

UK Faculty of Public Health response to the Department for International Trade's four consultations on post-Brexit trade



FACULTY OF
PUBLIC HEALTH

Introduction

The UK's Faculty of Public Health (FPH) welcomes this opportunity to respond to the Department for International Trade's (DIT) four consultations on post-Brexit trade.

To put these discussions in context, the UK's post-Brexit trading relationships will likely have a far greater impact on the public's health than the recent – and very welcome – announcement of an increase in NHS funding of £20.5 billion per year. As such, the FPH is keen to support the UK Government in developing trade agreements that not only bring about sustainable economic growth but also more productive and healthier workforces, and result in healthier communities across the UK.

As part of our wider [Brexit campaign](#), FPH is leading a project to support Ministers and officials in securing healthy post-Brexit trade agreements. For the first phase of this work, and building on the five Government commitments secured through [FPH's 'Do No Harm' campaign \(see more below\)](#), we are developing a public health 'blueprint' for negotiating 'healthy' trade agreements that this and future Governments can adopt now and after leaving the EU. We will publish the blueprint in early 2019.

This short submission draws together our learning so far from our evidence gathering and stakeholder engagement. We hope that our early findings will help inform the DIT's approach to the development of the UK's post-Brexit trade policy and negotiations – and its 'Outline Approach' to each future trade negotiation.

To inform our blueprint, we also intend to explore how the business community sees its relationship with supporting healthier workforces and populations in our future trade agreements.

What is expert consensus telling us about Brexit, health and trade?

During July-September 2018, FPH's Brexit Project Group undertook an extensive programme of engagement with stakeholders in the public health and wider health community, EU legal experts, civil servants (including from the Departments for International Trade, Exiting the European Union and Health and Social Care), Select Committees (International Trade) and the business community. The aim was to start to understand their priorities and aspirations for the public's health as the UK Government develops the UK's post-Brexit trade policy.

On 17 October 2018, FPH held a half-day workshop bringing together 20 leaders from across third sector health organisations including the Brexit Health Alliance, Cancer Research UK, the European Public Health Association, EU legal experts, Public Health England and Public Health Wales, to develop our intelligence and strategic insights. Through this consultative

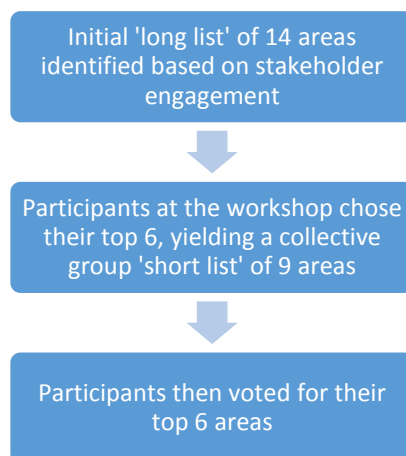
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and collaborative approach we hope to develop a ‘blueprint’ that resonates both with decision makers and the public health and wider health community. Below we’ve detailed the process for how we developed and assessed priorities for trade negotiations at the workshop. This response is supported by 20 organisations, detailed below.



The collective group ‘short list’ of principles for healthy trade agreements, ranked in the order by stakeholders

1. A ‘seat at the table’ for the public health sector

We welcome the Secretary of State for International Trade’s commitment to “[ensure that our new agreements and our future trade policy work for the whole of the UK](#)” and create opportunities for civil society to engage and contribute.

Our stakeholders are keen that as the Government develops the UK’s post-Brexit trade policy it engages in a regular and substantive dialogue with the public health sector, including representatives from the devolved administrations. Formalising this dialogue on a statutory basis would ensure that our trade negotiators are equipped with the specialist expertise and evidence needed to identify and mitigate potential health risks and to maximise the opportunities to develop higher standards for the UK’s workforce and whole population. This would also support a ‘Health in All Policies’ approach to developing our future trade policy and reflect the UK Government’s commitments to our international partners.

To support the UK Government in realising its commitment to prioritise health as we develop our post-Brexit trading relationships, stakeholders told us that the Department for Health and Social Care should have direct representation on the Cabinet Committee on European Union Exit and Trade. This would help ensure a vital cross-government partnership on health and trade. In addition, stakeholders are keen for the UK Government to maximise the opportunities for regular cross-government partnership on public health at senior Ministerial level, including through regular dialogue between the Department for Health and Social Care (DHSC) (and devolved health and social care departments) and Department for International Trade (DIT).

2. The duty to regulate

The development of an independent trade policy is an opportunity to reinforce the UK’s

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responsibility to regulate in the public interest. The public health and wider health sectors welcome the DIT's commitment that trade agreements will "[not prevent governments from regulating as they see fit](#)". In turn, it is reassuring that the Department has committed to "[maintaining our high standards](#) for consumers, workers and the environment, and to protecting our public services, in any future trade agreements". To support this ambition, stakeholders advocate the creation of a specific duty to regulate to protect and improve the public's health as we negotiate future trade agreements.

This should explicitly include the necessity of maintaining certain non-tariff barriers where they affect trade in unhealthy commodities, e.g. tobacco (key risk factors in communicable and non-communicable disease). There was further agreement that no future investor-state dispute settlement system (ISDS) should constrain the ability of UK and devolved Governments to make laws on health, social, environmental and economic matters. Any future ISDS system should be transparent, based on judicial procedures, and permit meaningful representations by all parties with a potential stake in the matter.

We also heard that the UK Government should assure the sector that the affordability and availability of medicines should be safeguarded and that the UK Government should resist any expansion of intellectual property provisions that compromise the requirement of the Government to favour access to and use of medicines, including generics.

3. 'Do No Harm'

Public health standards are regulations and laws setting the minimum standards required to promote and protect the health and wellbeing of individuals and populations. They prevent, control and provide a response to existing and emerging threats such as antimicrobial resistance, microbiological and chemical threats and emergencies (e.g. pandemics) which know no borders and require a shared response. They also address non-communicable diseases such as cardiovascular disease, cancers and diabetes, and their risk factors (e.g. tobacco use, alcohol and unhealthy diet); and environmental risks such as polluted water, contaminated food and indoor and outdoor air quality. They also provide standards for health products and services (e.g. medicines). Some stakeholders expressed concerns that trade agreements have been [associated with adverse health impacts](#).

We heard concerns that a future government may feel under significant pressure to trade away our public health standards in an effort to secure key trade deals. Recent polling shows that 82% of the public would [oppose a trade deal negotiated on this basis](#). In May 2018, following a major campaign by the public health and wider health community, the Government made an "[unequivocal guarantee](#)" that our public health protections and standards will be the same or higher when we've left the EU. In total it made five clear commitments that "our high standards of health improvement, health security, food safety and environmental protection [will not] be compromised in any way". These commitments were welcomed by the 64 members of the 'do no harm' coalition – [one of the largest health coalitions ever assembled](#). Stakeholders are now keen for those commitments to be substantively, and in law, built into the 'outline approach' of our future trade agreements.

FPH has published a [guidance document](#) to support the UK Government in applying these five commitments to 'do no harm' to the public's health as we leave the EU, and we hope that the guidance will be considered as part of this consultation response.

4. The right to health

The UK has an opportunity to set out a positive vision for the kind of country we want to be after we have left the EU. As part of that vision, we heard that respect for the right to health should form the bedrock of the high level objectives of our future trade policy.

While recognising caution in using trade agreements as a vehicle for other policy objectives, stakeholders view policy coherence on health and trade in particular as essential to long-term, sustainable, economic growth, and health equity and improvement.

Our future trade negotiations should as a minimum, we heard, embed the same levels of protection to the right to a high level of health as currently found in the EU's trade policy and in our other international obligations, in particular our commitment to achieving the Sustainable Development Goals both in the UK and internationally. The UK also has an opportunity to show global leadership by setting a high bar for a rights-based approach to its post-Brexit trade policy and future trade agreements.

5. A transparent consultation process

Stakeholders welcome the Government's commitment to providing parliament with "[the ability to scrutinise new trade agreements in a timely and appropriate manner](#)." However, we heard that the system for ratifying trade deals should be improved. In addition to defining a clear process for full parliamentary scrutiny (including by the devolved administrations), the UK Parliament should not only have a 'general debate' but a vote on the final text of each agreement.

Furthermore, greater clarity would be welcome on who is responsible for what and at what stage of the development of trade policy and negotiations. This is especially important in respect of the devolved administrations, given the ambiguities that arise from retaining international trade at Westminster while many of the sectors that will be affected by resulting decisions are devolved. Such clarity would support the delivery of timely, expert public health advice and evidence to negotiators and officials. Related to this, we heard that who is (or should be) responsible for developing differing elements of trade policy is contested. Building in opportunities to feed into decisions on how and when different sectors are represented will support the development of a transparent process.

There was also a clear consensus for comprehensive Integrated Impact Assessments (considering health equity and sustainability) to be built into the UK's approach to trade policy and negotiations. Stakeholders viewed as critical that impact assessments should be published before the final text of an agreement is ratified, and should inform the drafting of each version of the agreement including the final text. Trade agreements should also be regularly evaluated against key health impact criteria with the option to revise an agreement that had unexpectedly or unintentionally harmed the health of a particular workforce or community.

Finally, stakeholders welcome the UK Government's commitment to "[creating a transparent and inclusive future trade policy](#)" and to ensuring "that people are able to express their views, feel that they have been taken into account... [and] feel invested in this process".

However, we heard that more can and should be done to facilitate and improve levels of public engagement and understanding of trade agreements. By way of example, stakeholders expressed concern at the complexity of this consultation and the challenges that may face members of the public in responding to it in a meaningful way.

6. Health in All Policies

Stakeholders spoke positively of the opportunity for the UK Government to embed a Health in All Policies (HiAP) approach when developing its post-Brexit trade policy. A HiAP approach takes into account the health implications of decisions; targets the social determinants of health; looks for synergies between health and other core policy objectives – including trade and investment; tries to avoid causing harm and instead identifying approaches that will improve the health of the population and reduce, or at least mitigate, inequity.

The EU's 'Do No Harm' duty ([Article 168 of the Treaty of Lisbon](#)) states that a "...high level of human health protection shall be ensured in the definition and implementation of all Union policies and activities". As we leave the EU, the UK Government has committed that this key link between the public's health and trade will be preserved as part of retained EU law and used to interpret and apply retained EU law. In this way, the duty establishes an important test for the UK's trade negotiators as they agree the terms of future agreements and, when agreed, how those agreements are put into UK law.

Stakeholders are keen that the UK Government now explicitly and substantively embeds this agreed approach into the 'Outline Approach' for all future trade agreements. The duty will support the Government in delivering on its commitment to Health in All Policies by mainstreaming health in our post-Brexit trade agreements.

How FPH would like to help

We are very pleased that the UK Government intends to develop a transparent and inclusive future trade policy that will reinforce the Government's ability to regulate in the public interest, including to protect and improve the public's health. We are further heartened by the UK Government's unequivocal guarantee that that our public health protections and standards will be the same or higher when we've left the EU.

As the UK Government develops its trade policy, we are keen to work as collaboratively as possible to help produce the healthiest trade deals possible. We look forward to continuing a constructive engagement with DIT over the coming weeks and months, and to feeding into the further development of the UK's future trade policy. We do hope that these recommendations are helpful and would be happy to discuss them in further detail as we develop our 'blueprint' for healthy trade.

Should you have any further questions or need any assistance, please contact:

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