



Negotiating a 'healthy' trade policy for the UK

Blueprint for a public health approach to
post-Brexit trade agreements



**FACULTY OF
PUBLIC HEALTH**

About this blueprint



In May 2018, following a major campaign led by the Faculty of Public Health (FPH) and supported by the wider health sector, the UK Government made an unequivocal guarantee that as we leave the EU, our existing high level of public health standards and protections will be the same or higher, and won't be 'traded away'.

This blueprint sets out a shared agenda between the business and health communities for the UK's post-Brexit trade policy, rooted in a commitment to secure the highest levels of health and wellbeing for the UK's workforce and wider population. It makes a clear case that the public's health, as a key driver of sustainable economic growth, should be embedded within our trade policy. Six principles and a series of recommendations for 'healthy' trade are set out, that we hope this and future governments will adopt.

This blueprint has been endorsed by 26 organisations across the health and business sectors, representing 150,000 people.

Who is this blueprint for?

- Civil servants, including the UK's Brexit and trade negotiators
- Ministers
- Parliamentarians
- Business and public health leaders

Executive summary

The health and business communities believe a new approach is needed to the negotiation of the UK's post-Brexit trade agreements: One that promotes sustainable economic growth through a renewed focus and core commitment to the health and wellbeing of the UK's workforce and wider population. The findings and recommendations set out in this blueprint are a starting point for a much wider conversation about how we can ensure that the UK develops an independent trade policy that realises the UK Government's ambition to "shape a fairer economy" and spread prosperity more widely.

To better understand the strength of a shared agenda between the business and health communities on the UK's future trade policy, FPH carried out a six-month programme of evidence-gathering, research, and extensive stakeholder engagement with health and business leaders. As part of this, we hosted a series of stakeholder workshops involving over 20 organisations, including FPH's members, health and legal experts, and officials. We also commissioned polling experts ComRes to conduct a major survey of 505 business leaders across the UK in businesses with over 50 employees about health and trade. This blueprint draws together their collective insights, concerns, and priorities and sets out six clear principles for 'healthy' trade that the business and health communities can both support.

Key findings

1. 94% of business leaders think it is important that the UK Government secures future trade deals with other countries that include high public health standards and regulations.
2. 92% of business leaders agree that the business community has a responsibility to help ensure the health and wellbeing of the UK workforce (88% for the UK population respectively).
3. 87% of business leaders agree that current public health rules, regulations and protections help to support the health and wellbeing of the UK workforce (61% agree that they don't go far enough).
4. 85% of business leaders agree that the UK Government should consider the possible impact on the health and wellbeing of the UK workforce before agreeing post-Brexit trade deals.
5. 83% of business leaders agree that current public health rules, regulations and protections help to support sustainable economic development.
6. 77% of business leaders agree that leaders in the health community should have a 'seat at the table' alongside the business community in the negotiation of post-Brexit trade deals.

Key recommendations

1. Trade negotiations should be developed in a spirit of consensus building, with a presumption of transparency, full democratic oversight, and an overarching aim to deliver a net benefit to all.
2. The health community should have a 'seat at the table', alongside the business community, in the development of the UK's trade policy and post-Brexit trade negotiations.
3. A 'Duty to Regulate' to protect and improve the public's health should be adopted as the UK develops an independent trade policy and negotiates future free trade agreements (FTAs).
4. A Health in All Policies Approach should be adopted to the development of the UK's post-Brexit trade policy, with trade agreements designed to promote health equity and sustainability.

5. The UK's Post-Brexit trade agreements should embed the UK Government's commitments to 'do no harm' to the public's health, including to ensure "a high level of human health protection".
6. The right to health should be explicitly embedded into the UK's future trade policy and negotiating positions, which should be both compliant with and measured against it.

A shared agenda – business and health leaders are united on 'healthy' trade

Our research reveals a strong, shared set of priorities between the business and health communities regarding the negotiation of our post-Brexit trade agreements. As the UK develops an independent trade policy, health and business leaders are clear that competing on quality, not cost, is vital to sustainable economic growth. Underlying this is a shared commitment to the health and wellbeing of the UK's workforce and population. Nearly a third of business leaders agree there is no more important aspect for trade negotiations to focus on.

Businesspeople are people first. They actively care about their local communities and the working conditions found there. Ninety-two per cent of business leaders think that the business community has a responsibility to help ensure the health and wellbeing of the UK's workforce (88% for the UK population generally). Our world-leading public health rules, regulations and protections are in large part what enables businesses to take up that role. Business leaders recognise this, with an overwhelming majority (87%) of them agreeing that these regulations support the health and wellbeing of the UK's workforce.

94% of business leaders think it important that the UK Government secures future trade deals with other countries that include high public health standards and regulations

Given this, it is then unsurprising that 94% of business leaders think it important that the UK Government secures future trade deals with other countries that include high public health standards

and regulations. In fact, two thirds of business leaders feel that our current public health rules, regulations and protections don't go far enough in supporting the health and wellbeing of the UK workforce.

The public's health is a key driver of sustainable economic growth and productivity

“Trade is not an end in itself but a means to an end – a means of spreading prosperity ever more widely.

The Rt Hon Dr Liam Fox MP,
Secretary of State for International Trade



There is strong evidence that a high level of population health is an economic asset, with a positive and significant effect on real per capita income and growth. The WHO Commission on Macroeconomics emphasises the importance of investing in health to promote economic development, while the World Bank is clear that population health has a strong economic impact in terms of labour productivity, education and child development. This is clearly articulated in the UK's current Industrial Strategy, which aims “shape a fairer economy” and enable growth by driving improvements in public health.

This is an urgent imperative. Productivity lost to ill health costs the UK economy £100bn a year.

Chronic health conditions are a contributory factor for almost 50% of men between 55 and state pension age who no longer work. Three years of extra work would add up to £55bn per year by 2033. A healthy, working population would also reduce demand on public services: each person moved from unemployment to employment saves £12,000 per year. Improving the mental health of employees is also linked to increased productivity. Approximately 300,000 people with a long-term mental health problem lose their jobs each year.

Income inequality has a negative and statistically significant impact on medium-term growth and is linked to poorer life chances. While life expectancy has been improving for the most affluent 10%, it has stalled or fallen for the most

deprived 10%. For Public Health England it has never been more critical to prevent “the conditions that pose the greatest threat to the success of our economy”; while the NHS Long-Term Plan is clear that “a comprehensive approach to preventing ill-health depends on [ensuring] health is hardwired into economic policy.”

Business leaders understand this and, in fact, 83% of them agree that public health regulations

83% agree that public health regulations and rules help support sustainable economic development

and rules help support sustainable economic development. As we leave the EU, business leaders will view a commitment to a high level of public health standards as a sign that the UK Government is serious about supporting their long-term competitiveness on the global stage.

Six principles for 'healthy' trade

The UK Government has guaranteed that our existing public health protections and standards, and won't be 'traded away' with any trade partner – and that they will be the same or higher after Brexit. The following six principles for 'healthy' trade, developed in consultation with the health and business communities, outline a shared set of priorities and offer practical recommendations to support the UK Government in realising its commitments. Business and health leaders are keen to work in close partnership with the current and future Governments across this shared agenda.

1. A transparent and inclusive trade policy

The health and business communities welcome the UK Government's commitment to a transparent and inclusive trade policy based on a comprehensive, [formalised approach to stakeholder engagement](#).

While welcome, almost two thirds of business leaders are concerned that post-Brexit trade deals will have a negative impact on the health and wellbeing of the UK population. The health and business communities are keen to work with the UK Government to develop a governance model built on consensus, which balances socioeconomic priorities while promoting economic growth, addressing inequality and enabling the UK to play a global leadership role on trade. We support the principles set out in the multi-stakeholder "[A Trade Governance Model That Works for Everyone](#)".

We heard that trade negotiations should be developed in a spirit of consensus building. This means that diverse stakeholder groups must be consulted at key stages, including the health and social care sectors, large and small business, unions, NGOs, devolved administrations and civil society. Building meaningful dialogue between representative constituencies, through multi-stakeholder forums, is essential to trust, problem solving and shared decision making. Greater clarity on who is responsible for what and at what stage of negotiations would also support delivery of timely public health advice to officials.

We also heard that a presumption of transparency should apply to all negotiating texts, with clear and detailed explanation for anything withheld and all texts open to MPs. There should be a single source for public information to make it easier for stakeholders to engage and to ensure a common baseline to work from. Decision making should be evidence-based and consultations, surveys, impact assessments and policy papers published in advance of key milestones. Negotiating mandates should be agreed by parliament prior to negotiations, including red lines requiring parliamentary amendment to change.

Trade policy and negotiations should be developed with full democratic oversight. A parliamentary committee should take regular evidence and scrutinise progress, while negotiators should have a duty to keep the committee informed in time for their views to be taken into account. There should be a guaranteed debate and vote to ratify new FTAs in both Houses after the agreement is finalised, without which they may not enter into force. Devolved administrations and legislatures should be fully involved, including during mandate preparation, oversight and approval.

Finally, trade deals should be designed to deliver a net benefit to all, supporting the Prime Minister's vision of ensuring that growth delivers shared prosperity. A holistic approach should be adopted, with the design and evaluation of FTAs not limited to economic growth, but including health and broader socioeconomic priorities. And, credible mitigation plans should be developed so that people negatively impacted have a path to decent, fairly paid employment, considered by Parliament if necessary.

Recommendations

- We call on the UK Government to adopt the principles outlined in the multi-stakeholder "[A Trade Governance Model That Works for Everyone](#)."
- Trade negotiations should be developed in a spirit of consensus building, with a presumption of transparency, full democratic oversight, and an overarching aim to deliver a net benefit to all.

2. A 'seat at the table'

The health community is concerned that securing the highest levels of health and wellbeing for the UK's workforce and population is not currently a priority for the UK Government as it develops an independent trade policy for the UK.

77% of business leaders feel the health community should have a 'seat at the table' alongside the business community in negotiation of post-Brexit FTAs.

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Expert public health advice will be vital to ensuring that our FTAs deliver sustainable economic growth and productivity based on the highest levels of health and wellbeing among the UK's workforce and population. Public health experts will offer the most up to date scientific evidence to ensure that FTAs don't undermine the UK's ability to prevent, control and provide a response to existing and emerging threats e.g. antimicrobial resistance, chemical threats and communicable diseases.

This advice will also be important in ensuring that our FTAs are supportive of the UK's ability to address non-communicable diseases such as cardiovascular disease, cancers and diabetes, and their associated risk factors (e.g. tobacco use, alcohol use and unhealthy diet). It will ensure that future FTAs address, and are compliant with, international regulations on environmental risks such as air quality. Finally, public health advice will ensure that our FTAs reaffirm our existing standards for health products and services (e.g. medicines) and patients (e.g. safety and health services).

As we move forward, the health community is keen for the UK Government to formalise this 'seat at the table' on a statutory basis to maximise

the benefits and minimise any unintended, harmful consequences of our FTAs. We would further welcome the Department for Health and Social Care having direct representation on the Cabinet Committee on European Union Exit and Trade to support a vital cross-government partnership on health and trade.

Recommendations

- We call on the UK Government to give the health community a 'seat at the table' on a statutory basis in the development of the UK's trade policy and its negotiating positions for future FTAs.
- We call on the UK Government to ensure that the Department for Health and Social Care has direct representation on the Cabinet Committee on European Union Exit and Trade.

3. Do no harm

In 2018 FPH launched the 'do no harm' campaign, supported by an unprecedented coalition of 64 medical Royal Colleges, faculties and health organisations. The campaign secured the following commitments from the UK Government regarding the public's health in a post-Brexit trading landscape:

1. An unequivocal guarantee that our public health protections and standards will be the same or higher when we've left the EU.
2. Public health protections and standards – and our National Health Service – will not be 'traded away' with the US or any other trade partner.
3. The Government – or others – can be challenged and held to account in our domestic courts after Brexit should it fail to meet these commitments.
4. Our health partnerships with the EU will remain just as strong in the future.
5. The public's health will be at the 'epicentre' of the UK's Brexit negotiations and future policy making.

The UK Government has also confirmed that the EU public health duty to 'do no harm' (found in Article 168 of the Lisbon Treaty) will continue to influence policy making and be legally enforceable after Brexit. It says that "a high level of human health protection shall be ensured in the definition and implementation of all Union policies and activities" and thereby establishes a key test for our trade negotiators and Ministers to pay active regard to a high level of human health protection when making and implementing trade policy. The health sector is keen to support the UK Government in embedding these commitments into the UK's future trade policy, and ensuring full compliance with them.

The business community overwhelmingly supports the principles enshrined in the 'do no harm' campaign. 94% of business leaders think it important that the UK secures future FTAs with high public health standards and regulations, while nearly 50% would mind if the UK reduced

them in an effort to secure a trade deal with another country. To do so, business leaders think, would have a negative impact on the health and wellbeing of our workforce and population.

“Protecting and improving public health is part of our national DNA and our current and future trading partners will expect us to continue to prioritise health.

Rt Hon Jeremy Hunt MP, Secretary of State for Health and Social Care during passage of EU withdrawal Act 2018

The UK Government's commitments to 'do no harm' provide clear guidance for the UK's trade negotiators to support them in realising this ambition. As we move forward, the business and health communities will also seek to use these clear and resolute commitments to fully realise the benefits of the UK's future, independent, trade policy.

Recommendations

- We call on the UK Government to explicitly embed within, and ensure that the UK's future FTAs are compliant with, its commitments to 'do no harm' to the public's health as we leave the EU.
- We call on the UK Government to explicitly embed the language of Article 168 of the Lisbon Treaty into the UK's future trade policy and negotiating positions.

4. Health in All Policies

Business and health leaders agree that the design and evaluation of FTAs should not be limited to economic growth and jobs alone. Health in All Policies (HiAP) is a cross-sector approach to public policy that systematically takes into account the health implications of policy decisions, including trade policy. It seeks to avoid causing health harms and instead to identify approaches that will improve the health of the population and reduce, or mitigate, inequality. HiAP offers a framework based on transparency, and practical tools that combine, and don't view as distinct policy goals, health and economic development. It improves the accountability of policymakers for the health impacts of policy decisions.

It is welcome that the UK Government has clarified that with any new trade partners it will publish an impact assessment "at the appropriate time".

Over 80% of business leaders agree that the UK should consider the possible impacts on the health and wellbeing of both the UK workforce and population before agreeing post-Brexit FTAs.

Over 80% of business leaders agree that the UK should consider the possible impacts on the health and wellbeing of both the UK workforce and population before agreeing post-Brexit FTAs. Comprehensive Integrated Impact Assessments (CIIA), considering health equity and sustainability, are supportive of a HiAP approach, and take account of the distribution of potential benefits and socioeconomic inequalities. The UK Government's commitment to preserve Article 168 of the Lisbon Treaty as part of retained EU law is a commitment to HiAP and CIIA.

The health sector is keen for CIIAs to be embedded into UK trade policy to support the UK Government in taking account of the distribution of any potential benefits and socioeconomic inequalities. CIIAs should also 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. FTAs should

be 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.

Public Health Wales NHS Trust published a Health Impact Assessment (HIA) to better understand the potential implications of Brexit for future health and well-being in Wales. The HIA is the first and currently only assessment into the possible impacts of Brexit regarding public health. It examines the type of impact (positive or negative) and identifies the likelihood, intensity / severity and duration. This is aimed to be a useful resource for organisations to rapidly identify the wide-ranging nature of the impacts which may be relevant to them, as well as the breadth of population groups who may be affected in Wales, and in other nations, when the UK exits the EU.²⁹

Recommendations

- We call on the UK Government to adopt a Health in All Policies Approach in the development of the UK's post-Brexit trade policy and negotiations.
- We call on the UK Government to embed CIIAs into the UK's future FTAs, to publish them before the final text is ratified, to use them to inform the drafting of each version, and to evaluate FTAs with the option to revise any that harm the health of a particular workforce or community.

5. The duty to regulate

The Department for International Trade has offered reassurance that FTAs “do not prevent governments from regulating in the public interest – for example, to protect consumers, the environment, animal welfare and health and safety”. It has further outlined that FTAs “do not require governments to privatise any service or prevent governments from expanding the range of services they supply to the public”. These commitments echo the UK Government’s guarantee that our public health protections and standards will be the same or higher when we’ve left the EU, and won’t be ‘traded away’.

FTAs aim to reduce trade barriers between countries, e.g. taxes charged on goods as they cross borders (tariffs) or non-tariff barriers (domestic laws, regulations or practices that can add to trade costs). Reducing barriers can help the flow of goods, services and investment, and benefit consumers from greater access to products at lower prices. However, the UK already faces pressure to reduce vital non-tariff barriers relating to the protection of health, the environment, labour standards, consumers and animal and plant life, where they are felt to have an unnecessarily restrictive impact on investment.

The health sector urges the UK Government to adopt a ‘Duty to Regulate’ to protect and improve the public’s health as we negotiate future FTAs. The duty should be rooted in the language of Article 168 of the Lisbon Treaty, since the UK Government has already agreed that it will continue after Brexit. This would embed a core commitment that “a high level of human health protection shall be ensured in the definition and implementation of [all trade policies and activities].” This should include maintenance of non-tariff barriers where they affect trade in unhealthy commodities (for example in relation to tobacco, alcohol and processed foods) and the health and wellbeing of the UK’s population and workforce.

There is also some concern within the health community that the government will amend its current framework for assessing risk, rooted in the Precautionary Principle. Under the Precautionary Principle, protections can be relaxed only if scientific findings emerge that provide sound evidence that no harm will result from doing so, even where the economic costs of regulation may be high and evidence of harm is speculative. We urge caution at adopting an approach to risk that may imply that ‘non-science based’ precautionary barriers to trade are ‘unequitable’ and therefore unnecessarily restrictive of trade.

Finally, the business and health sectors are united in calling on the UK Government to agree and implement a dispute resolution mechanism that is fair, transparent and balanced, so far as the interests of the UK, its public policy, workers, taxpayers and investors are concerned. No future Investor-State Dispute Settlement (ISDS) system should discourage the UK from making 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.

Recommendations

- We call on the UK Government to adopt a ‘Duty to Regulate’ to protect and improve the public’s health as the UK develops an independent trade policy and negotiates future FTAs.
- We call on the UK Government to uphold the UK’s current framework for assessing risk, rooted in the Precautionary Principle, and to embed this within the UK’s FTAs.
- We call on the UK Government to agree and implement a fair, transparent and balanced dispute resolution mechanism.

6. The right to health

The UK has an opportunity to show global leadership by setting a high bar for a rights-based approach to its post-Brexit trade policy. Business backs this approach.

93% of business leaders think it important for the UK to secure future trade deals that include respect for human rights

93% of business leaders think it important for the UK to secure future trade deals that include respect for human rights, and 91% for social justice. As we move forward, health and business leaders are keen for the UK Government to ensure that the right to health is not (and is not perceived to be) an 'add-on', but an integral part of our trade policy.

Article 12 of the UN International Covenant on Economic, Social and Cultural Rights, to which the UK is a signatory, recognises the right of everyone to the "highest attainable standard of physical and mental health". A range of socioeconomic conditions are necessary to achieve the right, eg: healthy child development, a healthy environment, prevention, treatment and control of epidemic, endemic, occupational and other diseases, healthy working conditions and access to food, nutrition and housing.

Other Treaties to which the UK is a party also reserve the ability to restrict trade on public health grounds. For example Article XX of the General Agreement on Tariffs and Trade outlines exceptions to allow the adoption or enforcement of measures necessary to protect human, animal or plant life or health, subject to the requirement that such measures are not arbitrary or represent an unjustifiable discrimination. The EU also requires trade negotiations to promote sustainable economic development by embedding social justice, human rights and high labour and environmental standards.

Recommendations

- We call on the UK Government to explicitly embed the right to health into the UK's future trade policy and negotiating positions, which should be both compliant with and measured against it.
- The UK's future trade policy should be designed to ensure sustainable economic growth based on the highest levels of health and wellbeing among the UK workforce and population.

What should you consider if you are a civil servant working on trade policy?

1. Actively consider whether or not trade policy proposals will meet the test of ensuring a 'high level of human health protection' by being aware of relevant public health standards and checking policy proposals against the minimum standards set out. If you're unsure whether a standard exists, please contact the Faculty of Public Health, at policy@fph.org.uk.
2. Carefully consider whether and how any trade proposals will prevent this or future governments from regulating to maintain or improve the UK's existing high public health rules, regulations or protections. Invite public health and independent legal experts to offer advice at an early stage.
3. Adopt a holistic approach to the design and evaluation of FTAs, limited not to economic growth alone, but including health and broader socioeconomic priorities. Will trade policy proposals increase health harms for the UK's workforce or wider population, or involve a rolling back of agreed public health standards? Are they supportive of sustainable economic growth? Invite public health and other independent experts to offer professional advice at an early stage.
4. Where there is scientific uncertainty about whether and how harmful a trade policy proposal might be to human, animal, and plant health or to the environment, use the Precautionary Principle to help you to manage any risks involved and to prioritise health. '[The Precautionary Principle: decision-making under uncertainty](#)', offers valuable support.
5. Formally consult on trade policy proposals in as transparent a way as possible, ensuring a reasonable time frame for stakeholders to respond to the consultation, and in advance of all key milestones. Actively consider how to involve the health community in your consultation.
6. Share negotiating texts with key stakeholders and the public in advance of key milestones, with clear and detailed explanation for anything withheld, and ensuring all texts are open to MPs. Ensure that information is accessible and available via a single source.
7. Consult stakeholder groups at all stages—including the health and social care sectors, large and small business, unions, NGOs, devolved administrations and civil society. Establish multi-stakeholder forums, building meaningful dialogue between representative constituencies. Ensure the health community has a 'seat at the table' as negotiating positions are developed.
8. A cross-government approach will support you in upholding the UK Government's commitment to prioritise health as you develop trade policy. For example, seek out advice from colleagues in the Department of Health and Social Care.



About the UK Faculty of Public Health

The UK Faculty of Public Health (FPH) is a membership organisation for approximately 4,000 public health professionals across the UK and around the world. We are also a registered charity. Our role is to improve the health and wellbeing of local communities and national populations. We do this by supporting the training and development of the public health workforce and improving public health policy and practice in partnership with local and national governments in the UK and globally.

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