example, an import restriction on prawns on animal welfare grounds does not need to be extended to a country which does not produce prawns. But 'conditions prevailing' are the

¹⁷ WTO Appellate Body Report, *EC – Seal Products*, above at n **Error! Bookmark not defined.**, paras 5.213-5.214 and 5.289; WTO Panel Report, *Brazil – Taxation*, WT/DS472/R, adopted 11 January 2019, paras 7.526-7.528.

¹⁸ WTO Appellate Body Report, *EC – Seal Products*, above at n **Error! Bookmark not defined.**, paras 5.262 and 5.279.

¹⁹ This is a complicated area of law. See Lorand Bartels, 'The Chapeau of the General Exceptions in the WTO GATT and GATS Agreements: A Reconstruction' (2015) 109 *American Journal of International Law* 95.

‘same’ when there is a relevant risk in the relevant countries, even if that risk differs.²⁰ This will usually be the case. Where ‘conditions prevailing’ *are* the same, the UK is permitted to discriminate, provided that this discrimination is not unjustifiable or arbitrary. What this means, in practice, is that there must be a legitimate reason for any difference in treatment, and the difference in treatment must be necessary to achieve that objective (using the factors mentioned above).²¹

Disguised restriction on international trade

The fourth condition, also incorporated from the chapeau of Article XX of the GATT 1994, is that the measure adopted cannot be a ‘disguised restriction on international trade’. This essentially means that the measures cannot be a ‘disguise’ for protectionism.²²

c. Summary

In terms of animal welfare, the UK-India FTA incorporates the WTO exception for measures necessary to protect public morals, including several conditions applicable to such measures under WTO law, and to that extent the FTA does not change the UK’s legal position in relation to its statutory protections of animal welfare.

2. Human, animal or plant life or health

The UK’s right to protect human, animal and plant life and health is secured under the General Exceptions in Article 28.1 of the FTA (discussed here), as well as under the SPS Chapter and the WTO SPS Agreement, both of which elaborate on these exceptions (discussed below).

a. Measures protecting human, animal or plant life or health

Article 28.1 (‘General Exceptions’) permits the UK to adopt measures that are necessary to protect the life or health of humans, animals, and plants. It does this by incorporating Article XX(b) of the WTO GATT 1994.

²⁰ Bartels, *ibid.* WTO Appellate Body Report, *US – Tuna II (Mexico – Art 21.5)*, WT/DS381/AB/RW, adopted 3 December 2015, para 7.308; WTO Appellate Body Report, *EC – Seal Products*, above at n **Error! Bookmark not defined.**, para 5.300.

²¹ A further complication arises when the policy reason for the discrimination is different from the policy underlying the measure. In WTO Appellate Body Report, *EC – Seal Products*, above at n **Error! Bookmark not defined.**, for example, the EU’s prohibition on seal products discriminated against Canada and in favour of Greenland because of an exception in the measure for seal products deriving from Inuit hunts, and there were proportionately fewer Inuit hunted seal products from Canada than from Greenland. In principle, the EU’s basis for this form of discrimination was justifiable, although the EU’s measure was still held to be overly discriminatory (and hence unjustifiable) vis-à-vis Canadian Inuit seal products. See Bartels, above at n **Error! Bookmark not defined.**, and Gracia Marín Durán, ‘Measures with Multiple Competing Purposes after *EC – Seal Products*: Avoiding a Conflict between GATT Article XX-Chapeau and Article 2.1 TBT Agreement’ (2016) 19 *Journal of International Economic Law* 467.

²² Concerning protectionism and ‘disguised restriction on trade’, see WTO Panel Report, *EC – Palm Oil (Malaysia)*, WT/DS600/R, adopted 26 April 2024, para 7.1459 (dissent). An open question, and an important one, is whether a mixed measure for both environmental and protectionist purposes would fail this test.

Extraterritoriality

There is one important difference between Article XX(b) and Article XX(a), on public morals, discussed above, which is that, in principle, the location of the risks at issue under Article XX(b) are limited to those in the regulating country (in this case, the UK). This follows from the general principle of international law of State sovereignty. That means that, in principle, the UK cannot regulate directly to protect the life or health of Indian animals or plants, unless (as above) this is also a matter of public morals.

There are two important exceptions to this principle. One is that a risk arising in another country can be of global concern and can directly affect the UK. An example is climate change, which can be exacerbated by greenhouse gas emissions associated with production activities, or deforestation, in another country, and which affect the UK's territory. In *EU – Palm Oil*, a WTO panel determined that the EU was entitled to restrict imports of palm oil-based biofuels linked to deforestation in order to protect itself from the negative effects of climate change. What counts as an issue of global concern can of course change. It also needs to be said, however, that the FTA itself can indicate, by specifying the action that can be taken in a case of global concern, that extraterritorial regulation on this basis is excluded.

A second exception is that, in some cases, it might be possible to derive from an international treaty, customary international law, or a general principle of international law, a right to regulate directly to protect interests (or regulate activities) in another State. For example, if the environment chapter of the UK-India FTA indicates that the UK has a right to protect animal or plant life or health in India, that would be relevant to the UK's rights to regulate under Article 28.1. We do not consider that, relevantly to the concerns raised by consultees, such rights to regulate extraterritorially can be derived from the UK-India FTA.

b. Conditions on measures

For a UK measure to fall within the terms of Article XX(b), as incorporated, it needs to meet the same four conditions discussed in the context of public morals: the measure must be apt to make a contribution to the protection of the relevant interest (for present purposes, the life or health of animals or plants),²³ it must be 'necessary' to achieve that objective, it must be no more discriminatory than necessary as between countries where the same conditions prevail, and it must not be a disguised restriction on international trade.

c. Summary

The UK-India FTA incorporates the WTO exception for measures necessary to protect human, animal or plant life or health. As a result, the FTA preserves the legality of any UK statutory protection of animal or plant life or health that can be justified under WTO law.

3. Conservation of living and non-living exhaustible natural resources (environmental protection)

Article 28.1 permits the UK to adopt measures relating to the conservation of exhaustible natural resources, including non-living resources (such as hydrocarbons, minerals, and clean

²³ WTO Appellate Body Report, *Brazil – Retreaded Tyres*, WT/DS322/AB/R, adopted 17 December 2007, paras 150-51; WTO Panel Report, *Brazil – Taxation*, WT/DS472/R, adopted 11 January 2019, paras 7.526-7.528 and 7.921.

air) and living resources (such as plants and animals). It does this by incorporating Article XX(g) of the WTO GATT 1994 (discussed here). In addition, the SPS Chapter, and the WTO SPS Agreement (discussed below), elaborate on some aspects of this provision.

Extraterritoriality

As with Article XX(b), there is a question as to where the ‘resources’ at issue can be located. In *US – Shrimp*, the Appellate Body held that the United States was permitted to protect sea turtles on the grounds that these were an inherently migratory species, sometimes within US jurisdiction, and in effect a ‘shared resource’. This does not mean, however, that the UK is able to protect resources that are located solely in the jurisdiction of another State, any more than other States are permitted to regulate resources located solely within the UK. Again, as explained above, there are potential exceptions in cases of global concern, and where a right to regulate such resources can be identified in a treaty (including the FTA itself), customary international law or general principles of law. We do not consider that, relevantly to the concerns raised by consultees, such rights to regulate extraterritorially can be derived from the UK-India FTA.

a. Measures to protect living and non-living exhaustible natural resources

Article 28.1.3 adds a clarification to the WTO definition of measures to protect exhaustible natural resources. It states:

The Parties understand that ... Article XX(g) of GATT 1994 applies to measures relating to the conservation of living and non-living exhaustible natural resources.

This clarification is a codification of existing WTO caselaw, which has already established that Article XX(g) applies to living exhaustible natural resources²⁴ and that ‘non-living exhaustible natural resources’ includes clean air.²⁵ A WTO panel has also determined that climate change measures to limit deforestation can be justified as ‘avoid[ing] the GHG emissions that would be released through their use, [and] are [therefore] related to the conservation of a wide range of exhaustible natural resources that are threatened by increased GHG emissions and climate change.’²⁶

b. Conditions on measures

Again, several conditions must be met for a measure to be justified on this basis. These differ from those discussed above in the context of a ‘necessity’ test. There is no ‘necessity’ requirement under Article XX(g) directly, though there is one, accordingly to caselaw, under the chapeau, which applies to measures provisionally justified under Article XX(g). This gives governments more policy discretion in how to protect environmental resources, as there is no need for the measure to be the least trade restrictive measure that could have been

²⁴ Article 31.1, para 2. This clarification reflects the interpretation of ‘exhaustible natural resources’ by the WTO Appellate Body in *US – Shrimp*, WT/DS58/AB/R, adopted 6 November 1998, para 131.

²⁵ WTO Panel Report, *US – Reformulated Gasoline*, WT/DS2/R, adopted 20 May 1996, para 6.37. This finding was not appealed, and assumed by the Appellate Body to be correct: see WTO Appellate Body Report, *US – Reformulated Gasoline*, WT/DS2/AB/R, adopted 20 May 1996, at 14.

²⁶ WTO Panel Report, *EC – Palm Oil (Malaysia)*, WT/DS600/R, para 7.276. The Panel also determined that a WTO Member was also able to protect peatland in another country’s jurisdiction as an ‘exhaustible natural resource’. This goes too far.

adopted to achieve the level of protection sought by the regulating party. Accordingly, environmental measures are usually justified under this exception rather than under the exception for animal or plant life or health.

i. Contribution

Under Article XX(g), a measure must ‘relate’ to the protection of the natural resource at issue.²⁷ This does not mean that any particular effect needs to be demonstrated; rather, the measure must be apt to make some contribution to the objective at issue.

ii. Domestic restrictions

While there is no necessity test in Article XX(g), a measure must be adopted ‘in conjunction with restrictions on domestic production or consumption’. This ensures that the regulating party is genuine about conserving natural resources and requires that effective restrictions be imposed on domestic production or consumption, even though the burden of conservation does not need to be evenly distributed between foreign and domestic producers (or consumers).²⁸

iii. Unjustifiable discrimination

As with the other two exceptions, this exception is also subject to the third and fourth conditions, under the ‘chapeau’ to Article XX of the WTO GATT 1994. The third condition is that the measures must not constitute unjustifiable discrimination between countries where the same conditions prevail. This has been discussed above.

iv. Disguised restriction on international trade

The fourth condition is that the measure cannot be a disguised restriction on international trade. This condition has also been discussed above.

c. Summary

The FTA incorporates the WTO exception for measures relating to the conservation of exhaustible natural resources, under the same conditions as in WTO law. It does not limit UK’s WTO rights, and via the environment chapter may even enhance these rights to some degree, as discussed below.

3. SPS measure and controls

The WTO SPS Agreement elaborates on Article XX(b) of the GATT by setting out specific conditions for the adoption of certain measures (defined as ‘SPS measures’) to protect

²⁷ In WTO Appellate Body Report, *China – Rare Earths*, WT/DS431/AB/R, adopted 29 August 2014, para 5.117, the Appellate Body said that ‘relating to’ did not require (nor preclude) a demonstration of a causal effect between the measure and an objective; it was sufficient for a panel to consider the ‘general design and structure’ of the measure. The Appellate Body often uses the terms ‘design,’ ‘structure’ and even ‘architecture’ when it seems to have presumed causal effects in mind. It is likely that in this instance the Appellate Body meant that there was no need to find an *actual* effect, but that a potential effect would suffice.

²⁸ See WTO Appellate Body Report, *China – Rare Earths*, WT/DS431/AB/R, *ibid*, para 5.136.

animal, plant and human life and health, as well as on control, inspection and approval procedures. The SPS chapter in the UK-India FTA elaborates on some of these provisions.

The question that we have to address is whether the SPS chapter sets out conditions on the UK's rights to adopt or maintain SPS measures, or control, inspection and approval procedures, that are more limited than under the WTO SPS Agreement. In our view, while the chapter manages to preserve the UK's rights to regulate, some of these provisions are not drafted as clearly as they might be.

1. Preserving rights under the SPS Agreement

A key starting point is Article 6.4.2, which states that:

Nothing in this Agreement shall affect the rights and obligations of each Party under the SPS Agreement.

This indicates that the UK's rights under the SPS Agreement, including its obligation to base its SPS measures on science and, where science is insufficient, its right to adopt provisional measures, are not affected by the UK-India FTA. It would follow that, in the event that a provision in the UK-India FTA might be read as restricting the UK's rights under the WTO SPS Agreement, that provision would firstly have to be interpreted, as far as possible, to avoid such a result, and if that is not possible such a provision would have to be treated as ineffective.

This is an important safeguard, because there are two provisions in particular that are not quite as clearly drafted as they might have been, and could be open to misinterpretation. The first concerns the obligation to base SPS measures on international standards; the second concerns 'emergency measures'.

2. International standards

Under Article 3.1 of the SPS Agreement, the UK is required to base its SPS measures on international standards developed by the International Plant Protection Convention (IPPC), the World Organization for Animal Health (WOAH) and Codex Alimentarius, where these standards exist. However, Article 3.3 permits the UK to adopt a higher level of protection when its measures are based on a scientific risk assessment, or on a provisional basis, if there is insufficient science for such a risk assessment to be undertaken. In practice, many UK SPS measures reflect a high level of protection than relevant international standards.

This context is necessary for understanding Article 6.7.2, which states, relevantly:

... each Party, in accordance with Article 3 of the SPS Agreement, shall set out its import conditions for animals, animal products, plants, plant products and other related objects, based upon the principles set out in the relevant standards, guidelines, and recommendations developed under the relevant international organisations.

Given the similarity in structure, and the reference to Article 3 of the SPS Agreement, this provision appears to be concerned with the same issues as Article 3 of the SPS Agreement.²⁹

Without a careful reading, it might appear that the UK is now required to base its SPS measures on international standards. The qualification ‘in accordance with Article 3 of the SPS Agreement’ is therefore critical. By referring to Article 3 in this way, we believe the UK has incorporated the UK’s right under Article 3.3 of the SPS Agreement to adopt measures that achieve a higher level of protection, provided that these are based on a scientific risk assessment, or on a provisional basis where there is insufficient science to conduct a risk assessment. Such a reading would replicate the UK’s legal position under Article 3 of the SPS Agreement.

3. Emergency measures

Article 6.11 is concerned with ‘emergency measures’. An emergency measure is ‘a sanitary or phytosanitary measure that is applied by the importing Party to the exporting Party to address an urgent problem of human, animal or plant life or health protection that arises or threatens to arise in the Party applying the measure’.³⁰ The WTO SPS Agreement does not contain any reference to emergency measures. It follows that the ordinary rules apply to emergency measures: these must be based on a scientific risk assessment, or, in the event that there is insufficient science to conduct such a risk assessment, on a provisional basis.

The question is whether Article 6.11 changes anything under the SPS Agreement, in particular by limiting the rights of the UK to adopt emergency measures on a provisional basis when science is lacking. We do not believe that it does. In particular, we do not believe that Article 6.11 excludes the possibility of emergency measures being adopted on a provisional basis when scientific evidence is lacking, as would be permitted under Article 5.7 of the SPS Agreement. Moreover, Article 6.11.1 requires the UK to notify India of any emergency measure that is ‘necessary for the protection of human animal or plant life or health’ and to engage in technical consultations with the other party, on request. Such provisions also exist in WTO law. There is also an obligation to ‘commence a science-based review of the emergency measure within a reasonable time’, but that is also reflected in the conditions for measures adopted on a provisional basis under Article 5.7 of the SPS Agreement. In short, Article 6.11 does not limit the UK’s rights under the SPS Agreement.³¹

²⁹ The critical term ‘import conditions’ is not defined. We assume this term refers to SPS measures, and not simply to control, inspection and approval procedures. This follows from the fact that Article 6.7 as a whole is headed ‘import conditions’, that Article 6.7.3 refers to ‘general sanitary and phytosanitary import conditions related to goods’, and that Article 6.7.2 refers to Article 3 of the SPS Agreement (which is not applicable to control, inspection and approval procedures). We note also that the UK-Japan FTA defines ‘import conditions’ to include SPS measures.

³⁰ Article 6.1.1.

³¹ Lukasz Gruszczynski and Joanne Scott (eds), *The WTO Agreement on Sanitary and Phytosanitary Measures: A Commentary*, 2nd ed (OUP, 2023), at p296, discuss equivalent FTA provisions on ‘emergency measures’ and conclude, similarly, that ‘in this regard, the FTAs add very little (if anything) to the relevant disciplines of the SPS Agreement.’

4. Inspection, control and approval procedures

The UK-India FTA includes detailed articles on audits (Article 6.8), certification requirements (Article 6.9) and import checks (Article 6.10). These provisions build on Article 8 and Annex C of the WTO SPS Agreement, but they differ in several respects.

d. Audits

Article 6.8 of the FTA sets out the parties' rights and obligations regarding audits. Article 6.8 states:

For the purposes of attaining and maintaining confidence in the exporting parties regulatory control programme, and to comply with the SPS import conditions and related control measures of the importing party, the importing party shall have the right to carry out an audit of all or part of the exporting party's competent authority.

This enhances the UK's WTO rights. We note that it extends only to the right to carry out an audit of 'all or part of the regulatory control programme of the exporting party's competent authority.'³² The 'competent authorities' for the purposes of Chapter 6 of the FTA are defined as 'those authorities within each party recognised by the national government as responsible for developing, implementing and administering' the relevant SPS measures.³³

The SPS Agreement does not specifically regulate audits, and so the provisions in the FTA permitting and regulating audits represent additional rights for the UK, or at least elaborations of what can be implied from the SPS Agreement. This right comes with conditions. In particular, the exporting party has the right to comment in writing on the findings of the audit, and the importing party, following the audit, can only take measures that are 'proportionate to the risks identified' and which are based on 'objective evidence' taking into account the exporting party's 'knowledge of, relevant experience with, and confidence in the exporting party'.³⁴ Such measures cannot be 'more restrictive than necessary to achieve the importing party's appropriate level of protection.'³⁵ The costs of any audit are also borne by the importing party.³⁶ We do not consider that these provisions limit the UK's WTO rights to protect its levels of SPS protection. In addition, we recall that Article 6.4.2 states that nothing in the SPS Chapter shall affect the rights and obligations of the parties under the SPS Agreement.

e. Certification

Article 6.9.1 allows the UK to require SPS certification for imports. It permits additional 'procedures and requirements' for export certification that both parties agree.³⁷

³² Article 6.8.1.

³³ Article 6.1.1.

³⁴ Articles 6.8.1, 6.8.3, 6.8.7 & 6.8.8.

³⁵ Article 6.8.8.

³⁶ Article 6.8.9.

³⁷ Article 6.9.2.

f. Import checks

Article 6.10 of the FTA sets out the rights and obligations of the parties regarding import checks. Article 6.10.1 specifies that the checks should be carried out without due delay and with minimal trade distorting effects, and 'in accordance with Annex C to the SPS agreement.' This language implies that Article 6.10 of the FTA should be interpreted in light of the rights and obligations set out in Annex C of the SPS agreement.

The language in Article 6.10 of the FTA is similar to that in Annex C but differs in two respects. First, Article 6.10.2 of the FTA gives the parties a right to take action in the event of non-compliance. This action should be based on 'an assessment of the risk and not be more trade restrictive than required to achieve the party's appropriate level of protection.' A detailed definition of what constitutes such a risk assessment is not specified, although Article 6.10.2(a) states that where physical import checks are carried out by sampling, then that sampling should be representative.

However, the obligations in annex C of the SPS agreement extend to '*any procedure*' to check and ensure the fulfilment of the WTO member's SPS measures. This obligation has been interpreted expansively by WTO panels to extend to a 'broad array of procedures' provided they are 'aimed at checking and ensuring the fulfilment of sanitary and phytosanitary measures' and that those procedures are 'undertaken in the context of control, inspection, or approval.'³⁸ In the *US- Poultry (China)* dispute, the panel took the view that there was 'no *a priori* exclusion [of control, inspection and approval measures]... contemplated by the SPS agreement.'³⁹

On this interpretation, the procedures covered by annex C of the SPS agreement can extend to *both* a check of the product for compliance *and* a determination of how to respond to that non-compliance. In effect, the assessment of risk caused by that product's non-compliance with the party's SPS measure would form a critical part of the party's import checks. That risk assessment must then comply with other obligations in annex C, namely that it is undertaken 'without due delay and in no less favourable manner for imported products than for like domestic products.'⁴⁰ As Article 6.10.1 expressly states that each party's control, inspection and approval procedures 'shall be...carried out in accordance with annex C of the SPS agreement,' this interpretation of what constitutes a control, inspection and approval procedure under the SPS agreement can be extended to understand the scope of Article 6.10.2 of the FTA. Despite the difference in wording Article 6.10.2 does not change the parties' rights under the SPS agreement.

Second, Article 6.10.3 states that the importing party should inform the *importer* of the decision and the reasons and provide an opportunity for review where possible. Presumably, the importer will then inform the *exporter* of the problem, although this useful second step is not explicitly stated in the text. This is an additional obligation to that in the SPS agreement but is not onerous.

³⁸ *US-Poultry (China)*, Report of the Panel, WT/DS392/R, 29 September 2010. paras 7.363-7.364.

³⁹ *US-Poultry (China)*, Report of the Panel paras 7.363-7.364.

⁴⁰ Annex C:1(a) SPS Agreement.

5. Conclusion

We have considered that there are several provisions of the SPS chapter of the UK-India FTA that are deserving of elaboration. We have concluded that these provisions do not add to the UK's obligations (except, potentially, for returns of consignments, and concerning the provision of information to importers) or limits the UK's rights under the WTO SPS Agreement. In any event, according to Article 6.4.2, in the event of any inconsistency the UK's rights under the SPS Agreement would prevail.

4. Environment

Chapter 21 contains a right to adopt 'environmental laws', which are defined to mean laws on the prevention, abatement or control of the release, discharge or emission of pollutants, environmental contaminants and greenhouse gases as well as laws on the protection or conservation of wild flora or fauna, including endangered species, their habitat, and specially protected natural areas. With respect to these laws, Article 21.3 states that:

The Parties recognise the sovereign right of each Party to establish its own levels of environmental protection and priorities, and to establish, maintain or modify its environmental laws and policies accordingly.

With respect to these two categories of environmental laws, then, Article 21.3 reinforces the rights set out in Article 28.1, discussed above, to adopt measures necessary to protect plant, animal and human life and health, and measures relating to the conservation of exhaustible natural resources. That said, according to Article 21.3.5, the UK must still ensure that they do not apply these law 'in a manner that would constitute an arbitrary or unjustifiable discrimination or a disguised restriction on trade or investment between the Parties.' This provision repeats the third and fourth conditions on measures under the chapeau of Article XX GATT 1994, as discussed above.

In short, compared to WTO law, Chapter 21 reinforces the rights of the UK to adopt 'environmental laws' in the two areas defined in this chapter.

5. Animal welfare

The FTA also contains certain provisions on animal welfare relevant to the UK's right to regulate in this area. Article 6.12.2 states that '[t]he Parties recognise that the protection and improvement of animal welfare may, in accordance with their WTO commitments, be an interest in the context of a Party's trade objectives.' This is vague, but it can be read as confirming the reading of 'public morals' as including animal welfare, as described above. Article 6.12.3 also state that '[t]he Parties affirm the right of each Party to set its policies and priorities for the protection of animal welfare' and that '[e]ach Party shall take into account its relevant international commitments on animal welfare, when the Party adopts or modifies its law and policies.' The first of these statements is an 'affirmation' of a right, which by definition, has no legal meaning in the FTA. The second reinforces the international law position for the UK, and has no limiting effect on the UK's rights.

6. Antimicrobial resistance (AMR)

In Article 6.13.5 '[t]he Parties affirm the right of each Party to set its policies, needs, and priorities on antimicrobial resistance specific to their own sensitivities and to adopt or modify its laws, regulations, and policies in this area, informed by the global effect of

antimicrobial resistance.’ Article 1.2.1 of the FTA clarifies that ‘affirmations’ do not incorporate any rights into the agreement. Given what follows, which is limited, it is also very unlikely that this declaration that AMR is a ‘global threat to human and animal health’ could be taken as meaning that the UK can regulate extraterritorially in India to counter this threat on a ‘global’ basis.

D. Conclusion

The India FTA incorporates a number of WTO trade liberalisation obligations and also adds some additional trade liberalisation obligations, in particular the obligation not to charge customs duties on most imports. All of these trade liberalisation obligations are, however, subject to exceptions which are at least as extensive as under WTO law, under Article 28.1, the SPS Chapter (Chapter 6) and the Environment Chapter (Chapter 21). Therefore, on the basis that the FTA does not constrain the UK’s right to regulate compared to WTO law and even reinforces such a right for certain environmental matters, **it can be concluded that the FTA does not require the UK to change its existing levels of statutory protection in relation to animal or plant life or health, animal welfare, or environmental protection.**

IV. Does the FTA reinforce the UK's levels of statutory protection?

In considering this question, we look at the obligations that the FTA imposes on the UK and India, in particular those set out in Chapter 21 of the agreement, concerning the parties' respective levels of statutory protection in the area of environmental protection. These obligations reinforce the UK's levels of statutory protection in two ways. First, directly, these obligations require the UK, in certain cases, to maintain (or even improve) its levels of environmental protection. Second, indirectly, they ensure that India will, in certain cases, maintain its own levels of environmental protection. In doing so, these provisions address the theoretical possibility that India might lower its environmental standards to give its producers a competitive advantage over UK producers.

A. Scope and enforceability of the environment chapter

Several obligations in the environment chapter are described in terms of domestic 'environmental laws'. As noted earlier, these are defined as those laws and regulations protecting the environment in two ways: (a) the prevention, abatement or control of the release, discharge or emission of pollutants or environmental contaminants or greenhouse gases; and (b) the protection or conservation of wild flora or fauna, including endangered species, their habitat, and specially protected natural areas (including biodiversity conservation).⁴¹ Unlike previous FTAs examined by the TAC, the scope of the environment chapter in the UK-India FTA does not extend to domestic laws or regulations dealing with the control of environmentally hazardous or toxic chemicals, materials or wastes.⁴²

For India, there is an important limitation that makes the definition of environmental laws narrower for India than for the UK.⁴³ Only Acts of the Parliament of India (or delegated legislation pursuant to an Act of Parliament), which are enforceable at the central level of government, are covered by the environment chapter.⁴⁴ In the case of India, the environment chapter will thus apply to some environmental laws, including the *Insecticides Act 1968*⁴⁵ and the *Insecticides Rules 1971*,⁴⁶ the *Air (Prevention and Control of Pollution Act*

⁴¹ UK-India FTA, Article 21(1).

⁴² See e.g., Australia-UK FTA, Article 22.1; CPTPP, Article 20.1.

⁴³ In the absence of a specific limitation for the UK in chapter 21, we assume that it applies to environmental laws adopted at all levels of government (central and regional): UK-India FTA, Article 1.4.

⁴⁴ UK-India FTA, Article 21(1).

⁴⁵ The Insecticides Act 1968, available at <https://www.indiacode.nic.in/bitstream/123456789/1551/1/A1968-46.pdf#search=insecticide>.

⁴⁶ The Insecticides Rules 1971, available at https://upload.indiacode.nic.in/showfile?actid=AC_CEN_23_31_00001_196846_1517807318487&type=rule&-filename=Insecticides%20Rule,%201971.pdf.

1981,⁴⁷ and the *Forest (Conservation) Act* 1980⁴⁸ and the *Biological Diversity Act* (2002),⁴⁹ but not all.

In particular, India's climate change regime is only partly covered by the environment chapter. India does not presently have comprehensive climate legislation in place, such as for example the UK's Climate Change Act 2008.⁵⁰ Instead, India has adopted a National Action Plan on Climate Change (NAPCC) at the central Government level in 2008,⁵¹ which has been complemented by several State Action Plans on Climate Change at the regional level. The NAPCC is essentially a policy document, which does not qualify as an 'environmental law' under Chapter 21 of the UK-India FTA. Nevertheless, in some sectors, India has passed laws to implement international commitments under its Nationally Determined Contribution (NDC) under the Paris Agreement.⁵² For instance, the *Forest (Conservation) Amendment Act* 2023⁵³ was introduced with a view to meeting its NDC target of creating 'an additional carbon sink of 2.5 to 3 billion tonnes of CO₂ equivalent through additional forest and tree cover by 2030'.⁵⁴ Similarly, the *Energy Conservation (Amendment) Act* 2022⁵⁵ aims to increase the share of renewable energy sources and reduce the emission intensity of the economy in line with India's NDC targets.⁵⁶ These sectoral climate-related laws are covered by chapter 21 of the UK-India FTA.

Obligations in the environment chapter are not enforceable by means of dispute settlement.⁵⁷ Should there be a concern about India's compliance with its environmental obligations, the UK would seek to find a solution by means of political dialogue in the Joint Committee.⁵⁸

⁴⁷ The Air (Prevention and Control of Pollution) Act 1981, available at https://www.indiacode.nic.in/bitstream/123456789/9462/1/air_act-1981.pdf.

⁴⁸ The Forest (Conservation) Act 1980, available at https://www.indiacode.nic.in/bitstream/123456789/19381/1/the_forest_%28conservation%29_act%2C_1980.pdf.

⁴⁹ The Biological Diversity Act 2002, available at https://www.indiacode.nic.in/bitstream/123456789/21545/1/the_biological_diversity_act%2C_2002.pdf.

⁵⁰ Climate Change Act 2008, available at <https://www.legislation.gov.uk/ukpga/2008/27/contents>.

⁵¹ Government of India, Ministry of Environment, Forest and Climate Change, 'National Action Plan on Climate Change', available at <https://moef.gov.in/national-action-plan-on-climate-change>.

⁵² India Updated First Nationally Determined Contribution (2021-2030), available at: <https://unfccc.int/sites/default/files/NDC/2022-08/India%20Updated%20First%20Nationally%20Determined%20Contrib.pdf>.

⁵³ Forest (Conservation) Amendment Act 2023, available at <https://egazette.gov.in/WriteReadData/2023/247866.pdf>.

⁵⁴ India NDC, para 5.

⁵⁵ Energy Conservation (Amendment) Act 2022, available at https://powermin.gov.in/sites/default/files/The_Energy_Consevation_Amendment_Act_2022_0.pdf.

⁵⁶ Namely, to 'reduce Emissions Intensity of its GDP by 45 percent by 2030, from 2005 level' and to 'achieve about 50 percent cumulative electric power installed capacity from non-fossil fuel-based energy resources by 2030': India NDC, paras 3-4.

⁵⁷ UK-India FTA, Article 21.21.

⁵⁸ UK-India FTA, Articles 21.18-30 and 27.1.

B. Obligations in the environment chapter

The environment chapter contains general obligations with respect to the parties' environmental laws, as well as specific commitments on certain environmental issues, including in relation to multilateral environmental agreements.

1. Obligations to implement/enforce domestic environmental laws

The environment chapter sets out obligations requiring the parties to implement and enforce domestic environmental laws if failure to do so would have the effect of gaining a competitive advantage over the other, for example by relieving a domestic industry of regulatory costs.

One such obligation is about ***waiving and derogating*** from domestic environmental laws. Article 21.3.4, in the environment chapter, states:

[A] Party shall not waive or otherwise derogate from, or offer to waive or otherwise derogate from, its environmental laws in a manner that weakens or reduces the protection afforded in those laws in order to encourage trade or investment between the Parties.

A breach of this environmental obligation is subject to demonstrating two conditions. The first is not particularly onerous as a mere *offer* to waive or derogate from an environmental law (rather than an *actual* waiver or derogation) would be enough for a violation. The second demands that the partial application of environmental laws must be done with the *intention* ('in order to') of encouraging trade or investment between the parties, regardless of any actual (trade or investment) effect.

The second obligation is about ***non-enforcement*** of domestic environmental laws. Article 21.3.6 provides:

Neither Party shall fail to effectively enforce its environmental laws through a sustained or recurring course of action or inaction to encourage trade or investment between the Parties

A breach of this obligation is again subject to showing two conditions. First, the non-enforcement of environmental laws must be through a 'sustained or recurring course of action or inaction', which has been interpreted by an FTA panel to mean; '(i) a repeated behavior which displays sufficient similarity, or (ii) prolonged behavior in which there is sufficient consistency in sustained acts or omissions as to constitute a line of connected behavior by a labor law enforcement institution, rather than isolated or disconnected instances of action or inaction.'⁵⁹ Second, and similar to the first obligation discussed above, the non-enforcement of environmental laws (through a sustained or recurring course of action) must with the *intention* ('in order to') of encouraging trade or investment between the parties, regardless of any actual (trade or investment) effect. It is usually harder to demonstrate intention than actual *effects* on trade or investment (i.e., a change in the

⁵⁹ An equivalent labour obligation was interpreted in CAFTA-DR Panel Report, *US v Guatemala* (2017), paras 190-192.

conditions of competition between domestic and foreign products).⁶⁰ A certain measure of *bona fide* discretion in the allocation of enforcement resources is permitted.⁶¹

The environment chapter also has **best endeavours obligations** with respect to the parties' levels of environmental protection. These obligations go beyond the implementation or enforcement of domestic environmental laws, as discussed in the previous section. That said, there is some overlap insofar as a failure to implement or enforce a domestic environmental law necessarily also reduces levels of protection. The main difference is that the obligations to be discussed here concern *overall* levels of protection, not *partial* levels of protection, and they are not subject to a trade/investment condition. Article 21.3.2 of the environment chapter states:

Each Party shall strive to ensure that its environmental laws and policies provide for, and encourage, high levels of environmental protection and to continue to improve its respective levels of environmental protection.

A key difference between this obligation and the partial implementation/non-enforcement obligations examined above is that this obligation is softer. The parties are not obliged to *ensure* 'high levels' of environmental protection, but rather to *strive to ensure* such levels of protection. However, even a soft obligation to strive to ensure high levels of environmental protection is an obligation and it would not be correct to state that this obligation can never be breached. A 'best endeavours' obligation might, for example, require the parties not to reduce their levels of protection without good reason; it might also amount to a procedural obligation to consider ensuring high and improved levels of protection. In short, it is not entirely clear what this best-endeavours obligation means. It is not as stringent as the hard obligations concerning partial implementation/non-enforcement, but it still an obligation.

2. Specific environmental commitments

In the environment chapter, India and the UK 'affirm [their] commitment to implement' a number of MEAs, such as the Paris Agreement,⁶² the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES),⁶³ the Convention on Biological Diversity and its Nagoya Protocol,⁶⁴ the Montreal Protocol,⁶⁵ and the International Convention for the Prevention of Pollution from Ships (MARPOL).⁶⁶ However, the UK-India FTA makes clear that this reaffirmation of commitments to implement 'another international agreement does not in itself lead to incorporation of those [...] commitments into this [FTA]'.⁶⁷ Hence, there is no FTA-based obligation to implement these MEAs and, any failure to do so by one of the FTA parties should be addressed through the procedures under the relevant MEA.⁶⁸

⁶⁰ Ibid, para 148.

⁶¹ UK-India FTA, Article 21.3.7.

⁶² UK-India FTA, Article 21.5.2(a).

⁶³ UK-India FTA, Article 21.13.4.

⁶⁴ UK-India FTA, Articles 21.13.4 and 21.13.6.

⁶⁵ UK-India FTA, Article 21.7.2.

⁶⁶ UK-India FTA, Article 21.9.1.

⁶⁷ UK-India FTA, Article 1.2.

⁶⁸ UK-India FTA, Article 21.18.3.

Besides MEAs, Chapter 21 sets out commitments to cooperate on a range of environmental issues, including climate change,⁶⁹ protection of marine environment and marine wild capture fisheries,⁷⁰ sustainable forest management⁷¹ and biodiversity conservation.⁷² However, with few exceptions,⁷³ there are no substantive commitments with respect to levels of statutory protections in these areas. Notably, the UK-India FTA contains no prohibition of harmful fisheries subsidies and just ‘recalls’ the WTO Agreement on Fisheries Subsidies (FSA),⁷⁴ which entered into force on 15 September 2025 and prohibits subsidies that (inter alia) contribute to illegal, unreported and unregulated (IUU) fishing or fishing of overfished stocks. The FSA is binding on the UK under WTO law, but India has not (yet) ratified this agreement.

C. Animal welfare

The FTA contains a specific provision on animal welfare. This represents an achievement in pursuing the UK’s policy on animal welfare protections, even if it is not as strong as in some previous UK FTAs.

Article 6.12.4 states that the UK and India ‘shall exchange information, expertise, and experiences in the field of animal welfare with a view to improving mutual understanding of their respective laws and regulations’ and that they Article 6.12.5 states that they ‘shall cooperate in the field of animal welfare and on the WOA animal welfare standards’. As noted above, Article 6.12.3 also recognises each party’s ‘right ... to set its policies and priorities for the protection of animal welfare’ and obliges it ‘to take into account its relevant international commitments on animal welfare, when the Party adopts or modifies its law and policies.’

These obligations are not enforceable in dispute settlement,⁷⁵ but they can be a topic of discussion in the SPS Subcommittee. Article 6.16.2(a) states that ‘[t]he functions of the SPS Subcommittee shall include ... monitoring implementation and considering any matter related to this Chapter’, which includes animal welfare issues arising under Article 6.12.⁷⁶ In addition, we note that the UK is able to protect animal welfare through technical regulations (e.g. labelling) and standards consistently with Chapter 7 of the FTA (technical barriers to trade),⁷⁷ which is the same as the WTO TBT Agreement in this respect.

⁶⁹ UK-India FTA, Article 21.5(3).

⁷⁰ UK-India FTA, Articles 21.9.2 and 21.11.8.

⁷¹ UK-India FTA, Article 21.12.4.

⁷² UK-India FTA, Article 21.13.8.

⁷³ With the exception of sustainable forest management (Article 21.12.3), where each Party ‘shall endeavour’ to: (i) support the conservation and sustainable management of forests; (ii) combat illegal logging and associated trade; (iii) reduce deforestation and forest degradation.

⁷⁴ UK-India FTA, Article 21.11.6.

⁷⁵ Article 6.19.

⁷⁶ Animal welfare issues under Article 6.12 extend beyond SPS measures. Article 6.3.2 states that ‘the Chapter also includes *separate provisions* regarding animal welfare and antimicrobial resistance.’

⁷⁷ Except for SPS measures: Article 7.3.4(b). SPS labelling falls under the SPS Chapter.

D. Antimicrobial resistance (AMR)

The FTA also contains a specific provision on antimicrobial resistance (which is explained in the annex to this advice). Again, this is not subject to dispute settlement but represents an achievement for the UK's pursuance of its policy in this regard.

In Article 6.13.1 '[t]he Parties recognise that antimicrobial resistance is a problem and a global threat to human and animal health.' Article 6.13 also contains several obligations, albeit expressed softly. Article 6.13.4 states that 'the Parties shall endeavour to cooperate on areas of mutual interest in antimicrobial resistance and exchange their experiences, relevant information, expertise and data with each other.' Other than that, in Article 6.13.2 they 'acknowledge' that the threat of antimicrobial resistance 'requires' a One Health approach, and in Article 6.13.3 that it also 'requires developing and implementing a National Action Plan in line with the Global Action Plan on Antimicrobial Resistance.' This is clearly heavily negotiated text, and it is uncertain that an 'acknowledgement' of a 'requirement' to act in a certain way amounts to an obligation to do so.

E. Conclusion

These various obligations reinforce the UK's ability to maintain its levels of statutory environmental protection in two main ways. First, the UK not only has a right to maintain its statutory protections, but it has an obligation to do so, in certain cases. The UK has a (soft) obligation to provide for high levels of environmental protection, an obligation not to derogate from or waive, and not to fail to enforce, certain of its domestic environmental laws if this has the purpose of encouraging trade or investment between the parties. **Second, the UK is able to protect its levels of statutory protection *indirectly* by encouraging India, through dialogue based on India's obligations, not to gain an economic advantage by not properly implementing or enforcing certain of its domestic environmental laws.**

V. Does the FTA otherwise affect the ability of the UK to adopt statutory protections?

In this section we consider three issues relevant to the application of the FTA in practice. First, we consider its practical operation, in particular via its institutional mechanisms for cooperation the parties and its decision-making procedures. Second, we consider the implications for UK border control capability of increased imports into the UK under the FTA. Third, we consider the extent to which the FTA affects the UK's ability to respond to concerns that have been raised in consultations about practices that are stated to occur in India affecting products likely to be imported into the UK.

A. The practical operation of the FTA

As has been described above, the FTA comprises a set of rights and obligations which are designed, on the one hand, to liberalise trade between the parties and, on the other, to ensure that they are still able to regulate to protect legitimate policy interests. In several cases, these rules are left to be operationalised by future joint action of the parties.

To this end, the FTA establishes several organs with bilateral representation. The primary organ is the Joint Committee, which meets at ministerial or senior official level⁷⁸ and has the power to adopt interpretations of the agreement,⁷⁹ amend certain trade liberalisation commitments⁸⁰ and, in several other ways, consider the implementation and operation of the agreement.⁸¹ These powers can be significant, and, from a transparency perspective, it is worth noting that the exercise of some of these powers can be taken without the type of parliamentary scrutiny that might be required for a formal amendment of the agreement.⁸² Of course, in all cases and as a matter of UK law, to the extent that such decisions require implementation in the UK legal system, Parliament will be involved in the ordinary way. The Joint Committee also supervises the work of subsidiary organs established under the FTA which, relevantly, includes the SPS Subcommittee.⁸³

B. Border controls

The UK has a comprehensive system of border controls, comprising audits, certification and inspection and testing, which underpins international trade in agri-food products and provides confidence that all imports into the UK meet relevant statutory protection, including in the area covered in this advice. This system of border controls is critical to the UK's ability to adopt and maintain its statutory protections.

⁷⁸ Article 27.1 ('Establishment of the Joint Committee').

⁷⁹ Article 27.2 ('Functions of the Joint Committee'), para 2(f).

⁸⁰ Article 27.2, para 2(g). This paragraph requires 'the completion of any necessary domestic legal requirements by each Party'.

⁸¹ Article 27.2.

⁸² Article 30.2 ('Amendments'). See Part 2 of the Constitutional Reform and Governance Act 2010.

⁸³ Article 6.16 ('Subcommittee on Sanitary and Phytosanitary Measures').

1. Enhanced or novel risks from imported goods

It is anticipated that the volumes of certain goods, like prawns, will increase as a consequence of the FTA. It is important that the UK Office for SPS Trade Assurance conducts robust import checks and audits of exporters, in conjunction with the relevant authorities in India. This will allow UK border authorities to mitigate against enhanced or novel risks associated with the increased volume of those imported goods.

At present, the UK's Border Trade Operating Model (BTOM) sets out the UK's SPS controls for live animals, germinal products, animal products, plants, and plant products imported into the UK.⁸⁴ It adopts a risk-based approach for SPS checks in order to minimise trade burdens and maintain border security, while ensuring that SPS checks are 'appropriately weighted against the risk posed both by the commodity and the country of origin.'⁸⁵ Inspection rates at the border are calibrated to the product's risk, with high risk products inspected 100% of the time, medium risk inspected between 15 to 30% of the time,⁸⁶ and products designated as low risk have minimal checks, so inspections may not be routine, or may be carried out only in response to intelligence received by the authorities.⁸⁷ Risk calibration is undertaken by Defra.⁸⁸ Risk categorisation is a dynamic process based on an audit by the UK authorities of available data in the importing country, including that country's disease status and an assessment of its compliance monitoring system.⁸⁹

The FTA provides a right to audit of 'all or part of the regulatory control programme of the exporting party's competent authority.'⁹⁰ The 'competent authorities' for the purposes of Chapter 6 of the FTA are defined as 'those authorities within each party recognised by the national government as responsible for developing, implementing and administering' the relevant SPS measures.⁹¹ In the context of the UK, the audit would be carried out by Defra's UK Office for SPS Trade Assurance in relation to potential risks to animal, plant life and health,⁹² and the 'national' (central) 'competent authority' is the Indian Export Inspection Council (EIC), which has competence to ensure all exported goods from India comply with

⁸⁴ Cabinet Office, *The Border Target Operating Model*, August 2023, CP 935.

⁸⁵ Cabinet Office, *The Border Target Operating Model*, 12.

⁸⁶ Depending on whether the product is classified as Medium risk A or medium risk B:
<https://www.gov.uk/government/publications/risk-categories-for-animal-and-animal-product-imports-from-non-eu-countries-to-great-britain/tom-risk-categories-for-animal-and-animal-product-imports-from-non-eu-countries-to-great-britain-summary-tables>.

⁸⁷ HM Government, 'Check import risk categories, inspection rates and related rules for animals and animal products imported from non-EU countries to Great Britain'
<https://www.gov.uk/government/publications/risk-categories-for-animal-and-animal-product-imports-from-non-eu-countries-to-great-britain>.

⁸⁸ In conjunction with the Food Standards Agency, and Food Standards Scotland (for food safety).

⁸⁹ Cabinet Office, *The Border Target Operating Model*, 37.

⁹⁰ Article 6.8.1.

⁹¹ Article 6.1.1.

⁹² The UK Office for SPS Trade Assurance works in conjunction with the Animal and Plant Health Agency (APHA), which manages animal and plant health policy in England and Wales, including the documentation required by companies in the UK wishing to import from third countries, including India
<https://www.gov.uk/government/organisations/animal-and-plant-health-agency/about>.

the importing country's regulatory standards.⁹³ Competence over the regulation and monitoring of pests and disease and agricultural production lies with individual states. This means that consistent coordination between the EIC, and state monitoring bodies is required to ensure that products are produced to the required standards. However, 'the regulatory programme' of the competent authorities at state level would not automatically fall within the scope of the FTA.⁹⁴

2. Resourcing

It is foreseeable that there might be additional pressure on the UK SPS Office of Trade Assurance as a consequence of the expected increase in trade under the FTA. It is important that the UK agencies have the capacity to respond to this increase in the volume of trade from India going forward.

C. The ability of the UK to respond to concerns raised in TAC consultations

We considered the extent to which the FTA might affect the ability of the UK to regulate in response to concerns, raised during our consultations, about the potential effects of the FTA on statutory animal or plant life or health, animal welfare and environmental protections. We asked four questions in relation to each concern: (a) whether there is a practice in India that would not be permitted in the UK; (b) whether this practice, if any, might affect agricultural products that are likely to be imported into the UK at an increased rate under the FTA (for example, because of tariff reductions), (c) whether this practice, if any, results in a cost saving for Indian producers compared to UK producers, and (d) whether the FTA would prevent the UK from regulating imports of products affected by this practice.

The concerns raised involved animal welfare in relation to prawn farming and cattle farming for dairy and leather, as well as antimicrobial resistance and the effects of the use of the pesticides not permitted to be used in the UK. Some concerns were also raised in relation to products on which the FTA will have no effect, as they are not liberalised.

In relation to prawn farming, we agreed that prawns are likely to be imported at an increased rate into the UK under the FTA, and that there are certain animal welfare issues in India, particularly concerning eye ablation, ice slurry slaughter and overstocking practices. In principle, the FTA would permit the UK to ban imports of prawns produced in this manner on public morals grounds. However, this would require consistency in the UK's domestic regulatory regime. At present, the practices at issue are not prohibited by UK legislation, and only in part by private standards. As such, while an import prohibition cannot be ruled out, the UK would need to establish the proper domestic framework that would support such a prohibition.

The situation is different in relation to cattle farming for dairy and leather. In relation to dairy, we determined that while, in principle, there is tariff liberalisation, in practice it is very

⁹³ The EIC can also delegate its functions to other central monitoring bodies, like the Marine Products Export Development Authority (MPEDA), which is tasked with promoting exports of marine products: 1972 MPEDA Act. https://www.indiacode.nic.in/handle/123456789/1665?view_type=browse#:~:text=An%20Act%20to%20provide%20for,and%20for%20matters%20connected%20therewith.

⁹⁴ Article 6.1.1.

unlikely that, in the foreseeable future, there will be any dairy imports from India into the UK. This is for two reasons. First, Indian dairy exports do not meet the UK's sanitary and phytosanitary standards, such that there are no dairy imports from India, and it is not foreseen that this will change any time soon. Second, even in the event that Indian production did come to meet UK standards, it is likely that Indian domestic demand will satisfy any increased production. Having said that, we do not rule out that both conditions change, and in the longer term there may be dairy imports from India. In addition, we do anticipate that there will be increased imports of leather. On the assumption, then, that there are increased imports of dairy and/or leather, and Indian production falls short of UK animal welfare standards, our legal conclusion is that the FTA would not limit the UK's WTO rights to prohibit relevant imports on animal welfare grounds, provided, as said above, that the UK's legal position on the relevant animal welfare concerns is applied consistently.

We also considered a concern raised by several consultees that the FTA might promote production of products, in particular prawns, to satisfy the UK market, the production of which is characterised by overuse of antimicrobials, resulting in increased antimicrobial resistance. We agreed that – despite India's regulatory framework – antimicrobial overuse is common in India, including in the prawn industry, and we agreed that there was a certain risk that increased trade might increase antimicrobial resistance, although we also noted that, in practice, the large retailers only import prawns that are produced in a way that meets UK production standards, including with respect to antimicrobials. To the extent there is a risk of increased antimicrobial resistance, we considered three vectors: the introduction of resistant microbes on imported food products, with effects on human health; the dispersal of these resistant microbes into the environment, and increased antimicrobial resistance in India. The first of these risks is a matter for the FSA. The second and third are potential risks, although in the scheme of things we considered the additional risk posed to be minor. We also considered whether the FTA limited in any way the UK's ability to regulate against the second and third of these risks. We concluded that it did not limit the UK's ability to protect against any harms occurring in the UK as a result of imports. As far as AMR in India is concerned, we concluded that the FTA also does not change the UK's legal position, but in principle, as under WTO law, it is for India to protect against AMR in its own territory.

We finally considered concerns raised about the use of pesticides in India that are not permitted in the UK. We make no comment on the effects of pesticide residue on human health in the UK, that being a matter for the FSA. We address solely the effects of pesticide use on either UK animals or environment (through imports of animal feed), or on the Indian environment. As far as this is concerned, we agree that India permits the use of certain pesticides that are not permitted to be used in the UK. Moreover, this can come with cost advantages compared to domestic production, although this is not always clear cut. Our conclusion on the legal point is that the FTA does not affect the UK's WTO rights to respond to harmful effects on its animals or environment. We also note that the UK has a very limited ability to address harmful effects of pesticide use on the Indian environment under WTO law. In principle, it is for India to protect its own environment. We also do not rule out that the effects of pesticide use may conceivably rise to the level of a global concern that may also change the UK's rights to regulate extraterritorially.

VI. General conclusions

In this advice, in accordance with our mandate, we addressed three questions.

Question 1

Does the India FTA require the UK to change its levels of statutory protection in relation to (a) animal or plant life or health, (b) animal welfare, and (c) environmental protection?

Answer:

No. The India FTA incorporates a number of WTO trade liberalisation obligations and also adds some additional trade liberalisation obligations, in particular the obligation not to charge customs duties on most imports. All of these trade liberalisation obligations are, however, subject to exceptions which are at least as extensive as under WTO law, under Article 28.1, the SPS Chapter (Chapter 6) and the Environment Chapter (Chapter 21). Therefore, on the basis that the FTA does not constrain the UK's right to regulate compared to WTO law and even reinforces such a right for certain environmental matters, **it can be concluded that the FTA does not require the UK to change its existing levels of statutory protection in relation to animal or plant life or health, animal welfare, or environmental protection.**

Question 2

Does the India FTA reinforce the UK's levels of statutory protection in these areas?

Answer:

Yes. These various obligations reinforce the UK's ability to maintain its levels of statutory environmental protection in two main ways. First, the UK not only has a right to maintain its statutory protections, but it has an obligation to do so, in certain cases. The UK has a (soft) obligation to provide for high levels of environmental protection, an obligation not to derogate from or waive, and not to fail to enforce, certain of its domestic environmental laws if this has the purpose of encouraging trade or investment between the parties.

Second, the UK is able to protect its levels of statutory protection *indirectly* by encouraging India, through dialogue based on India's obligations, not to gain an economic advantage by not properly implementing or enforcing certain of its domestic environmental laws.

Question 3

Does the India FTA otherwise affect the ability of the UK to adopt statutory protections in these areas?

Answer:

No. The India FTA does not otherwise affect the ability of the UK to adopt statutory protections in these areas.

In this context, we considered several issues. First, we examined the process of decision-making under the FTA, and how that might affect the UK's statutory protections. In this respect, we noted that the FTA foresees that the parties may agree on several types of decisions, including on interpretations of the agreement. Such decisions may affect the scope of the agreement in future. These decision-making powers do not, as such, affect the ability of the UK to adopt statutory protections in the areas at issue, but they could be used

to reach decisions that do have such an effect. We note in this respect that not all of these decisions are necessarily subject to parliamentary scrutiny in the same way as amendments to the agreement, although any implementation of these decisions in domestic law would follow ordinary parliamentary procedures.

Second, we considered the impact on border controls of increased imports under the agreement. We noted that the FTA does not itself undermine the UK's statutory protections, nor are imports from India likely to place undue pressure on the capacity of the UK's border control regimes to handle any new threats that might emerge. Nonetheless, we are conscious that these regimes are adequately resourced so that Indian imports are properly subject to UK border controls.

Third, we considered the extent to which the FTA might affect the ability of the UK to regulate in response to concerns, raised during our consultations, about the potential effects of the FTA on statutory animal or plant life or health, animal welfare and environmental protections. We asked four questions in relation to each concern: (a) whether there is a practice in India that would not be permitted in the UK; (b) whether this practice, if any, might affect agricultural products that are likely to be imported into the UK at an increased rate under the FTA (for example, because of tariff reductions), (c) whether this practice, if any, results in a cost saving for Indian producers compared to UK producers, and (d) whether the FTA would prevent the UK from regulating imports of products affected by this practice.

The concerns raised involved animal welfare in relation to prawn farming and cattle farming for dairy and leather, as well as antimicrobial resistance and the effects of the use of the pesticides not permitted to be used in the UK. Some concerns were also raised in relation to products on which the FTA will have no effect, as they are not liberalised.

In relation to prawn farming, we agreed that prawns are likely to be imported at an increased rate into the UK under the FTA, and that there are certain animal welfare issues in India, particularly concerning eye ablation, ice slurry slaughter and overstocking practices. In principle, the FTA would permit the UK to ban imports of prawns produced in this manner on public morals grounds. However, this would require consistency in the UK's domestic regulatory regime. At present, the practices at issue are not prohibited by UK legislation, and only in part by private standards. As such, while an import prohibition cannot be ruled out, the UK would need to establish the proper domestic framework that would support such a prohibition.

The situation is different in relation to cattle farming for dairy and leather. In relation to dairy, we determined that while, in principle, there is tariff liberalisation, in practice it is very unlikely that, in the foreseeable future, there will be any dairy imports from India into the UK. This is for two reasons. First, Indian dairy exports do not meet the UK's sanitary and phytosanitary standards, such that there are no dairy imports from India, and it is not foreseen that this will change any time soon. Second, even in the event that Indian production did come to meet UK standards, it is likely that Indian domestic demand will satisfy any increased production. Having said that, we do not rule out that both conditions change, and in the longer term there may be dairy imports from India. In addition, we do anticipate that there will be increased imports of leather. On the assumption, then, that there are increased imports of dairy and/or leather, and Indian production falls short of UK animal welfare standards, our legal conclusion is that the FTA would not limit the UK's WTO

rights to prohibit relevant imports on animal welfare grounds, provided, as said above, that the UK's legal position on the relevant animal welfare concerns is applied consistently.

We also considered a concern raised by several consultees that the FTA might promote production of products, in particular prawns, to satisfy the UK market, the production of which is characterised by overuse of antimicrobials, resulting in increased antimicrobial resistance. We agreed that – despite India's regulatory framework – antimicrobial overuse is common in India, including in the prawn industry, and we agreed that there was a certain risk that increased trade might increase antimicrobial resistance, although we also noted that, in practice, the large retailers only import prawns that are produced in a way that meets UK production standards, including with respect to antimicrobials. To the extent there is a risk of increased antimicrobial resistance, we considered three vectors: the introduction of resistant microbes on imported food products, with effects on human health; the dispersal of these resistant microbes into the environment, and increased antimicrobial resistance in India. The first of these risks is a matter for the FSA. The second and third are potential risks, although in the scheme of things we considered the additional risk posed to be minor. We also considered whether the FTA limited in any way the UK's ability to regulate against the second and third of these risks. We concluded that it did not limit the UK's ability to protect against any harms occurring in the UK as a result of imports. As far as AMR in India is concerned, we concluded that the FTA also does not change the UK's legal position, but in principle, as under WTO law, it is for India to protect against AMR in its own territory.

We finally considered concerns raised about the use of pesticides in India that are not permitted in the UK. We make no comment on the effects of pesticide residue on human health in the UK, that being a matter for the FSA. We address solely the effects of pesticide use on either UK animals or environment (through imports of animal feed), or on the Indian environment. As far as this is concerned, we agree that India permits the use of certain pesticides that are not permitted to be used in the UK. Moreover, this can come with cost advantages compared to domestic production, although this is not always clear cut. Our conclusion on the legal point is that the FTA does not affect the UK's WTO rights to respond to harmful effects on its animals or environment. We also note that the UK has a very limited ability to address harmful effects of pesticide use on the Indian environment under WTO law. In principle, it is for India to protect its own environment. We also do not rule out that the effects of pesticide use may conceivably rise to the level of a global concern that may also change the UK's rights to regulate extraterritorially.

VII. Annex A - Summary of issues

A. Introduction

As part of the evidence gathering process our work, a call for evidence ran from midday on 1 August 2025 to midday on 31 August 2025. Evidence received through written submissions informed our understanding of the FTA as well as helped to identify areas of concern. Below we address these concerns that were raised, in light of the textual analysis of the FTA contained in the above document.

To address concerns, we utilise a filtering process to determine the effect of the FTA on these concerns. This is a four-stage process, where we answer the following questions:

- Does this practice involve products likely to be imported into the UK at increased rates under the FTA?
- Is this practice permitted in a manner that is not permitted in the UK?
- Does this practice imply cost savings for producers in partner countries vis-à-vis UK producers?
- Does the FTA prevent the UK from regulating imports of products produced according to this practice?

For each question we determine an answer. If the answer is 'yes', we then move on to the next question.

B. Prawns (animal welfare)

1. Concerns

Concerns were raised over the animal welfare associated with prawn farming in India.⁹⁵

2. Do these concerns involve products likely to be imported into the UK at increased rates under the FTA?

Yes. In 2024, India was the second largest supplier of shrimp and prawn products, behind Vietnam.⁹⁶ Volumes of prawn imports are likely to increase into the UK under the FTA. A rise in prawn imports from India is likely because of the elimination of UK import tariffs on Indian prawns from 4.2%.⁹⁷ Indian prawns will become more competitive vis-à-vis imports from competitor countries where tariffs are currently zero (Ecuador, Vietnam Honduras, Bangladesh).

⁹⁵ The terms 'shrimp' and 'prawn' are colloquially interchangeable and both terms were used in the submissions to our call for evidence. In UK shops and restaurants, the term 'shrimp' is often reserved for a wild species *Crangon crangon* caught e.g. in Morecombe Bay and traditionally preserved in butter as potted shrimp. These are zoologically distinct from typically larger farmed prawns; the dominant species farmed in India is *Penaeus vannamei*. Consequently, below the term prawn is utilised and refers to *Penaeus vannamei*.

⁹⁶ Evidence provided to TAC from Seafish.

⁹⁷ India can export under a preferential tariff via the UK Developing Countries Trading Scheme (DCTS).

However, the picture is more complicated than simply considering tariffs in isolation. Indian prawns are already very comparatively inexpensive (15% below the average cost).⁹⁸ India's shrimp exports to the UK peaked in 2022 and have since declined by 28% in 2024.⁹⁹ This decrease may be partially attributed to enhanced rates of UK border inspections which can add uncertainty and delays for importing business.

Beyond the impact of the FTA, there is wider volatility that could see more Indian prawns entering the UK. Specifically, there has been a recent increase in United States tariffs on Indian goods to 50%. The United States has been India's largest market for prawns. Therefore, a sustained high US tariff could prompt India to seek alternative export destinations, with the UK emerging as a potential focus.¹⁰⁰

3. Are these practices permitted in a manner that is not permitted in the UK?

The below practices are of note in relation to farmed prawns in India:

- *Eyestalk ablation.* Eyestalk ablation is a procedure in which the eyestalks of female shrimp are removed or cut. In commercial shrimp aquaculture, this technique is commonly used to induce ovarian maturation and enhance egg production. Under captive conditions, shrimp may have reduced reproductive activity, and eyestalk ablation is employed to increase both the quantity of eggs produced and the proportion of females that spawn. However, this mutilation has raised animal welfare concerns due to its debilitating nature and consequent impact on shrimp well-being. Pain perception is poorly understood in crustaceans but believed to be experienced similarly to mammalian species.
- *Slaughter method.* Electrical stunning is regarded as a quicker and more humane method of rendering prawns unconscious prior to slaughter compared to the use of ice slurry. There is a body of evidence that ice slurry results in a slow and distressing death, which might not have rendered the animal unconscious at the point of immersion in boiling water. Electrical stunning effectively induces unconsciousness when applied correctly.
- *Water quality, stocking density and in-production mortality rates.* Presentations to the TAC have suggested that poor water quality and high stocking densities are common in prawn aquaculture in India, and that these are contributory factors in the high mortality rates in this sector. It has been stated that mortality rates of 50% and above are not uncommon in this sector, something that would be completely unacceptable in terrestrial animal agriculture. Mitigating these poor animal welfare conditions is one of the reasons for the reported widespread use of antimicrobials (discussed below).

Studies have shown that prawns are capable of feeling pain and distress.¹⁰¹ The UK's Animal Welfare (Sentience) Act 2022 includes prawns by legally recognising decapod crustaceans as sentient beings. That said, the practices of eyestalk ablation, ice slurry slaughter and overstocking are not currently prohibited in the UK.

⁹⁸ Evidence provided to TAC from Seafish.

⁹⁹ Calculations from DBT trade data provided to TAC.

¹⁰⁰ Evidence provided to TAC from Seafish.

¹⁰¹ Animal Welfare (Sentience) Act 2022, available at: <https://www.legislation.gov.uk/ukpga/2022/22>.

We note also that, beyond the legislative baseline, there are third-party standards that are currently in operation which largely meet increased consumer demand for higher welfare standards. Many of the imported prawns that bought from UK supermarkets will be produced in segregated systems to meet these higher standards. Certification schemes such as the Best Aquaculture Practices (BAP) certification program and ASC Farm Standard established standards for responsible seafood farming which are in operation in India. BAP does not currently prohibit eyestalk ablation but requires phase out by 2030.¹⁰² ASC also requires a phase out of eyestalk ablation.¹⁰³ The UK supermarket Waitrose voluntarily ended eyestalk ablation in its supply chain in 2023.¹⁰⁴ The Co-op supermarket will require that its shrimp suppliers end the practice of eyestalk ablation in their hatcheries and to introduce electrical stunning at harvest sites by the end of 2027.¹⁰⁵

4. Do these practices imply cost savings for producers in partner countries vis-à-vis UK producers?

There is very little farming of prawns in the UK. Furthermore, recent evidence suggests that alternatives to eyestalk ablation could be cost neutral or even cost saving for prawn farmers.¹⁰⁶

5. Does the FTA prevent the UK from regulating imports of products produced according to these practices?

In principle, the FTA retains, and to some extent enhances, the UK's WTO rights to prohibit imports of prawns on animal welfare grounds. However, in practice, it will be difficult to maintain that eyestalk ablation, ice slurry slaughter and overstocking are a matter of UK public morals so long as these practices remain permitted in the UK.

C. Dairy products¹⁰⁷ (animal welfare)

6. Concerns

Through the public call for evidence, concerns were raised over the animal welfare standards associated with the production of dairy products in India, including general

¹⁰² Best Aquaculture Practices <https://www.bapcertification.org>.

¹⁰³ Aquaculture Stewardship Council, 'The ASC Approach to Eyestalk Ablation: Supporting Responsible Shrimp Farming and Animal Welfare' (8 August 2025) <https://asc-aqua.org/shrimp-eyestalk-ablation/>.

¹⁰⁴ Erin Spampinato, 'Waitrose phasing out ice-slurry slaughter for prawns in its supply chain' *Seafood Source* (19 February 2025) <https://www.seafoodsource.com/news/foodservice-retail/waitrose-phasing-out-ice-slurry-slaughter-for-prawns-in-its-supply-chain>.

¹⁰⁵ Global Seafood Alliance, *Another UK supermarket chain makes shrimp sourcing commitments regarding eyestalk ablation and electric stunning* (12 March 2025) <https://www.globalseafood.org/advocate/another-uk-supermarket-chain-makes-shrimp-sourcing-commitments-regarding-eyestalk-ablation-and-electrical-stunning/>.

¹⁰⁶ Simao Zacarias, 'Use of non-ablated shrimp (*Litopenaeus vannamei*) in commercial scale hatcheries' Aquaculture eTheses, University of Stirling <https://dspace.stir.ac.uk/handle/1893/31979>; Chris Chase, 'Research shows shrimp aquaculture industry can move past eyestalk ablation', *SeafoodSource* (24 October 2024) <https://www.seafoodsource.com/news/aquaculture/research-shows-shrimp-aquaculture-industry-can-move-past-eyestalk-ablation>.

¹⁰⁷ Here 'dairy products' refers to HS codes 0401-0406.

concerns about long-distance transport, overcrowding, handling, weak traceability, and unregulated slaughter facilities.

7. Does the concern involve products likely to be imported into the UK at increased rates under the FTA?

Tariffs are eliminated on dairy, and in the long term there is the possibility that there could be some increases. However, presently there is no export health certificate (EHC) available to export dairy products to the UK from India (this is also the case for other products of animal origin which have seen tariff liberalisation e.g. beef and lamb). For this to change, the Indian government would need to invest considerable time, resources and effort to get to a point where the expected standards could be met.

Procedurally, a competent authority in India would need to make a request to their counterparts in the UK. Defra co-ordinates with the Food Standards Agency (FSA) on these market access requests. These requests include both written questionnaires and site visits to determine if certain conditions have been met, including:

- The exporting country having an effective national food safety control system in place to assure that exports are produced to UK standards.
- The exporting country having a residue control plan in place which has been assessed and approved.

There is no expectation that this will take place for Indian dairy exports in the foreseeable future.

Even in that eventuality, an increase in dairy imports into the UK would depend on production exceeding domestic demand. India is the world's largest producer of dairy, with 307 million dairy-purpose bovines, accounting for nearly a third of the world's cattle.¹⁰⁸ However, most dairy products are consumed domestically, leaving little available for export. India consumes most of the fluid milk produced domestically, leaving minimal surplus for export. The same applies to butter: domestic consumption accounts for the majority of output, resulting in limited export potential.¹⁰⁹ Efforts are being undertaken to increase dairy production in India. But despite gradual improvements, milk yields remain relatively low. This is partly attributable to persistent feed and fodder shortages, which are primarily linked to the impacts of climate change. These feed deficits are projected to worsen in the coming years, potentially increasing production costs.

Even if domestic production increases, the increase is likely to be absorbed domestically due to increasing domestic demand for dairy products. For example, domestic consumption of fluid milk in 2025 is projected to grow by approximately two percent compared with 2024.¹¹⁰ Increasing demand is driven by several factors, including population growth and rising

¹⁰⁸ Bhogal et al. 'Livestock and Products Annual—2023' United States Department of Agriculture; Washington, DC, USA: 2023.

¹⁰⁹ United States Department of Agriculture Foreign Agricultural Service, 'India: Dairy and Products Annual' (2024) <https://apps.fas.usda.gov/newgainapi/api/Report/DownloadReportByFileName?fileName=Dairy%20and%20Products%20Annual%20New%20Delhi%20India%20IN2024-0049.pdf>, accessed 24 October 2025.

¹¹⁰ Ibid.

disposable incomes. Consequently, any increases in domestic dairy production will likely be primarily absorbed within the domestic market, with limited quantities available for export.

Even if exports rise, India constitutes just one percent of total production.¹¹¹ In 2023, India exported £12.7m of milk, which accounts for less than 1% of global milk exports.¹¹² AHDB analysis notes that in 2024, only 103,000 tonnes of dairy products were exported from India, mainly to the Middle East and other neighbouring Asian countries. Table 1 shows the key dairy products that India exports.

<i>Indian exports of dairy products (three-year average)</i> ¹¹³	
Product	Quantity of exports (t)
Butter and other fats	38,589
Milk and cream, not concentrated	16,871
Milk and cream, concentrated	15,179
Cheese and curd	9,531
Buttermilk	2,226
Whey	332

Cooperatives and private dairies are now investing in the future of Indian dairy production. It is likely that any growth in production capacity in India will be absorbed by their domestic market, as discussed above. There is continuing growing consumer demand in India,¹¹⁴ and despite the increased per capita availability of milk in India, the per capita consumption of dairy continues to be less than the Indian Council of Medical Research (ICMR) recommendations.

In summary, there is unlikely to be a surge of dairy products from India to the UK. In fact, unless and until there is SPS approval from the UK Government, no dairy will enter the UK. Longer term there is the potential for an increase given the reducing dairy import tariffs into the UK. But for this to happen there will need to be the improvements in the SPS regime in India and growing capacity that can exceed domestic demand.

3. Is this practice permitted in a manner that is not permitted in the UK?

India's cattle welfare is governed by federal laws, including the Prevention of Cruelty to Animals Act 1960 and specific rules for markets, slaughterhouses, and animal husbandry. State governments also have jurisdiction over cattle preservation and slaughter, leading to varying state-level regulations, such as slaughter bans or restrictions. In many states, the slaughter of cows is banned. The Constitution also includes a directive to protect animals and the environment. However, formal regulations addressing dairy cattle welfare 'are lacking'.¹¹⁵ That said, as in the UK, there are third party or commercial standards that exceed

¹¹¹ Ibid.

¹¹² The Observatory of Economic Complexity <https://oec.world/en/profile/hs/milk> accessed 24 October 2025.

¹¹³ Jess Corsair AHDB 'UK-India trade deal finalised' (4 August 2025) accessed 24 October 2025.

¹¹⁴ India's National Sample Survey Office's (NSSO) Household Consumption Expenditure Survey report 2022-23.

¹¹⁵ Shilpi Kerketta et al, 'Navigating Animal Welfare: Legislative and Ethical Perspectives in Indian Livestock Farming' (2025) College of Veterinary Science and Animal Husbandry, Ranchi.

the legal baseline. In 2014, the international animal welfare organisation World Animal Protection and India's National Dairy Research Institute released a National Code of Practices for the Management of Dairy Animals in India.¹¹⁶ On balance, we share the concerns raised that, at least in some cases, animal welfare practices concerning dairy cattle are not at the same level as in the UK.

4. Does this practice imply cost savings for producers in partner countries vis-à-vis UK producers?

This answer to this question is complex. Determining the profitability in a range of systems with different standards for cattle welfare is not easy. On balance, higher welfare systems require capital investment and more space, which come with costs for producers.

5. Does the FTA prevent the UK from regulating imports of products produced according to this practice?

No. The FTA incorporates the UK's WTO rights to prohibit imports if this is necessary to protect the UK's 'public morals'. This does not, however, mean that all public morals objections will permit the UK to impose an import restriction. This will not be permitted where the UK permits in the same practice domestically, or where it does not enforce an equivalent restriction on imports from other countries

D. Leather (animal welfare)

1. Concerns

Through the public call for evidence, concerns were raised over the animal welfare standards associated with the production of leather in India. We note that multiple animal species are relevant when considering leather including cattle, buffalo, goats and sheep (where there may also be concerns regarding wool).

2. Does this concern involve products likely to be imported into the UK at increased rates under the FTA?

Yes. Leather imports are projected to increase under the FTA. However, we observe also that our remit does not extend to products that are made from leather (e.g. leather handbags or leather shoes).¹¹⁷

3. Does the concern involve a practice permitted in a manner that is not permitted in the UK?

Yes. Welfare concerns included general concerns about poor handling, extreme climate conditions, long-distance transport, limited traceability and unregulated slaughter facilities of relevant species. These concerns align with those raised regarding cattle in the dairy sector, discussed above. Similarly, compared to the UK there is a lack of specific regulation regarding the rearing, transport and slaughter of farm animals. We note also that there are

¹¹⁶ National Code of Practices for Management of Dairy Animals in India https://www.worldanimalprotection.org.in/sites/default/files/in_files/english-national-dairy-code.pdf accessed 24 October 2025.

¹¹⁷ HS41.

standards set by retailers which will apply. Marks & Spencer and Clarks, for example, have explicitly prohibited the use of cow hides sourced from India within their products due to animal welfare concerns.¹¹⁸¹¹⁹

4. Does this practice imply cost savings for producers in partner countries vis-à-vis UK producers?

This answer to this question is complex. Determining the profitability in a range of systems with different standards for cattle welfare is not easy. On balance, higher welfare systems require capital investment and more space, which come with costs for producers.

5. Does the FTA prevent the UK from regulating imports of products produced according to this practice?

No. The FTA incorporates the UK's WTO rights to prohibit imports if this is necessary to protect the UK's 'public morals'. This does not, however, mean that all public morals objections will permit the UK to impose an import restriction. This will not be permitted where the UK permits in the same practice domestically, or where it does not enforce an equivalent restriction on imports from other countries

E. Antimicrobial resistance (AMR)

1. Concerns

Through the public call for evidence, concerns were raised over the use of antimicrobials within agriculture and aquaculture in India.⁹⁴ In addition, some respondents perceived that Article 6.13 was weak as it was non-binding and others expressed concern that imported goods might have been produced with antibiotic growth promoters.

Antimicrobial resistance (AMR) occurs when bacteria, viruses, fungi and parasites persist or grow in the presence of medicines designed to inhibit or kill them.¹²⁰ AMR is an escalating global threat to human and animal health, endangering present medical care¹²¹ and is predicted to be associated with more than 10 million deaths by 2050.¹²² This threat is particularly important when resistance occurs in pathogenic bacteria, where infections have historically been treatable with antibiotics. The World Health Organization (WHO) Global Action Plan committed states to act to preserve the effectiveness of antimicrobials by

¹¹⁸ Marks & Spencer, 'Responsible Leather Sourcing Policy v3.0' (July 2024)

<https://corporate.marksandspencer.com/sites/marksandspencer/files/Sustainability/Our%20Products/Clothing-and-Home-Raw-Materials/Animal-Derived-Materials/Responsible%20Leather%20Sourcing%20Policy%20v3.0%20.pdf> accessed 24 October 2025.

¹¹⁹ Clarks, 'Animal Welfare Policy: Responsible Sourcing of Animal-Derived Materials'

<https://corporate.clarks.com/made-to-last/media/AnimalWelfarePolicy.pdf> accessed 24 October 2025.

¹²⁰ World Health Organization, *Antimicrobial Resistance* (21 November 2023) <https://www.who.int/news-room/fact-sheets/detail/antimicrobial-resistance>; Food and Agriculture Organization of the United Nations, *Antimicrobial Resistance* <https://www.fao.org/antimicrobial-resistance/background>.

¹²¹ Dominic Murphy, 'Antimicrobial resistance: UK's five year plan aims to reduce antibiotic use by 5% by 2029' (2024) *BMJ*, 385 q1058 doi:10.1136/bmj.q1058.

¹²² Christopher J L Murray et al, 'Global burden of bacterial antimicrobial resistance in 2019: a systematic analysis' (2022) *The Lancet*, 399 (10325): 629-655.

slowing the emergence and spread of resistance including through the establishment of national action plans (NAPs) for AMR.¹²³

It is recognised by both the UK and India within the text of the FTA that AMR is a One Health problem, as there is connectivity across human-animal-environment interfaces. Advised actions to combat AMR include strengthening surveillance and research, interventions to ensure safe water, sanitation, good hygiene practices and prevention and control strategies such as improved stewardship of medicines.

Increased imports of animal products to the UK as a result of this FTA could theoretically increase the contribution to the burden of AMR. This could be done in three ways:

- First, increased trade could see a greater volume of imports that could contain antimicrobials or their residues (UK border control regime should detect this and respond accordingly).
- Secondly, there could be potential importation of food containing organisms carrying AMR patterns that are similar to strains that have been reported from UK.
- Third, imports could carry novel or emergent AMR strains that have not been detected in UK. The widespread use of antimicrobials in India and the large animal and human populations create the evolutionary conditions that drive emergence of novel AMR strains.

Weak surveillance systems may fail to identify these strains until they become widespread. However, it is important to recognise that any additional contribution to the burden of AMR in the UK through pathways arising from this agreement is considered to be very low compared to the wide diversity of other pathways, including business or leisure travel. The TAC has not identified any One Health studies that formally explore the potential contribution to AMR burden to the environment or animal health.

2. Does this concern involve products likely to be imported into the UK at increased rates under the FTA?

We anticipate an increase in imports of prawns, for which high levels of AMR have been detected in ponds in India¹²⁴ and there have been reports of cases in which exports have had excessive antimicrobial residues. We also consider that antimicrobials may be used on fruit, vegetables and spices imported from India at higher rates under the FTA. However, the FTA will have no effect on antimicrobial use in relation to the production of chicken and pork, as these products are not liberalised. In the case of certain other products, such as dairy, we note that these can theoretically be imported under the FTA, but these products currently lack any approvals from UK competent authorities. Even if Indian dairy products should in future be determined to meet the UK's biosecurity standards and thus gain approval for export, it is still unlikely that the UK would see an increase in the rates of imports in the

¹²³ World Health Organization, *Global action plan on antimicrobial resistance* (1 January 2016) <https://www.who.int/publications/i/item/9789241509763>.

¹²⁴ Ranjit Kumar Nadella et al, 'Antibiotic resistance of culturable heterotrophic bacteria isolated from shrimp (*Penaeus vannamei*) aquaculture ponds' *Mar. Pollut. Bull.*, 172 (2021), Article 112887.

short or medium term. This is because there is increasing demand for dairy products in the Indian domestic market.

3. Does the concern involve a practice permitted in a manner that is not permitted in the UK?

The administration of medicines including antimicrobials in the UK is tightly controlled, and, in particular, the use of antimicrobials in fruit production is prohibited in UK.

Antimicrobials are defined as Prescription-Only Medicines (POM-V), and their administration to farmed livestock in Great Britain is governed by the Veterinary Medicines Regulations (VMR) 2013,¹²⁵ in Northern Ireland, EU regulations apply under the Windsor Framework.¹²⁶ The VMR requires a veterinary prescription, administration in accordance with authorised use of the medicine observation of withdrawal periods and detailed record-keeping.¹²⁷ The Royal College of Veterinary Surgeons (RCVS) defines the professional standards that practising veterinary surgeons must observe with respect to prescribing medicines.¹²⁸ Farmed fish, including crustaceans, that are raised in Approved Aquaculture Production Businesses (ABPs) are regulated by the Fish Health Regulations 1997.¹²⁹ VMR 2013 applies to all food-producing animals, including those on ABPs. There is a mandatory national surveillance programme for residues in food-producing animals,¹³⁰ which is administered by the Veterinary Medicines Directorate. Although there is no mandatory surveillance for AMR in food-producing animals, VMD collects laboratory data with respect to AMR and collates the data from mandatory reporting of sales by companies that are licenced to sell POM-Vs (marketing authorisation holders).¹³¹ Furthermore, there are numerous initiatives to gather more detailed antimicrobial usage data at the farm level, that are being developed by species sector interest groups.

In practice, UK farmers and veterinary surgeons exceed these regulatory requirements by adherence to voluntary standards as described below. It is important to note that although these standards are voluntary, they function as de facto mandatory, in the sense that compliance is mandatory for farmers seeking unfettered access to the UK's internal market.

The UK has made substantial progress with respect to antimicrobial stewardship in animals. The Responsible Use of Medicines in Agriculture Alliance (RUMA) Targets Task Force (TTF) set targets for reducing antibiotic use in farm animals, which must be prescribed by a veterinarian. They report a substantial reduction in use across livestock sectors and

¹²⁵ The Veterinary Medicines Regulations 2013, <https://www.legislation.gov.uk/ukxi/2013/2033/contents>.

¹²⁶ HM Government, 'Veterinary medicines legislation' <https://www.gov.uk/guidance/veterinary-medicines-regulations>.

¹²⁷ HM Government, 'Record keeping requirements for veterinary medicine' <https://www.gov.uk/guidance/veterinary-medicines-regulations>.

¹²⁸ The Royal College of Veterinary Surgeons, 'Veterinary medicines' <https://www.gov.uk/guidance/veterinary-medicines-regulations>.

¹²⁹ The Fish Health Regulations 1997 <https://www.gov.uk/guidance/veterinary-medicines-regulations>.

¹³⁰ HM Government, 'Residues Surveillance' <https://www.gov.uk/guidance/residues-surveillance>.

¹³¹ HM Government, 'Veterinary Antimicrobial Resistance and Sales Surveillance' <https://www.gov.uk/guidance/residues-surveillance>.

emphasise the value of reliable data to monitor change¹³². The British Veterinary Association (BVA)¹³³ and Royal College of Veterinary Surgeons (RCVS) have detailed stewardship policies.¹³⁴ Recording systems for medicine use in farm animals have been enhanced.¹³⁵ These data contribute to the Veterinary Antimicrobial Resistance and Sales Surveillance (UK VARSS) system which is operated by the Veterinary Medicines Directorate.¹³⁶

These initiatives have seen an overall reduction in antibiotic sales of 59% since 2014 and a downward trend in the incidence of AMR in farm animals. Certain antibiotics, such as colistin, are designated as Highest-Priority Critically Important Antimicrobials (HP CIAs).¹³⁷ Veterinary use of these medicines is very low (<0.5% of sales) in UK. RUMA reports progress in reducing antimicrobial usage in farmed salmon and no use of HP CIA's in 2023.¹³⁸ The UK's second AMR NAP progress report documents strengthening surveillance, stewardship and research.¹³⁹

Risk assessments concerning AMR from imported foods are typically directed towards human health, which is the responsibility of the FSA. There appears to be an absence of research that considers the potential risks to animal health from AMR associated with imports of feed and foods of animal origin, although the UK Government acknowledges that 'resistant pathogens have many ways of arriving in UK from overseas, including via humans, animals or animal products'¹⁴⁰ and the Advisory Committee on the Microbiological Safety of Food (ACMSF) notes that there is a lack of data on AMR in imported foods.¹⁴¹

In India, regulation of veterinary medicines is governed by both Central and State Governments under the Drugs and Cosmetics Act 1940 and Rules 1945. The Central Drugs Standard Control Organization (CDSCO), which is under the Ministry of Health and Family Welfare (MoHFW), is responsible for implementation. The Department of Animal Husbandry

¹³² Responsible Use of Medicines in Agriculture Alliance, *RUMA Targets Task Force 2: Four Years On* (2024) <https://www.ruma.org.uk/wp-content/uploads/2024/11/RUMA-TTF-Report-FINAL-published-November-19-2024.pdf>.

¹³³ British Veterinary Association, *Responsible use of antimicrobials* <https://www.bva.co.uk/take-action/our-policies/responsible-use-of-antimicrobials>.

¹³⁴ RCVS Knowledge, <https://knowledge.rcvs.org.uk/amr/>.

¹³⁵ Agriculture and Horticulture Development Board, <https://ahdb.org.uk/electronic-medicine-book-for-pigs-emb-pigs>; Agriculture and Horticulture Development Board <https://ahdb.org.uk/medicine-hub>.

¹³⁶ Veterinary Medicines Directorate (2024) [https://assets.publishing.service.gov.uk/media/67b70dc478dd6cacb71c6a70/Feb_2025_update_UK_VARSS - REPORT_2023_2024 .pdf](https://assets.publishing.service.gov.uk/media/67b70dc478dd6cacb71c6a70/Feb_2025_update_UK_VARSS_REPORT_2023_2024.pdf).

¹³⁷ World Health Organization, *WHO List of Medically Important Antimicrobials* (2024) <https://cdn.who.int/media/docs/default-source/gcp/who-mia-list-2024-lv.pdf>.

¹³⁸ Responsible Use of Medicines in Agriculture Alliance, *RUMA Targets Task Force 2: Four Years On* (2024) <https://www.ruma.org.uk/wp-content/uploads/2024/11/RUMA-TTF-Report-FINAL-published-November-19-2024.pdf>.

¹³⁹ HM Government, *UK 5-year action plan for AMR: 1-year progress report* (2025) <https://www.gov.uk/government/publications/uk-5-year-action-plan-for-amr-1-year-progress-report>.

¹⁴⁰ UK Parliament, *Antimicrobial resistance: addressing the risks* (13 June 2025) <https://publications.parliament.uk/pa/cm5901/cmselect/cmpubacc/646/report.html>.

¹⁴¹ Advisory Committee on the Microbiological Safety of Food, *Antimicrobial resistance in the food chain; research questions and potential approaches* https://acmsf.food.gov.uk/sites/default/files/acm_1278_amr_report.pdf.

& Dairying (DAHD) sets policy with respect to animal health and may provide a No Objection Certificate (NOC) to advise CDSCO concerning the import or manufacture of new veterinary medicines.¹⁴² State licensing authorities (SLAs) license the manufacture, sale and distribution of antimicrobials and enforce compliance by means of inspections, prosecutions, and recalls within their state. The Food Safety and Standards Authority of India (FSSAI) sets and enforces residue limits, including antimicrobial residues, but does not require testing for presence of microbes with AMR. India's AMR NAP aligns with the WHO Global Action Plan¹⁴³ and recognises the importance of AMR. The NAP includes AMR surveillance for veterinary antimicrobials, which is the responsibility of the Indian Network for Fishery and Animal Antimicrobial Resistance (INFAAR).¹⁴⁴

The regime for antimicrobial medicines in India is therefore similar to that in the UK. However, while India has the necessary regulatory framework for controlling the use of antimicrobials in humans and animals, the situation on the ground indicates that compliance is poor. There is extensive evidence that compliance is poor and there is easy access to antimicrobials for prophylaxis and growth promotion as well as therapeutic treatment. Antibiotics are readily available from pharmacies without a prescription¹⁴⁵ and, in particular, there is reportedly widespread and uncontrolled use of antimicrobials in aquaculture.¹⁴⁶ India's Coastal Aquaculture Authority (CAA) acknowledges the rampant use of veterinary-grade drugs in shrimp aquaculture'.¹⁴⁷ In addition, farmers in India may also use antimicrobials in some fruit crops, including apples and citrus. Use of streptomycin and tetracyclines has been banned since 2024, although it is not clear how compliance is monitored.

That said, it is important to note that shrimp destined for export is subject to more rigorous surveillance. India's Export Inspection Council operates a National Residue Control Plan to

¹⁴² Central Drugs Standard Control Organization, *Guidance for Industry Document for Veterinary Biologicals in India*
https://cdsco.gov.in/opencms/resources/UploadCDSCOWeb/2018/UploadReportsFiles/docVeterinaryBiological.pdf?utm_source=chatgpt.com.

¹⁴³ Food and Agriculture Organization of the United Nations, *White paper: Antimicrobial resistance in the animal sector in India* (2024) <https://doi.org/10.4060/cc9535en>.

¹⁴⁴ Food and Agriculture Organization of the United Nations, Surveillance data of the Indian Network for Fishery and Animal Antimicrobial Resistance (INFAAR): An analytical report (2019-2022) (2024)
https://eprints.cmfri.org.in/18284/1/Surveillance%20data%20of%20the%20Indian%20Network%20for%20Fishery%20and%20Animal%20Antimicrobial%20Resistance_2024_FAO.pdf?utm_source=chatgpt.com.

¹⁴⁵ Deena Chandran and Prema Manickavasagam, 'Sale of antibiotics without prescription in stand-alone pharmacies in Tamil Nadu' (2022) 11 J Family Med Prim Care, 9; Mathew Hennessey et al, 'Pharmaceutical cartography: Navigating the complexities of antibiotic supply to rural livestock in West Bengal, India, through value chain and power dynamic analysis' (2023) 18 PLOS ONE, 2
<https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0281188>.

¹⁴⁶ Laxmi Sharma et al, 'Antibiotic-resistant bacteria and gut microbiome communities associated with wild-caught shrimp from the United States versus imported farm-raised retail shrimp' (2021) 11 Scientific Reports, 3356; Sudhansu Mishra et al, 'Status of Aqua-medicines, Drugs and Chemicals Use in India: A Survey Report' (2017) 1 Journal of Aquaculture & Fisheries, 1.

¹⁴⁷ Aquaculture Authority, Government of India, 'Use of Antibiotics, Drugs and Chemicals in Shrimp Aquaculture and Steps to be taken for their Regulation' <https://www.caa.gov.in/uploaded/doc/antibiotics.pdf>.

monitor antimicrobial residues and meet importing country regulations (e.g. UK and EU)¹⁴⁸ and the Marine Products Export Development Authority (MPEDA) requires pre-harvest testing of ponds, which must test negative for banned residues to gain certification to support export.¹⁴⁹ However, certified laboratory capacity for antimicrobial residues and AMR needs to be strengthened.¹⁵⁰ Confirming this, there has been a report of the rejection of exports due to antimicrobial residues.¹⁵¹ A UK study sampled 211 prawns from retail outlets in the UK, which had been imported from a number of countries, including India. *Vibrio* bacteria were detected in 46% of these samples and 77% of these isolates showed AMR to at least one antibiotic. These results demonstrate that imported prawns may introduce organisms carrying AMR into the UK.¹⁵² On the other hand, these results give no indication of precise origin.

In summary, the AMR risks associated with increased prawn production in India and increased imports into the UK are firstly, that viable AMR-carrying organisms enter our food chain, which is considered by FSA. Secondly, imported prawns, waste and water or other materials that are associated with packaging etc may result in AMR organisms being transferred to animals and/or the wider environment in the UK. Finally, if production in India increases to meet additional demand from UK, then the AMR burden to people, animals and the environment in India may increase. However, it is important to recognise that while these risks are not zero, nevertheless they are probably low when compared to the multitude of other pathways by which AMR may be disseminated. There is a paucity of scientific evidence to enable any more informed opinion at present.

4. Does this practice imply cost savings for Indian producers vis-à-vis UK producers?

Yes. Antimicrobial use in agriculture, both in terms of managing disease and growth promotion, contributes to profitable livestock farming. Antimicrobials can also enhance yields in crop and fruit production or enhance their economic value by eliminating visible blemishes (e.g., rusts) on the product's surface.

The cost versus benefit of antimicrobial use for treatment, prophylaxis or growth promotion is positive so there is no financial incentive for Indian farmers to reduce their use unless this

¹⁴⁸ Government of India Export Inspection Council, 'India National Residue Control Plan for Aquaculture Products Year 2023' <https://www.eicindia.gov.in/WebApp1/resources/PDF/NRCP%202023%20Aquaculture.pdf> <https://www.eicindia.gov.in/WebApp1/resources/PDF/NRCP%202023%20Aquaculture.pdf>.

¹⁴⁹ Government of India Marine Products Export Development Authority, 'Guideline for 'Shaphari' – Certification of farms for the production of antibiotic residue free shrimp' https://mpeda.gov.in/wp-content/uploads/2024/09/GUIDELINES_FOR_SHAPHARI_CERTIFICATION_OF_FARMS.pdf.

¹⁵⁰ Ministry of Fisheries Animal Husbandry and Dairying https://rr-asia.wuah.org/app/uploads/2024/11/S3.02_Mishra_India_WOAH_OH_AMR_NAPs-01-11-2024.pdf; FAO, 'Support mitigation of antimicrobial resistance (AMR) risk associated with aquaculture in Asia' (2022) <https://openknowledge.fao.org/server/api/core/bitstreams/d1f551bd-5d2e-42bd-a5ab-933e15887392/content>.

¹⁵¹ Robin Paul, 'AMR in Aquaculture: Enhancing Indian Shrimp Exports Through Sustainable Practices and Reduced Antimicrobial Usage' (2024) 209 South Centre, Geneva https://www.southcentre.int/wp-content/uploads/2024/09/RP209_AMR-in-Aquaculture_EN-1.pdf.

¹⁵² Nicol Janecko et al, 'Whole genome sequencing reveals great diversity of *Vibrio* spp in prawns at retail' (2021) 7 Microbial Genomics, 9 <https://www.microbiologyresearch.org/content/journal/mgen/10.1099/mgen.0.000647>.

limits access to higher returns e.g. through exports. In UK, lower antimicrobial use has been achieved without compromising animal health by adopting other biosecurity and control measures that incur different costs. At present, farmed shrimp production in UK is negligible so a direct comparison is inappropriate. However, UK farmers across all sectors have invested heavily to reduce antimicrobial use.

The situation on the ground in India suggests that antimicrobials are widely used to prevent and treat diseases that would otherwise cause substantial financial losses or require investment in improved biosecurity and facilities. As AMR is a global One Health issue, this FTA does imply cost savings for Indian farmers generally compared to UK farmers.

5. Does the FTA prevent the UK from regulating imports of products produced according to this practice?

The FTA does not limit the UK's rights to protect its people, animals, plants or the wider environment from the entry of antimicrobial resistant bacteria into the UK. It is theoretically possible that antimicrobial resistance in India might increase as a result of increased production to serve the UK market. That is an issue that is for India to address, in line with its recognition, in the FTA, that there is a need to develop and implement a National Action Plan in line with the Global Action Plan on Antimicrobial Resistance, and by cooperating on this issue, as also foreseen in the FTA.

F. Pesticide use

1. Concerns

Several consultees raised concerns as to the negative impact on human health and the environment of pesticide use in India. At the outset, we note that human health risks associated with pesticide use are outside the remit of this advice and, hence, we address these concerns only from an environmental risk standpoint.

In particular, the consultees highlighted that 'India allows the use of 62% more Highly Hazardous Pesticides (HHPs) – 118 to the UK's 73'.¹⁵³ In addition, one consultee submitted that the UK could face pressure under the FTA to approve or reapprove harmful pesticides, undermining 'the achievement of goals to reduce both pesticide use and the associated risks as set out in the 25 Year Environment Plan and UK Pesticides National Action Plan 2025'.¹⁵⁴ A report by this consultee illustrates this risk in the sugar sector: 'Indian sugar farmers are able to use pesticides banned in the UK due to concerns over their impact on human health or the environment, putting them at a competitive advantage over their UK counterparts. As has been seen by the recent derogation for neonicotinoids on sugar beet granted by the UK Government in 2022, there is a clear risk that the UK could see the reversal of bans on the use of harmful pesticides in order to help domestic growers remain competitive'.¹⁵⁵ In addition, this consultee noted that 'the use of counterfeit or illegal pesticides is a major

¹⁵³ PAN UK, p. 2; FUW, p. 3; NFU, p. 4.

¹⁵⁴ PAN UK, p. 6.

¹⁵⁵ PAN UK, *Toxic Trade – How a Trade Deal with India Threatens UK Pesticide Standards and Farming*, August 2022, p. 29 <https://www.pan-uk.org/toxic-trade-india/>.

issue in India accounting for approximately 30% of pesticides used', which can pose 'an even greater risk to human and environmental health than the use of legal pesticides'.¹⁵⁶

2. Does the concern involve products likely to be imported into the UK at increased rates under the FTA?

The evidence received by the Commission mainly pointed to pesticides residues in certain fruits and vegetables (including wheat, onions, carrots, sugar and apples), which are domestically produced in the UK. Liberalisation of tariffs means there is the potential that rates of imports of fruit and vegetables will increase under the FTA. As noted above, these alleged harmful effects of pesticide use are largely concerned with human food safety and human health, which are beyond our remit. From the perspective of protecting UK plant or animal health and environment, the main issue concerns imports of animal feed. There is some small importation of feed and pet food from India at present. Tariff liberalisation could theoretically lead to some increase in imports in the future.

3. Does the concern involve practices permitted in India in a manner that is not permitted in the UK?

In considering this question, we begin by noting that India and the UK operate an independent approval regime for licensing pesticide use in agriculture (including fungicides, insecticides, and herbicides as well as other plant protection products), covering both the active substance and the fully formulated product.¹⁵⁷ Pesticides are assessed for their 'safety' (impact on workers, consumers, the environment and wildlife) as well as for their efficacy, and approvals are granted on a crop-by-crop basis, considering local climatic and environmental conditions. Given the significant geographical and climatic disparities between India and the UK, it is inevitable that certain pesticides not authorised for use in one country may be authorised for use in the other country without this automatically indicating a higher or lower level of safety or protection.

However, it is also true that the two countries take fundamentally different approaches to pesticide regulation. The UK adopts a 'hazard-based' approach, which is largely based on the EU's plant protection product regime and is closely linked to the precautionary principle. Under this approach, if an active substance possesses intrinsically hazardous properties, then it is simply considered too dangerous to be used, regardless of exposure levels, and should not be authorised. India follows a 'risk-based' approach, which assesses and manages the risks of pesticide use by considering both its hazardous characteristics and the likelihood of exposure.¹⁵⁸ Under this approach, a pesticide with a known hazard might still be permitted if the exposure is controlled to a level where the risk is deemed manageable.

There are a number of pesticides that are banned in both countries, as well as a number of pesticides that are authorised for use in agriculture in India that are not authorised for use in UK agriculture. In particular, the TAC has received evidence on particularly hazardous

¹⁵⁶ PAN UK, p. 1, albeit with a Reuters news item dated 20/11/2015 as the only supporting evidence.

¹⁵⁷ In India, the main pesticides legislation at central government level are the *Insecticides Act* of 1968 (<https://www.indiacode.nic.in/bitstream/123456789/1551/1/A1968-46.pdf>) and the related *Insecticides Rules* of 1971. This is complemented by legislation at State level.

¹⁵⁸ Evidence provided to TAC by Gitanjali Nain Gill, Northumbria School of Law.

pesticides¹⁵⁹ approved for use in Indian agriculture but banned in UK agriculture. Examples of such pesticide use with high environmental risks include: (i) atrazine (persistent in water and harmful to aquatic ecosystems); (ii) imidacloprid, acephate, chlorpyrifos (highly toxic for bees); (iii) paraquat (persistent in water and soil and potential groundwater contaminant).¹⁶⁰

4. Does this practice imply cost savings for producers in India vis-à-vis UK producers?

The answer to this question is not clear-cut and would need to be assessed on a case-by-case basis. On the one hand, pesticides are used by farmers primarily to protect crop yields and, therefore, economic gains. On the other hand, pesticide use also incurs economic costs through direct expenses for farmers. In addition, the UK Pesticides National Action Plan 2025 suggests that there may be reduced marginal costs if Integrated Pest Management is properly employed as an alternative to pesticide use.¹⁶¹

5. Does the FTA prevent the UK from regulating imports of products produced according to this practice?

The FTA does not change the UK's WTO rights to impose restrictions on imports to protect UK plants, animals and environment (e.g., from pesticide residue in feed). The situation is different insofar as the effects of pesticide use in India are concerned. In principle, the UK is not permitted prohibit imports of products that are produced using pesticides that cause harm solely to plants, animals or the environment (e.g., soil or water) in India. Such risks are fundamentally for India to address, unless there is a substantial connection with the UK or effect on the UK. In this respect, we do not rule out that the use of certain pesticides may become an issue of international concern. It is important to note that the FTA does not change the UK's legal position on this matter under WTO law.

G. Other products of concern

1. Does this practice involve products likely to be imported into the UK at increased rates under the FTA?

Through the public call for evidence, concerns were raised over the standards associated with the production of eggs, chicken and pork.

2. Does this practice involve products likely to be imported into the UK at increased rates under the FTA?

No. Tariffs have not been liberalised for any of the above products. It is noted that the import tariffs for non-chicken poultry meat (e.g. turkey) have been reduced. However, there is not significant commercial production of other poultry in India that could readily be exported to the UK. Furthermore, there are no export health certificates (EHC) available to

¹⁵⁹ PAN UK refers to these pesticides as HHPs, based on their own list. However, we note that World Health Organization classifies these pesticides as 'slightly' or 'moderately' hazardous pesticides (not HHPs): <https://www.who.int/publications/i/item/9789240005662>.

¹⁶⁰ PAN UK, p. 3.

¹⁶¹ DEFRA, *UK Pesticides National Action Plan 2025 – Working for a More Sustainable Future* (9 May 2025), available at <https://www.gov.uk/government/publications/uk-pesticides-national-action-plan-2025/uk-pesticides-national-action-plan-2025-working-for-a-more-sustainable-future#introduction>.

export non-chicken poultry meat to the UK from India. See above regarding dairy, where this is explained further.

Annex B - Product scope for the India FTA

A. Our methodology

We rely on several data sources and a consistent analytical methodology to generate the product list and corresponding colour coding, as described in detail below. Our primary data sources include trade and economic statistics, information on tariff reductions, and issues raised by stakeholders during consultations.

1. Red products are:

- mentioned in consultations with stakeholders; and
- excluded from tariff cuts under the FTA, as indicated in Appendix 2A-b (with the designation 'U'). Because these products are not subject to tariff liberalization, we do not anticipate any meaningful increase in their imports following implementation of the FTA.

2. Orange products

- mentioned in consultations with stakeholders; and
- see tariff liberalization under the FTA; and
- face SPS barriers to imports. Although there is a reduction in tariffs on these goods as a result of the FTA, we do not anticipate increased imports due to existing SPS restrictions on imports of these products. However, if SPS restrictions change in the future, imports of these products may increase accordingly.

3. Yellow products

- mentioned in consultations with stakeholders; and
- see tariff liberalization under the FTA; and
- may result in small increases in imports. Economic data and quantitative analysis suggest that while imports of these products may rise slightly as a result of tariff reductions, the overall increases are expected to be limited in scale.

4. Green products

- mentioned in consultations with stakeholders; and
- see tariff liberalization under the FTA; and
- may result in meaningful increases in imports. Economic and quantitative evidence indicates that these products are likely to experience the largest increases in imports as a result of the FTA. For example, the tariff on wheat or meslin flour was reduced from 27% to zero under the FTA, which is expected to lead to higher import volumes from India, although the total value of imports will likely remain modest.

B. Expected changes to UK imports under the India FTA (concerning products mentioned by consultees)

1. Increase in Imports Likely

Indicative Product Code	Product Name
0306	Fresh, chilled, frozen crustaceans
1605	Prepared or preserved crustaceans
1006	Rice (unmilled)
1101	Wheat or meslin flour
0709	Other vegetables, including carrots
0806	Grapes, fresh or dried

2. Small Increase in Imports Possible

Indicative Product Code	Product Name
1604	Tuna
0808	Apples
1702	Molasses
4107	Leather
5101	Wool

3. Increase in Imports Unlikely in the Foreseeable Future

Indicative Product Code	Product Name
1602	Poultry other than chicken (turkey, ducks, geese and guinea fowl)
0401, 0402, 0405, 0406	Milk and Dairy
1602	Beef
0204	Lamb

4. No Increase in Imports

Indicative Product Code	Product Name
1602, 0210, 0209, 0203	Pig meat and pork products
0207	Chickens
0408, 0407	Eggs
1701	Sugar (except molasses)
1006	Milled rice

VIII. List of consultees

- UK Government officials
- Alastair Dingwall, Aquaculture Stewardship Council (ASC)
- Dr Sairam Bhat, National Law School of India University
- Dr Lovleen Bhullar, University of Cambridge
- David Bowles, Trade & Animal Welfare Coalition (TAWC) UK
- Josie Cohen, Pesticide Action Network UK (PAN UK)
- Joe Cooper, Seafish
- Professor Philippe Cullet, SOAS University of London
- Peter F Dawson, Dairy UK
- Murli Dhar, World Wildlife Federation India
- Dan Lee, Global Aquaculture Alliance
- Professor Gitanjali Nain Gill, Northumbria School of Law
- Mat Hennessey, Royal Veterinary College
- Haven King-Nobles, Fish Welfare Initiative
- Dr Carolina Maciel, UK Trade Policy Observatory (UKTPO)
- C  il  n Nunan, Alliance to Save Our Antibiotics
- Andrew Opie, British Retail Consortium
- Joe Osborne, National Farmers' Union
- Gareth Parry, Farmers' Union of Wales (FUW)
- Dr K N Raghavan, Seafood Exporters Association of India
- Dr R Ramakumar, Tata Institute of Social Sciences (TISS)
- Jack Simpson, World Wildlife Federation UK
- V Balasubramaniam, Prawn Farmers Federation of India
- Melinda Walsh, British Veterinary Association
- Krzysztof Wojtas, Shrimp Welfare Project

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