



Fairtrade Foundation Briefing – Trade Bill 2019-21, Report Stage

This briefing has been written to support MPs in their preparation for the report stage of the **Trade Bill 2019-21** which is due to take place on 20th July 2020.

The Bill provides legislation to allow the UK Government to develop its trade policy for the UK now it has left the European Union (EU). This briefing builds upon our previous work on the Trade Bill 2017-2019 which fell before the end of the parliamentary session¹.

Summary of Key Issues:

We are asking the government to ensure consistency and support for developing countries to support COVID-19 recovery, poverty reduction and the Sustainable Development Goals (SDGs) and to secure:

- A trade policy approach which takes in to account **the needs of developing countries during the COVID-19 crisis and in recovery**;
- A commitment to ensure **continued market access for developing countries**, including transition protection for countries where deals have not been agreed by 31st December 2020, and a review of the controversial Economic Partnership Agreements (EPAs);
- A commitment to **conduct thorough and timely impact assessments**, which take account of the impact trade policy decisions and trade deals (including between two wealthier countries) might have on poorer countries and producers;
- **A revised process for debate and approval of trade deals**, including through enhanced parliamentary scrutiny and decision-making.

Background:

The Fairtrade Foundation is keen to ensure that trade policy going forward works for farmers and producers in developing countries, particularly as they respond to the impacts of the COVID-19 pandemic. In many ways, the onset of the COVID19 crisis has highlighted the **fragility of our current trade system and the importance of building resilient supply chains** that are able to withstand future shocks, which ought to include an approach to trade policy that supports the developing country producers and farmers who underpin the UK's food supply chain².

Trade policy can have a significant impact on sustainable development, for better or for worse, so an important interest for Fairtrade, in relation to the Trade Bill, is to ensure that a transparent and participatory process, with thorough impact assessments, is established for the agreement of any

¹<https://www.fairtrade.org.uk/~media/FairtradeUK/What%20is%20Fairtrade/Documents/Policy%20and%20Research%20documents/Policy%20reports/Fairtrade%20Foundation%20Briefing%20Trade%20%20Customs%20Bills%20%20Report%20Stage.pdf>

² 10-15% of the UK's overseas food imports comes from developing countries. Source: Fairtrade analysis of DEFRA statistics.

future trade deals, as well as the roll-over and review of existing EU deals such as the Economic Partnership Agreements (EPAs).

Scope of Legislation:

- The Trade Bill intends to grant powers to the Government and the devolved authorities to make the changes to domestic legislation to enable the implementation of 'roll-over' trade deals the EU has signed with third countries by 31 January 2020. This includes controversial Economic Partnership Agreements (EPAs) with developing countries and Free Trade Agreements (FTAs) with Fairtrade-exporting countries in Latin America and the Caribbean.
- The proposal is that these changes be made via the affirmative resolution procedure.
- The Government has stated that powers within the Bill are intended to be used to help ensure that obligations in transitioned trade agreements, particularly in relation to mutual recognition and procurement arrangements, are fully implemented in the UK. The Bill states that these powers cannot be used to implement FTA with the USA or China.
- The Bill also contains legislation to ensure the Government is able to implement procurement obligations that will arise from the UK acceding to the Agreement on Government Procurement (GPA).
- This is being presented as a technical exercise but the published alongside the Bill say that, "It may be necessary to amend the text of the previous EU agreements,..."³

Fairtrade recommendations:

i) Responding to the COVID-19 crisis

Developing countries, many of which produce key Fairtrade commodities, are already experiencing widespread job losses and face a high risk of severe public health crises. The World Food Programme has also recently warned of the risk of a global famine, unless urgent action is taken⁴.

We encourage the Government to use the opportunity presented by the Bill to **set in place trade policy which works in support of fair and sustainable supply chains**, and which will enable support to developing countries to respond to the devastating impact of the COVID-19 crisis on key exports on which they rely⁵. As this briefing has highlighted, the Fairtrade Foundation would like to see this include a commitment to poverty reduction, action on the climate emergency and the SDGs.

We may be seeing evidence that fairer and more sustainable supply chains are more robust in the face of the crisis. For example, Fairtrade farmers and workers have been able to call on reserves from Fairtrade premium funds to set in place health and social protection measures to buffer, to an extent, the immediate impact of COVID-19 (though these funds will become quickly depleted). Communities that have benefited from investment in housing, sanitation and healthcare are better able to face the public health needs arising from the virus. In addition, many businesses working with Fairtrade have been quick to see the need to support vulnerable producers and set

³ <https://publications.parliament.uk/pa/bills/cbill/58-01/0120/en/20120en06.htm> s.46

⁴ <https://www.theguardian.com/global-development/2020/apr/21/coronavirus-pandemic-will-cause-famine-of-biblical-proportions>

⁵ In the short term there is an urgent need for a coordinated response to the crisis facing developing countries, and which is visible within the communities that Fairtrade works in. Fairtrade CEOs recently sent a letter to G20 leaders calling for the provision of urgent support to protect jobs and livelihoods:

<https://www.fairtrade.net/news/-call-for-g20-support-for-developing-country-producers-fight-covid-19>

supportive measures in place. Such supply chains may be better able to face the current crisis and be better placed to recover quickly.

The COVID-19 crisis is showing how communities around the world are all profoundly interdependent. Where there has been a failure to address poverty and environmental sustainability we now experience a shared vulnerability. **Future wellbeing and shared prosperity for all needs to be built on a new commitment to fairness and sustainability in trade.**

ii) Rolling Over 'Existing' Deals

The Trade Bill as drafted⁶, has a focus on existing deals signed between the EU and other countries or groups of countries. There are currently over 40 agreements⁷ and the countries with which the EU has these deals account for nearly £140bn of UK trade. These deals include Economic Partnership Agreements (EPAs) with ACP (African, Caribbean and Pacific) countries, and also Free Trade Agreements (FTAs) with Latin American countries such as Colombia and Panama.

Whilst we strongly support the government's intention around continuity, the Fairtrade Foundation has two concerns regarding the proposed roll-over of existing EU deals. Firstly, we are concerned that the process may take longer and be more complex than planned, **particularly in light of the continued significant delay and challenges to negotiations caused by the COVID-19 pandemic, leaving some countries exposed to a 'cliff edge' scenario in January 2021.**

There are several countries which currently enjoy preferential access via the EU have not yet agreed roll-over deals / continuity arrangements⁸ with the UK, including Ghana, Cote D'Ivoire, Kenya and Cameroon (significant for Fairtrade sourcing including bananas, cocoa and cut flowers). This sourcing (and indeed other non-Fairtrade sourcing) supports hundreds of thousands of livelihoods. Indeed, the Kenyan flower industry has already been severely impacted by the COVID-19 crisis⁹, and any loss of preferential access¹⁰ would likely compound the crisis in livelihoods and health facing many vulnerable farmers and workers¹¹. **We would therefore urge the Government to consider extending Transitional Protection Mechanisms** (similar to those agreed from 2017 ahead of the UK's departure from the EU) for countries where deals have not been agreed by 31st December 2020. This would extend the trade preferences these countries currently enjoy, for a limited time period and would support them in recovery from the impact of the pandemic.

Secondly, it is still the hope of the Fairtrade Foundation that the Government will take the current opportunity of setting in place new continuity agreements to reassess the problematic aspects of EPAs. In light of the new Africa Continental Free Trade Agreement (CFTA), there is also an opportunity to address concerns around the lack of regional integration raised by the EU's EPA arrangements.

iii) Enshrining Impact Assessments in Law

⁶ https://publications.parliament.uk/pa/bills/cbill/58-01/0120/cbill_2019-20210120_en_1.htm

⁷ <http://researchbriefings.files.parliament.uk/documents/CBP-8073/CBP-8073.pdf>

⁸ <https://www.gov.uk/guidance/uk-trade-agreements-with-non-eu-countries>

⁹ <https://www.bloomberg.com/features/2020-flower-industry-crash/>

¹⁰ For more information, please see our MP briefing on the Global tariff schedule consultation: https://www.fairtrade.org.uk/~/_media/FairtradeUK/What%20is%20Fairtrade/Documents/MP%20briefing%20on%20MFN%20tariffs.pdf

¹¹ <https://www.fairtrade.org.uk/Media-Centre/Blog/2020/April/Kenyan-worker-tells-her-story-of-a-flower-industry-devastated-by-COVID-19>

The Fairtrade Foundation would like to see the **UK set a gold standard in ‘impact assessment’ work on trade**, thoroughly considering whether or not a deal will support a country’s development and protect national policy space (also a target included within the SDGs). Impact assessments should apply to the countries directly involved in any potential deal, and also to countries that may be affected indirectly by a bilateral deal, often as a result of preference erosion. For example, a free trade deal between the UK and Australia could impact on Namibian beef exports. Lowering or eliminating tariffs on Brazilian sugar could impact on other ACP exporters. These impact assessments should deal with a range of perspectives and consider gender, inequalities, labour rights and environmental consequences, should be produced in a timely way, commissioned independently, and *before* a negotiating mandate is established.

iv) Trade Policy Guided by Poverty Reduction and the Sustainable Development Goals

We would like to see the Trade Bill amended to **enshrine poverty reduction and achievement of the SDGs as key principles of UK trade policy**. An additional concrete measure could also be the exclusion of ISDS (Investor-State Dispute Settlement) clauses from trade deals given their potential impact on policy space¹².

v) Revised Process for Agreement of Trade Deals

The previous version of the Trade Bill, which was dropped by the last government, was amended to include provisions on Parliamentary scrutiny of new trade deals¹³.

The Fairtrade Foundation supports calls by the Trade Justice Movement for a **strengthened trade deal scrutiny framework and amendments to the current Trade Bill which establish a revised process for the scrutiny and approval of trade deals**, with particular attention paid to the role of parliament. Under current rules, UK parliamentarians would have less input and control over UK trade policy than MEPs have over EU trade policy.

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¹² Please see briefings by the Trade Justice Movement on the issue of ISDS: <https://www.tjm.org.uk/trade-deals/bilateral-investment-treaties>

¹³ We note that the current Bill retains part of amendment NC6 to the Trade Bill 2019-21 and allows for the use of the affirmative procedure where there are regulatory changes resulting from the roll-over of existing deals with the EU. However, this can be done in a delegated legislation committee and does not provide for the high level of democratic scrutiny we see as required in deciding such deals.