SETTING THE STANDARD

ADVANCING THE CASE FOR CORE ENVIRONMENTAL STANDARDS FOR THE UK

NOVEMBER 2022

ACKNOWLEDGEMENTS

This is a summary report of a full technical report commissioned by WWF-UK, produced by TULIP Consultancy and Institute for European Environmental Policy (IEEP). To access the full report, please click below.

Full Technical Report Here

We would like to thank all those who provided valuable input from WWF, Tulip Consultancy and IEEP.

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FOREWORD

Trade is a powerful driver for innovation and competition that urgently needs to support the transition to a greener global economy. As an independent trading nation, the UK now has the power to demonstrate how that could be done. However, so far the UK has failed to align its approach to international trade with its commitments to decarbonisation and nature restoration and is underdelivering on this important green trade agenda, particularly in respect to food and farming.

WWF has long experience of working on global trade, especially food and commodity flows, because the food and farming system is so important for our work. Globally, food and agriculture account for 30% of Greenhouse Gas (GHG) emissions and around 60% of biodiversity loss. Every path to solve the climate crisis, reverse the decline of nature and generate enough food to end hunger and provide nutritious diets, involves big changes in how we farm.

GLOBALLY, FOOD AND AGRICULTURE ACCOUNTS FOR 30% OF GHG EMISSIONS AND AROUND 60% OF BIODIVERSITY LOSS

So, we want to see the UK use its new trade powers to support a transition to sustainable farming at home and overseas.

In this report, we seek to advance the argument for Core Environmental Standards in the UK, by demonstrating how such standards could be designed practically, flexibly, and in legal compliance with the UK's international commitments at the World Trade Organisation. There are a number of tools in the trade toolbox which could be used to address the environmental impact of the farming system – carbon border adjustments, dual tariffs, labelling. They all depend on standards being defined in some way, but we have focused on one particular measure – regulation set in domestic law - because we believe it is fundamental to catalysing change in the trade system. And because setting a regulatory floor that applies to food trade with the UK, which would apply whether a trade deal has already been signed or not, would reset the UK's approach to agri-food trade.

The core standards we are focused on are minimum environmental thresholds set in UK law, which all food, including imports, would have to meet to be sold in the UK. They would be based on environmental regulation UK farmers currently required to meet and set comparable requirements for imports. They would sit, like the basic food safety standards that protect our health, in domestic law and safeguard the health of the planet.

We import almost half the food we consume in the UK, yet we have no standards that cover the environmental impact of its production. This risks the UK giving incentives to environmentally harmful practices overseas and undermining UK producers, especially as trade deals are signed, reducing tariffs and quotas for agri-food imports without any environmental standards or conditions.

Core Environmental Standards, by acting on the bottom of the market and filtering out the worst farming practices (which drive deforestation, depend on the most dangerous pesticides and fail to limit fertilisers leaching into rivers), set out the UK's intention to support the farmers at home and overseas who are investing and innovating in the new environmental approaches to farming we need.

We believe that core standards can play a major role in the transition to a sustainable and resilient food system, but we also believe they can be an innovative enabler of trade. Guaranteeing minimum standards could reduce barriers to trade and border friction with countries that have similar standards, as well as opening the potential to co-operate with like-minded partners at an international level on standards that raise environmental standards across global agri-food markets.

By codifying the existing farming regulations in a way that also applies to imports, the UK would send a signal that it sees high environmental standards as a key part of building a green economy and its desire to work with partner countries with the same ambition. We hope that this report provides an important contribution to this debate.

Angela Francis
Director of Policy Solutions

KEY FINDINGS

Tackling the UK's large environmental footprint and ensuring our food security depends on us producing and consuming in ways that reduce the risk of climate change and nature loss. Since the UK has gained independent trade powers, it has failed to consider how its trade policy aligns with, and impacts, other UK policy objectives, particularly on the environment. Without this alignment, the UK risks undermining both its environmental objectives and its own farming sector because of the absence of a strategic approach to the import of agri-foods.

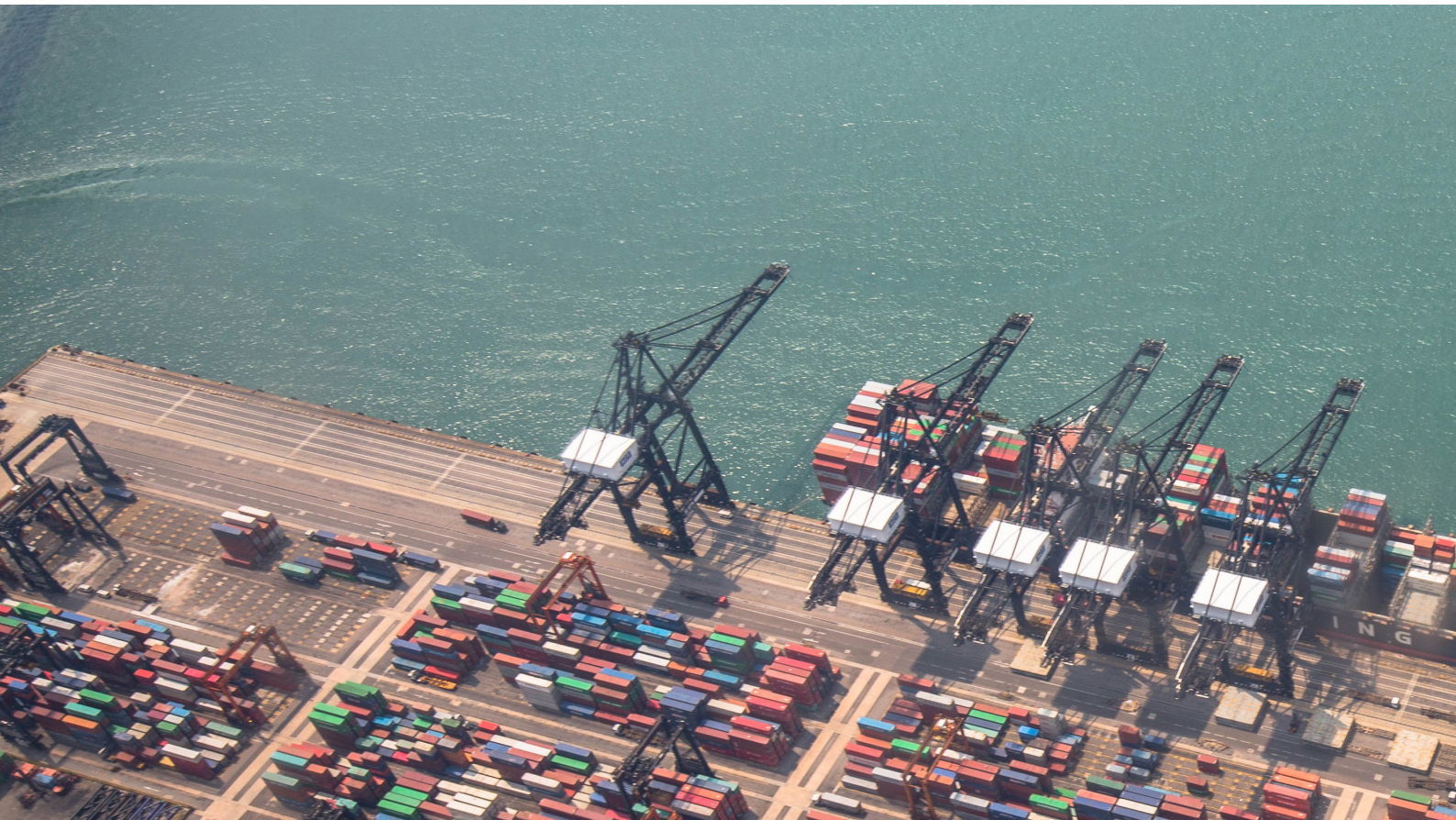
To remedy this effectively, the UK government should establish a set of **Core Environmental Standards (CES) in law that would apply both to food produced here and food imported from abroad.**

This would set minimum sustainability requirements for imports, comparable standards to those in the UK, ensuring trade does not compromise UK farmers and is in line with UK consumers' values. They would be based on existing UK legislation and regulation and would apply across the board to all UK trade, whether under a trade deal or not, ensuring that they act equitably and without discrimination to all the UK's trading partners.

This research was commissioned by WWF-UK to develop a set of case studies and illustrations for the design of Core Environmental Standards, and the report by IEEP and TULIP arrived at the following conclusions when exploring the design and application of CES:

1

Creating a set of UK Core Environmental Standards is not only desirable, but achievable. Developing flexible core standards would better enable the UK to act as an international leader on the environment and continue to comply with its international commitments, particularly at the World Trade Organisation (WTO) level.



2

The aim of Core Environmental Standards is to deliver beneficial environmental outcomes internationally. CES can help raise the bar for environmental performance of agriculture and reduce demand for dangerous and outdated approaches to production, which supports trade to continue as countries move at different speeds in their transition to net zero and nature positive agriculture.

3

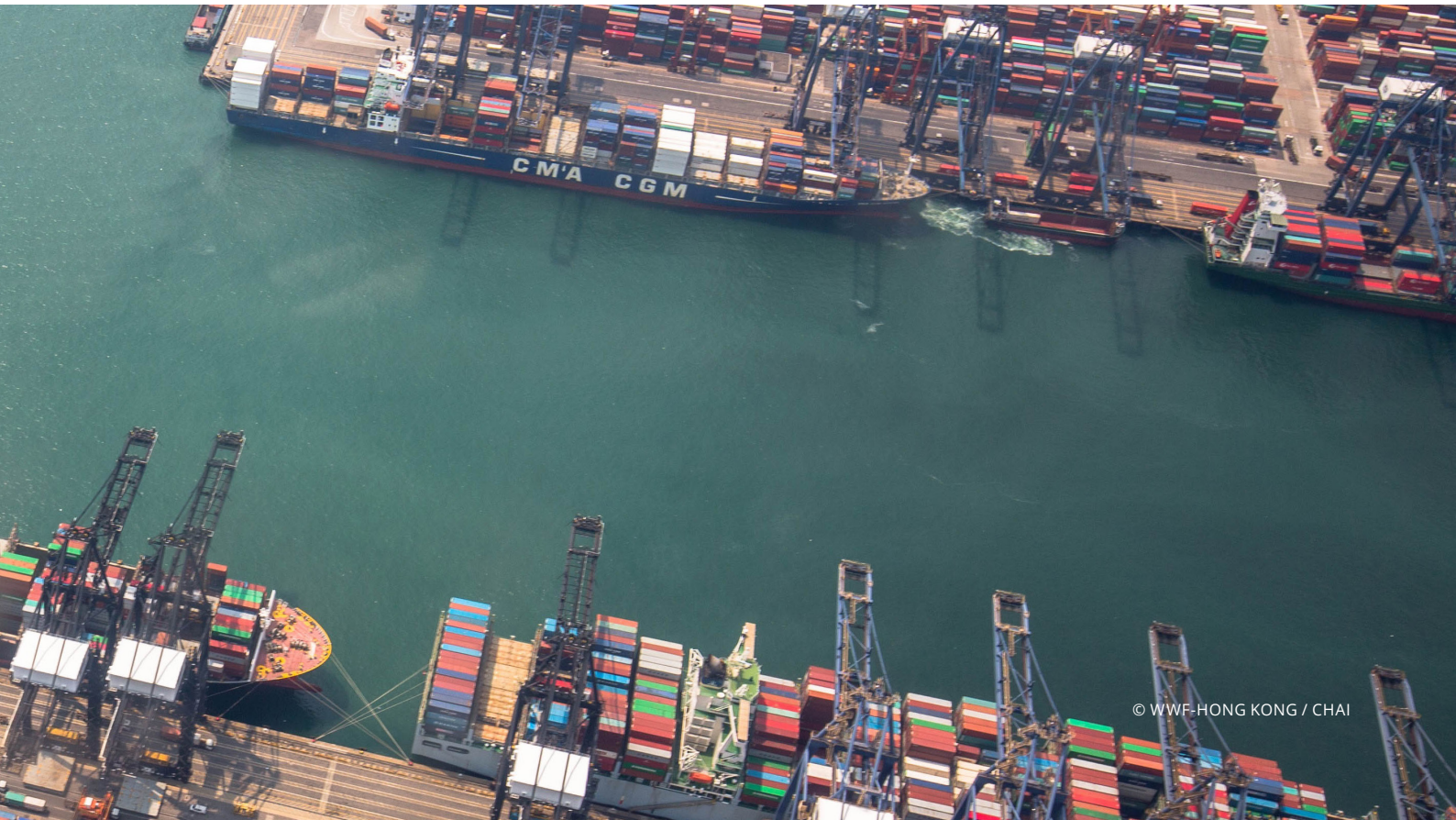
Core Environmental Standards should be flexible depending on the issue, utilising existing mechanisms. Depending on what is required, the CES approach can focus on either an area or a specific issue. CES would not seek to redesign domestic standards, nor develop new ones. Rather, they would set standards for agri-food imports that are comparable to those required of UK farmers.

4

Core Environmental Standards need to take into account the diversity of farming techniques, environmental conditions, and other relevant factors across the UK's trading partners. In developing CES, the UK should work with nations, particularly developing nations, who are similarly ambitious on making their agriculture more sustainable and have a lot to gain in terms of income generation, diversity of revenue streams, and resilience from making that transition.

5

Core Environmental Standards need to be mandatory to be effective. Many retailers and producers already adhere to Voluntary Sustainability Standards (VSS). However, a well-known limitation of VSS is that they tend to foster better production outcomes among those producers that are already high performing, rather than raising standards of "laggards". That is why mandatory regulation is necessary to ensure the worst performers are not rewarded with market access. Nonetheless, VSS can provide important lessons for the design, monitoring and enforcement of Core Environmental Standards.



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1. INTRODUCTION

TOWARDS A RESILIENT AND SECURE FOOD SYSTEM

Global trade is key to the functioning of our food system and can play a major role in sustainable development. At the same time industrialised agriculture has been a driver of biodiversity loss and climate change, building a system struggling to properly feed a growing population.[1] These food systems are not fit for purpose.

A food system dependent on intensive practices and unsustainable farming practice leaves it more exposed to market shocks, as shown by the price rises following the Ukraine crisis and 2008 financial crisis. Increasingly frequent extreme weather events caused by climate change reduce the global capacity to produce for a growing population, erode and threaten food system resilience, and threatens overall food security.

This presents a growing issue for food security in the UK. For example, a fifth of fruit and vegetables imported into the UK are currently coming from areas at risk of climate breakdown.[2] If food production is impacted it will add to cost-of-living pressures in the UK.

Our food systems are globalised and interconnected, and therefore the process of moving to sustainable agriculture requires an approach that looks beyond our borders. Otherwise, sustainable farming practices will continue to be undermined by lower-cost producers who do not have to meet the same environmental standards.

There are many options for improving farming practices without impacting yield. Studies have shown regenerative practices can increase profits for farmers, while also returning higher yields, even in drought conditions, thereby strengthening global food capacity.3 4 Further liberalising market access without environmental safeguards is not the solution to food insecurity; rather, it contributes to it.

Carbon Border Adjustment measures (CBAMs) are the subject of policy debate and live proposals in the EU and US in respect of transition to low and zero emissions industries, such as steel, aluminium and chemicals. However, proposals for food and farming require a wider perspective – one that captures other environmental impacts, such as soil pollution and biodiversity loss, alongside carbon emissions.

The UK already imports almost half of the food that it consumes (46% of the agri-food consumed in 2020).[5] UK farmers comply with a number of requirements to protect animal welfare and the environment. However, the UK sets no environmental or animal welfare standards on the food it imports at all. This comes as a shock to the public – studies from *Which?* show that 84% of consumers believe food imports should be subject to the same environmental standards as domestic produce.[6]

STUDIES FROM WHICH? SHOW THAT 84% OF CONSUMERS BELIEVE THAT FOOD IMPORTS SHOULD BE SUBJECT TO THE SAME ENVIRONMENTAL STANDARDS AS DOMESTIC PRODUCE.

As agriculture transitions to greener and more sustainable practices, the UK has the opportunity to take a leading role and be at the forefront of these changes. By greening its own food production and supply chains it can future-proof its agricultural system. The UK is already pioneering the development of the green energy sector, giving it a market advantage; it can follow a similar pathway to become a leader in green agriculture.

That is why we need Core Environmental Standards, minimum sustainability standards that would require all agri-food imports sold in the UK to comply with standards comparable to those required of UK farmers. These would ensure that the UK is supporting resilient and future-proof agriculture systems both domestically and abroad.

CORE ENVIRONMENTAL STANDARDS: HOW WOULD THEY WORK?

There is widespread support for Core Environmental Standards across the UK. Advisory bodies in the UK, including the Trade and Agriculture Commission[7], the National Food Strategy[8], and the Climate Change Committee (CCC)[9], have all encouraged the development of Core Environmental Standards in UK law.

Adopting CES would not necessitate a re-design of existing UK environmental regulation. Instead, it would require imported agri-food products to meet a comparable standard as required of UK producers – similar to the way existing food safety standards, such as the ban on chlorine washes, known as sanitary and phytosanitary standards (SPS) apply to imports. CES should be enshrined in UK law so that they would apply equally to all trade partners, regardless of Free Trade Agreements (FTA). This is part of ensuring its compatibility with WTO law, as discussed later in the report.

The recently negotiated trade agreements with Australia and New Zealand have granted preferential market access (a phased elimination of all tariffs and quotas) for most agri-food goods, regardless of the environmental impact of their production. This is significant as foreign farmers gain improved UK market access despite producing in a way that is illegal for UK farmers and environmentally damaging. For example, Australia has one of the highest rates of deforestation in the OECD due to weak its beef production and weak forest protection laws, and also permits the use of 71 highly hazardous substances that are illegal in the UK, and thousands more pesticides.[10] Yet, there are no measures to protect the UK market or producers from this damaging form of production.

The advantage of introducing core standards in UK legislation is that they could address these environmental risks without requiring retrospective renegotiation of trade deal already agreed upon.

Core standards would not be established overnight. The development process will require time, resource and thorough engagement with a variety of stakeholders, including the UK's trade partner countries. This would ensure that they are robustly consulted upon and adapted to the broad range of countries with which the UK trades.

This report is a summary of a full technical report which sets out what needs to be considered to develop CES in the UK, particularly scientific and legal perspectives. These findings set out a proposed methodology, and its application in two case studies, one for neonicotinoid insecticides and the other for excessive nitrogen use. It further discusses how the proposed methodological approach for CES can be applied to other environmental issues beyond the scope of this study.

2. LEADING THE WAY TO GLOBAL SUSTAINABLE AGRICULTURE

There are currently no international environmental standards applicable to trade – unlike food safety standards where there is a well-established set of international rules to safeguard the public's health, the Codex Alimentarius, and a set of higher standards many nations, including the UK, EU and US, set in their Sanitary and Phytosanitary (SPS) requirements. WWF has proposed a Codex Planetarius as a potential model from which to build a baseline set of international standards for food production to safeguard planetary health.[11]

However, the development of international standards is a long-term goal, and domestic action by leading countries is needed to secure progress in the short-to-mid-term and as a stepping stone to a wider global agreement. By establishing CES, the UK could catalyse international policy action and provide a starting point for multilateral processes. In parallel, it could also engage on the plurilateral level by working with like-minded countries to bring together groups of countries that share the same high environmental standards for agriculture.

A best practice approach to the design of CES would include clear communication and dialogue with international trading partners, in the development of CES that work for the UK but have the potential for wider international adoption. This would allow the UK to gain a better understanding of other countries' own processes for transitioning production methods. And it would allow the UK to develop a flexible CES that recognises the environmental efforts being made in other countries and regions.

The first Trade and Agriculture Commission (TAC) recommended that the UK "champion the creation of a global standards framework for the environment" and develop a set of domestic core standards that could provide a foundation for the UK to lead the discussion of global environmental development and standards.[12] The development of CES at the national and plurilateral levels should be seen as processes that are mutually reinforcing and complementary.

PRECEDENT FOR CORE ENVIRONMENTAL STANDARDS

A number of countries and organisations are in the process of implementing standards for imported goods. The following provide some examples for the application of CES at a national level.

US - MARINE MAMMAL PROTECTION ACT

The US Marine Mammal Protection Act (MMPA) dates back to the 1990s and originally aimed at limiting dolphin bycatch from tuna sold in the US market, including imported tuna. This was found to be inconsistent with WTO principles when challenged.

In 2016, broader and more flexible legislation under the MMPA was introduced. It requires foreign companies exporting certain types of seafood, that are associated with the risk of harming marine mammals, to demonstrate that it comes from fisheries with protection standards that are "comparable in effectiveness" to US standards. The exporter must go through a transparent certification process to gain US market access.

The system includes transition timetables and technical assistance to impacted parties to help them adjust and retain market access. This highlights the importance of careful policy design, in order to ensure compliance with WTO rules, as well as the necessity to consider how exporters can be assisted to meet any new CES.

THAILAND - GLOBALG.A.P.

In 2019, Thailand adopted the Good Agricultural Practices (GAP), a private standard that sets out best practices for agricultural production. GLOBALG.A.P. certifies more than 700 fresh-produce from over 200,000 producers in more than 135 countries.[13] Rather than creating a new certification process (like for the MMPA), Thailand has chosen to take existing voluntary global standards as a starting point and enshrined them into law.

The Thai Food and Drug Administration (FDA) had already required certificates on some crops, but now all importers of fresh produce must present evidence of compliance with the relevant certification bodies. This could either be national GAP standards, such as the Vietnamese VietGAP, the Japanese JGAP, or the internationally recognised GLOBALG.A.P.[14]

UK - DEFORESTATION

There are versions of CES that target environmental harm in exporting countries that the UK has taken forward already. For example, as part of the Environment Act 2021, the UK sought to regulate the import of certain forest risk commodities (FRCs). As it is currently drafted, the law focuses on FRCs linked to illegal deforestation, and requires due diligence from traders to ensure their supply chains comply with local law.[15] While greater detail on implementation will be set out in secondary legislation, the law is likely to apply to commodities such as palm oil, soya and leather.

3. METHODOLOGY FOR DEVELOPING CES

The development of CES for agri-food products is a comprehensive process that should follow general principles of good policymaking, from identifying the issue being addressed, consulting the stakeholders, assessing trade-offs and setting priorities, to evaluating scientific evidence and finally developing an effective implementation, policy review and monitoring and evaluation process.* Below are some key considerations for policy makers when developing CES.

A. PRIORITISING

It will be important to identify priority areas for applying CES, based upon where CES may be needed most and where it can be most effective. To identify these priorities, this study has developed two criteria: CES should address a highly relevant global environmental issue; and should focus on issues highly relevant to trade.

B. EXISTING STANDARDS AND METRICS

Policy designers can draw down from existing metrics and standards that could be built on or incorporated into core standards. There are already examples of retailers voluntarily requiring standards such as LEAF or Red Tractor to be adhered to. Policy designers could draw from this when designing CES.

C. MONITORING AND ENFORCEMENT

An efficient monitoring and enforcement mechanism will also be required to ensure that core standards are being properly adhered to. There are four traditional methods used in international trade:

- At the operation/trader level through due diligence. The trader vouches for its own compliance with standards by reviewing suppliers or supply chains.
- Utilising import controls at the border to check products, as is done with high risk SPS goods, such as veterinary checks on cattle.
- Using a recognised independent third-party to facilitate trade, andd certify or verify the product's compliance with rules or standards.
- By the exporting country verifying the product standard in question- such as Export Health Certificates.

These are not exclusive options, and an effective CES system might depend on a combination of some or all of the above mechanisms.

*The principles distilled in this report are from the General Agreement on Tariffs and Trade (GATT), the Technical Barriers to Trade (TBT) Agreement and the Sanitary and Phytosanitary (SPS) Agreement. They combine elements that establish violations of GATT/TBT/SPS provisions with elements that must be present in order to justify discriminations under GATT Article.

D. INTERNATIONAL LAW

CES must be aligned with the UK's commitments under international law, particularly in line with the intergovernmental World Trade Organization (WTO). As illustrated later, CES can be designed in such a flexible way that it complies with international law while efectively tackling environmental objectives.

E. INCLUSION AND COOPERATION

CES must be designed in an inclusive, consultative manner, addressing country-specific considerations, in particular for developing countries. The transition to sustainable agriculture is critical for countries at high risk of climate change, and UK policy makers must consider the context of these trading partners, and how best to support the transition to resilient crop and production practices.

To maximise the impact of core standards, the UK should adopt CES as a broad political strategy across government, utilising finance, trade and capacity building to support developing countries and sustainable development overseas.

WORLD TRADE ORGANISATION PRINCIPLES

The WTO seeks to balance trade restrictions against a country's pursuit of legitimate regulatory objectives. The General Agreement on Tariffs and Trade (GATT) articles can be used to justify the use of trade restrictions on the grounds of public morals or environmental harm affecting the UK and are likely to be the centre of the WTO's consideration of CES.

The report shows that CES can, and should, be developed in a flexible way that would allow the UK to continue to abide by its commitments in international law and adapt to the conditions of its trading partner. Ensuring compliance provides supplier and consumer confidence, as well as re-affirming the UK's position as an exemplar in the development of core standards internationally.

It is helpful to remember when designing and framing CES, the goal of CES is not to restrict trade into the UK overall, but to encourage better environmental practice through its trade strategy and to reduce demand for dangerous and outdated agricultural practices. CES must comply with WTO principles, so it must be focused on securing a better environmental outcome.

It is important that the framing of the regulatory objective from the UK is clear, and that the CES is flexible enough to comply with WTO commitments. To ensure the UK is aligned with its commitments in international law, CES must be designed with the following principles in mind (Table 1). These are distilled from the provisions of the GATT, Technical Barriers to Trade (TBT), and the SPS Agreements.

PRINCIPLE	DESCRIPTION	CES COMPLIANCE
Non-discrimination	When products are considered to be "like", the CES cannot unjustifiably or arbitrarily discriminate between its trading partners, or between domestic and foreign products.	Distinguishing between products based on evidence of environmental impact and setting thresholds for environmental standards for all domestic and overseas producers alike are key to CES design.
Legitimate regulatory objective	CES must be designed to achieve a legitimate objective, in the case protection of human health or safety, animal or plant life or health, or the environment.	Countries with strong legal framework to tackle global objectives like climate change and biodiversity loss, like the UK, are well placed to demonstrate the CES link to a regulatory objective.
Extraterritoriality	There must be a "sufficient nexus" between the legitimate regulatory objective the CES seeks to advance and the UK.	CES are designed so the UK market no longer incentivises destructive practices, such as biodiversity loss, to protect consumers and the environment.
Even-handedness	The CES should consider flexibility to allow for different conditions and characteristics in the exporting countries.	CES should have the ability to adapt to a variety of national conditions, depending on the measure or level of risk it seeks to address.
Trade restrictiveness	The CES should not be more restrictive than necessary to achieve the regulatory objective at the level of risk-protection that is chosen by the importing country.	WTO rules acknowledge that some degree of trade restriction may be necessary to achieve certain policy objectives. CES must be designed to appropriately address the measure without unnecessarily restricting trade.
Sufficient scientific evidence	It will be difficult to justify core standards if it is not based on sufficient scientific evidence.	UK government should establish a taskforce with internal and external scientific expertise to shape exploration of and evidence for appropriate CES.
Relevant international standards	The TBT and SPS Agreements put a premium on complying with the relevant international standard.	This will be less relevant for the CES analysis, given the lack of internationally accepted environmental standards for agri-food products.

Table 1: How CES must be designed to comply with WTO principles

4. CASE STUDIES FOR DESIGNING CES

To showcase the scientific and legal design considerations of CES, this section seeks to apply the methodology set out above to two selected environmental issues: the overuse of insecticides and nitrates. This section is only a summary of the findings, please see the full report for complete details.

The study uses the existing domestic regulation as a starting point for developing these standards for imports, showing how they would be comparable to what is currently required of UK farmers. The report focuses on two case studies: the impact of neonicotinoid insecticides on bee populations, and of nitrogen fertiliser overuse on soil quality and water pollution.

These case studies were selected (from a shortlist of five) due to their global relevance and their varying impact between countries or environments. The report demonstrates the harm caused by the issue, and UK law in place to address it, identifies trade flows to which the CES could be applied, then suggests options for CES design.

While this report uses agri-food as its focus, important lessons can be learned from both cases on the development of CES more broadly, such as climate change, deforestation and the development of other product standards.

NEONICOTINOIDS

Neonicotinoids are a class of insecticides that are used to deal with sap-sucking insects on crops such as cereals and sugar beet. In 2013, the EU prohibited the use of three neonicotinoids (clothianidin, imidacloprid and thiamethoxam) due to scientific evidence of their harmful impact on bees. The UK has maintained this restriction beyond its withdrawal from the EU.

However, the UK imports large quantities of cereal, oilseeds and sugar from regions where neonicotinoids are still used. This means the UK is potentially encouraging the use of harmful environmental practices overseas impacting biodiversity, by damaging bee populations, while also reducing the competitiveness of UK farmers who need to comply with the restrictions on these insecticides and are going through the process of adapting their production methods so they can operate using less and safer pest control methods.

The UK sets tolerance levels, known as Maximum Residue Levels (MRLs), on how much chemical or medicinal residue is allowed in a food product. A clear regulatory divergence exists between the UK and some of its agricultural trading partners. This raises legitimate concern that the trade in affected products, incentivised through free trade agreements that lower tariffs, negatively affects biodiversity, a globally relevant environmental public good.

The following options for designing core standards on neonicotinoids were analysed:

Option A: The Stringent Quantitative Approach	- Imported products must meet the exact same requirements as UK producers. - No higher import tolerances for non-approved neonicotinoids.
Option B: The Flexible Quantitative Approach	- Trading partners could apply for an import tolerance, but they would need to demonstrate that the use of neonicotinoids poses no environmental threat to bees. Failure to do so would result in a denial of the request.
Option C: The Qualitative Approach	- Require that all food products placed on the UK market must originate from farms that can demonstrate compliance with sustainable pesticide use and pesticide management principles and practices, based on: (i) the applicable regulatory framework at farm level, or (ii) certification with a credible third party-verified environmental assurance scheme.

APPLYING WTO PRINCIPLES TO NEONICOTINOIDS

	OPTION A	OPTION B	OPTION C
Non-discrimination	Arguments could be made that products treated with neonicotinoids and those not treated with neonicotinoids are not "like" based on different physical characteristics (neonicotinoids residue) and consumer preferences. If, however, products are found to be "like", there could be findings of de facto discrimination depending on whether the measure modifies conditions of competition and depending on application and implementation of the measure.		
Legitimate regulatory objective	Possible framing could include seeking to protect global bee populations, by ensuring that the UK market is not used to encourage agricultural production in a manner that adversely affects bee populations.		
Extraterritoriality	Need to establish link between protecting bee populations abroad and UK (either through public morals or global environmental harm routes). A "sufficient nexus" must exist between the measure and the target country.		
Even-handedness	This does not allow examination into whether it is appropriate to importing countries. Thus, likely not to be even-handed.	Options B and C would enable the consideration of the importing countries' conditions, thus being even-handed.	
Trade restrictiveness	Because it requires MRLs at LOQ without allowing for import tolerances, this would be the most trade restrictive measure Panel could find the measure not necessary to achieve legitimate regulatory objective.	This option is less trade restrictive than Option A, as it allows for an examination of the conditions in the exporting country.	This option is the least trade restrictive – it does not impose restrictions on products on which neonicotinoids have been used. However, it may not be stringent enough to meet the UK's appropriate level of protection.

CES FOR NEONICOTINOIDS SUMMARY

Though it will require a robust evidence and evaluation system, option B allows for a more flexible approach to CES. This option would allow for higher tolerance of neonicotinoid MRLs than there is in UK products if there is a demonstrable and justified case for doing so.

Option A would not allow this. Even if there was no threat to the trader's bee population products could be banned for their neonicotinoid usage which could be considered in breach of the WTO's "even-handedness" principle. Option C is less restrictive on trade but considered too lenient and open to abuse. A degree of stringency is required to meet UK protections and bolster the impact of CES.

Option B's flexibility allows for its design to be moulded in line with the UK's legal commitments internationally, and with the WTO's "general principles". The adaptive approach means it can factor the local environmental impact of the trading partner or good when imported to the UK, and not cause unnecessary restrictions to trade.

NITRATE LEVELS

Nitrogen is applied to crops as a mineral fertiliser, and organically through manure, composts or ploughed in crops. However, environmental challenges arise from the over-use of nitrogen over years and decades, leading to the degradation of soil and pollution of water. Excess nitrogen, whether in the form of mineral fertilisers or manure, results in biodiversity degradation in and around fields and the eutrophication of water bodies. In the extreme, causes the complete destruction of marine and aquatic environments, and eventually coastal waters. These are matters of global concern, and significant transboundary effects occur as lakes, seas and coastal waters are impacted.

The UK regulates usage through its laws for nitrogen, water and agriculture, establishing maximum limits of nitrogen usage on farms, with designated Nitrate Vulnerable Zones (NVZs) for water bodies suffering most from nitrogen excess.

The main principle for good nitrogen use is that it should be appropriate to the nutrient need of the crop. Therefore, the analysis of regulations in other jurisdictions will require significant attention to their particular context. Three critical criteria could be followed to set a foundation for addressing nitrogen level core standards:

- An evidence-based definition of NVZs (or their equivalent).
- Operational requirements on farmers – back-up recording and inspections – of the principle of nutrient application tuned to crop need.
- A requirement on farmers to have and to follow a whole farm nutrient plan.

In this instance, it is impossible to detect nitrogen usage on the final product, so it is better to focus on the region of production, identifying regions using, or at risk of using, excessive nitrogen levels. The following options for designing core standards on nitrates were analysed:

Option A: The Most Stringent Approach	Would require that a country with excessive nitrogen use establishes Nitrate Vulnerable Zones (NVZs) comparable or similar to NVZs defined in the UK, and establishes nitrogen management requirements and quantitative limits for nitrogen use per crop in a similar manner as those limits applied in the UK.
Option B: The Regionalized Approach	Would require that minimum nitrogen management principles must be followed. This should include defining NVZs or equivalent, requiring farmers to use nitrogen application rates based on crop requirements, and requiring farmers to have a farm nutrient plan with appropriate nutrient use recording and inspections to check compliance.
Option C: The Farm-focused Approach	Would focus on farms in high-risk areas, enabling them to engage in export trade provided that they meet the requisite nitrogen management standards.

	OPTION A	OPTION B	OPTION C
Non-discrimination	It will be very difficult to establish that these products are non-like. As a result, it is likely that a core standard on nitrogen will be found to be discriminatory if it is found to alter conditions of competition. Such discrimination can be justified under GATT Article XX or TBT if it is the result of a legitimate regulatory distinction.		
Legitimate regulatory objective	Possible framing could include seeking to prevent eutrophication globally, by ensuring that the UK market is not incentivising the production which harms aquatic ecosystems.		
Extraterritoriality	A "sufficient nexus" must exist between the measure and the UK. This should not be a problem, given the global implications of excessive nitrogen use.		
Even-handedness	By requiring compliance with UK nitrogen regulations, this option does not allow the consideration of conditions in the exporting country. Thus, it is likely not even-handed.	Depending on the exact requirements that must be complied with, this measure could be flexible to take into account the conditions in the exporting country.	
Trade restrictiveness	Important to ensure that the measure is designed to target areas of high risk of excessive nitrogen use (NVZs/ high risk countries). Option A is the most trade restrictive of the options analysed.	Important to ensure that the measure is designed to target areas at high risk of excessive nitrogen use (NVZs/high risk countries). Option B is less trade restrictive than Option A.	Important to ensure that the measure is designed to target areas high risk of excessive nitrogen use (NVZs/high risk countries). Option C is less trade restrictive than Option A.

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CES FOR NITRATE LEVELS SUMMARY

In this instance, the countrywide approach of option A is considered too restrictive, requiring imports to meet the similar standards of UK farmers, regardless of their producers' context. This is considered too trade restrictive and may be seen as too radical by WTO regulations to stand. The goal of CES is to promote a flexible approach to agri-food trade that supports a transition to sustainable farming, not to close entire national market access.

Instead, the report recommends either option B, C or a combination of both as a more flexible and regionalised approach to CES, allowing the measure to adapt to the risk it seeks to address.

Option B takes a regional approach to CES, establishing NVZs in high-risk countries. The measure should define NVZs, require farmers to use nitrogen application rates based on specific requirements, and to have a compliant nitrogen plan, and the NVZ could then be targeted for inspection in the case of a suspected breach. Option B would set minimum principles on the target area of identified risk in exchange for market access.

Going one step further, Option C suggests a compartmentalisation model, which would analyse the methods and processes at a producer level in high-risk countries. Here, individual farmers could export if they meet the requisite nitrogen management standard, even if the country has failed to adopt adequate nitrogen management regimes.

A regional or compartmental core standard measure could be applied to NVZs, targeting goods that have been produced in high-risk areas. Rather than banning all imports from an affected partner, this design would be able to factor in specific farmer and environmental considerations, with methods in place to verify the appropriate use of nitrogen fertiliser.

Regionalisation and compartmentalisation in trade agreements.

Both regionalisation and compartmentalisation are concepts that are used in SPS provisions in trade agreements. Regionalisation requires that measures are adapted to regional conditions – as opposed to the entire country – including disease outbreaks, or low pest or disease prevalence. For example, if disease breaks out in country A, country B must not impose a ban on country A's imports. Instead, tailored verification is carried out by importing countries to test and assess safety. This way, regionalisation allows the measure to adapt to the risk at hand.

Compartmentalisation is also a key concept of risk containment concerning SPS measures. In essence, the concept of compartmentalisation focuses on whether the farm had adopted adequate hygiene and other disease-containment measures at a farm level for it to be considered disease-free, and therefore clear for export.

While these concepts are mostly used for SPS measures and not TBT measures, they are useful when designing CES for nitrogen, given the fact that it should target products that have been cultivated in high-risk areas – and not those areas/countries where excessive nitrogen use is not a problem.

5. KEY OBSERVATIONS

Based on this analysis, the report leads to a series of key observations:

- In the process of developing CES, the identification of existing UK regulatory requirements and standards is important. Where this is challenging due to devolved legislation, overlapping and complex regulations, it is critical to reveal a core set of requirements for a baseline that all UK farmers must adhere to. These cannot exceed what is mandatory for farmers in every nation of the UK.

- CES and improving the enforcement of domestic regulations are two sides of the same coin. On the one hand, a situation in which a regulation is not adequately enforced for UK farmers but would be strictly enforced for imported agri-food products would constitute discrimination under trade law. On the other hand, CES could be an enabler for domestic improvements, as otherwise the lack of a level playing field could stunt the farmers' efforts to improve environmental performance.

- Trading partners may raise the fact that UK farmers are beneficiaries of generous public payments to offset stringent environmental requirements. This can be resisted on the basis that the objective of CES is primarily to reduce the environmental damage associated with production operating at low standards which are regulated or set in law rather than supported by current or future subsidy arrangements.

- To minimise the administrative burden and cost of CES, regulators are encouraged to build upon existing procedures, systems, certifications and standards where possible. For example, applying benchmarking assessments for credible voluntary standards where possible, and working with VSS bodies to incorporate appropriate measures could help simplify procedures and reduce the burden on producers to meet CES.

- It is important to allow the particular conditions and circumstances of exporting countries to be considered. The designed CES should be flexible to help fulfil their intended environmental objective most efficiently and effectively, despite the geographical and other relevant differences between trading partners.

- Further, the design of the measure should take into account the different conditions and characteristics of developing countries and especially small and micro farms and producers. In the development of CES, it should be evaluated how the requirements of CES can be designed in such a way that they are proportionate to the respective environmental impact associated with the producer or product group.

- More generally, fair and inclusive implementation of CES implies a comprehensive consultation process between the UK and its trading partners that starts from the beginning of policy development, where the WTO can play an important role as standing forum for consultations and informal exchange between trading countries. This process is similar for CES as it is for other policy issues, and numerous good practice examples exist from the environmental policy sphere and other fields of policy making.

6. THE ROUTE FORWARD

Publically announce a commitment to core standards to provide confidence to industry and consumers that the UK will act to protect its high environmental standards.

Establish a UK government task force to develop core standards, with internal and external experts from across the UK.

Identify and prioritise cases to which core standards could apply. Gather scientific evidence to develop an effective and legally compliant CES based on the guidance set out in this report.

Engage with relevant farming, industry and other bodies to understand the impact of the core standard. This increases the transparency of the measure, allowing vital feedback to inform policy makers on its impact.

Provide time and support for trading partners to adjust to core standards to allow an orderly transition to sustainable agriculture production and avoid a cliff edge for trading partners. The MMPA provided fisheries with a five-year transition period.[16]

Assess and identify countries interested in promoting sustainable agriculture to advance the development of CES at a plurilateral level. Initiate discussion among like-minded trade partners with the aim of widening engagement over time. It would make sense work with partners like the EU, with whom we share similar standards.

7. CONCLUSION

The future resilience of both the UK and global food system depends on driving forward a sustainable agricultural transition, ensuring that those involved in food production can adapt to a changing climate while taking steps to reduce emissions and reverse the loss of biodiversity. This is the context in which the UK's new trading relationships must deal with, given the extent to which we import the food we consume and export much of the food we produce.

In a cost-of-living crisis, it is natural to question why we should prioritise sustainability. However, a less secure food system, depleted by the use of unsustainable inputs, lacking biodiversity and vulnerable to increasing climate shocks is the ultimate risk to food affordability.

Over the last 20 years there has been an 83% rise in climate-related disasters, impacting global capacity to reliably produce the food we all need. Reviewing the 2008 price spike, the UK government's Global Food Security research found that food prices increased by 15-47% as a result of droughts and oil price rises, with a greater impact on less well-off, compared to wealthier, shoppers.[17]

As countries move at different rates and with different visions for the future of food production, the trade system can act as either a barrier or an enabler to the development of better farming practices. Core environmental standards would be a way of promoting positive forms of food production, filtering out unsustainable methods of farming that are not regulated or do not pay the full price of their production in their home country.

By supporting new forms of sustainable agriculture, the UK would secure both food security and its role as a leader in the green markets of the future. This gives the UK a chance to pioneer innovative sustainable agricultural practices and be at the forefront of new market opportunities.

This report shows that designing and implementing Core Environmental Standards is not only desirable, but achievable. The use of pesticides and overuse of nitrogen are two common agriculture issues causing harmful negative impacts on the environment, and by analysing WTO principles and existing methods, this report provides a credible design framework for CES.

The two case studies showcase key insights for the design of CES. An overarching theme is maintaining an approach that is both stringent enough to achieve a desired environmental objective and flexible enough to adapt to varying country conditions. If there is too little flexibility, they are likely to be in breach of WTO rules. However, if they are too lenient, they will fail to have an effective environmental impact. The options analysed under each case study show how this balance may be struck correctly.

Core standards would help level the playing field between domestic and overseas producers, supporting the UK's efforts to move to a more sustainable farming system. At the same time, they would build towards a long-term framework of sustainable best practice internationally, where the UK could work in partnership with like-minded countries to bring about a more secure, fair and sustainable food system worldwide.

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