Fairtrade Foundation Response to the Trade White Paper, November 2017

Introduction

1. The Fairtrade Foundation is the independent non-profit organisation that licenses use of the FAIRTRADE mark on products in the UK as the UK member of Fairtrade International. We work with over 400 businesses in the UK which sell Fairtrade certified produce, from major retailers and international brands to small and medium-sized enterprises (SMEs) specialising in ethically traded produce. The Fairtrade retail market in the UK alone was worth £1.6 billion in 2015.

2. Fairtrade works directly with businesses, consumers and campaigners to make trade work for farmers and workers in least developed countries (LDCs) and other developing countries. There are 1.6 million small scale farmers and workers in the Fairtrade system, across 74 countries. 60% of all farmers and workers in the Fairtrade system are in Africa.

3. The Fairtrade Foundation welcomes the opportunity to comment on this Trade White Paper. We will focus our comments on two sections but would also like to take the chance to offer some wider reflections on the government's ambition to support developing countries to reduce poverty, in the context of Brexit.

Trade that is Transparent and Inclusive

4. We would like to concur with the White Paper's statement that, *"future trade policy must be transparent and inclusive"* (p.22), and we do want to positively recognise the outreach which has taken place to date. The Foundation has been party to some very constructive conversations with DIT, and with the Trade for Development team within TPG in particular.

5. In addition to the stakeholder meetings and roundtables which have taken place and which are ongoing, we would like to stress how important it is for *the formal decision-making process to be clarified* and legislation brought forward in this regard. Outreach events cannot be a substitute for parliamentary scrutiny and approval of trade deals, and the current process risks being an anachronism as the government progresses its Brexit plans.

6. The recent report from the Institute for Government on this issue, shows how limited the existing process is, when compared to other similar countries, some of whom we may be expecting to enter negotiations with post-Brexit[1]. This House of Commons briefing paper also summarises the status quo[2] - a no-objection procedure over a 21 day period.

7. The formal decision-making process is of utmost importance to us as it would 'lock-in' the principles of transparency and inclusivity, and ensure that there was adequate parliamentary and public debate on trade deals, including those aspects which will impact on farmers and producers in developing countries, which risk being marginalised. The same point also applies to farmers and producers in the UK.

[1] https://www.instituteforgovernment.org.uk/publications/taking-back-control-trade-policy
[2] http://tjm.org.uk/documents/briefings/Parliaments-role-in-ratifying-treaties.pdf

8. In recent polling carried out for the Fairtrade Foundation and the Trade Justice Movement by Dods Research, we can see that parliamentarians agree with this point[3]. 86% of those responding to the survey strongly agreed or agreed that parliamentarians should have a role in the scrutiny and approval of trade deals. 50 MPs of all parties and regions of the UK completed the poll and the results were weighted by Dods Research to accurately reflect current party composition in the House of Commons.

9. The Fairtrade Foundation, and many others working on international trade, including members of the Trade Justice Movement have significant experience working on trade agreements at the European level, working with UK MEPs who have a formal role through votes in plenary and through the Committee on International Trade. All MEPs do also now have access, albeit limited, to negotiation documents, through a 'reading room'. This was only agreed at the end of 2015 and continues to be insufficient, as many MPs and MEPs themselves have pointed out.

10. As a result we have joined others in proposing the following changes, which should be brought forward in the Trade Bill or through other suitable legislation as soon as possible:

    - The right of parliament to set a thorough mandate to govern each trade negotiation, with a remit for the devolved administrations;
    - The right of the public to be consulted as part of setting that mandate;
    - Full transparency in negotiations;
    - The right of parliament to amend and to reject trade deals, with full debates and scrutiny guaranteed and a remit for the devolved administrations;
    - The right of parliament to review trade deals and withdraw from them in a timely manner.

11. The role for devolved administrations is worth highlighting and we welcome the White Paper's reference to the role they will have in developing and delivering the UK's future trade policy. Colleagues in partner organisations – Fair Trade Wales, and the Scottish Fair Trade Forum, are also keen to secure this given the impact that trade agreements will have on devolved areas of policy such as agriculture.

12. At the time of writing, a Fairtrade Foundation petition, which we have developed to demonstrate public support for a democratic process around trade deals, has attracted more than 9,700 signatures.

13. As an example of why an improved process is needed, and how the voices of developing country producers can often be side-lined, you only need to look at recent changes to the EU Sugar Regime which now skew market access in favour of sugar beet producers, to the

[3] http://www.fairtrade.org.uk/Media-Centre/News/September-2017/Poll-finds-MPs-want-role-in-post-Brexit-trade-deals

detriment of cane producers. Our 2015 report, *Sugar Crash*[4], cited DFID research estimating that the proposed reforms (now being implemented) would push 200,000 people into poverty over a 5 year period. These concerns were raised with EU decision-makers, both directly and via MEPs. And yet, even with the opportunities available for representations to be made, the interests of developing countries were ignored. Initially, MEPs voted for the reform to be delayed until 2020 but they later agreed for the cap (on beet production) to be removed in 2017.

14. In relation to CETA, which has now been ratified by the UK as an EU member-state (very swiftly – through the 'no-objection' procedure and therefore without any public or parliamentary debate on the Floor of the House), there was hardly any debate in the UK, despite it being a 'mixed agreement', and despite inclusion of the controversial ISDS (Investor-State Dispute Settlement) mechanism which is a hugely problematic way of dealing with complaints raised by foreign investors through a private court, and risks eroding national policy space.

15. In relation to TTIP, there were a number of reports setting out the negative impact that the deal could have on developing country market access. This included a DFID commissioned paper by the University of Sussex[5] and a further German study[6] which highlighted the potential loss in income for African producers, who *"experience dramatic losses in market share from intensified competition on the EU or US markets"* (p.28). The official Sustainability Impact Assessment (SIA), was not published by DG Trade until 2017, 4 years after the original Terms of Reference was published coinciding with the start of negotiations.

16. These examples shows how dramatic the consequences can be as a result of trade deals or other trade policy decisions. In addition to the points on parliamentary scrutiny set out above, we would also want to underline the importance of the government *commissioning and publishing thorough and timely impact assessments* which explore potential impacts of any changes in policy on developing countries.

17. The Fairtrade Foundation would like to see a commitment to impact assessments embedded within forthcoming legislation. In relation to trade agreements, these impact assessments should be publicly available and part of the mandate-setting process. If they are published once negotiations have already commenced (as was the case with TTIP), then it is too late for development considerations to be adequately integrated.

18. As a final note on this topic, we would also like to point to widespread support for a reformed process within the academic community. This recent letter from 55 academics published in The Telegraph[7] (scroll down to letter entitled 'Trade and Democracy') also calls

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4 http://www.fairtrade.org.uk/~/media/fairtradeuk/what%20is%20fairtrade/documents/policy%20and%20research%20documents/policy%20reports/faitrade%20foundation%20sugar%20crash%20report.ashx

5 https://www.gov.uk/dfid-research-outputs/potential-effects-of-the-proposed-transatlantic-trade-and-investment-partnership-on-selected-developing-countries

6 http://www.bfna.org/sites/default/files/TTIP-GED%20study%2017June%202013.pdf

7 http://www.telegraph.co.uk/opinion/2017/10/20/lettersif-brexit-negotiations-fail-big-risk-comes-staying-eu/

upon the government to take the chance, *"to establish a procedure for the development of trade agreements that is transparent and inclusive".*

A Future UK Unilateral Trade Preference Scheme

19. The Fairtrade Foundation welcomes the development of a UK unilateral trade preference scheme in the context of Brexit. We had expressed concerns that developing countries could lose out if their post-Brexit market access was not clarified, and Fairtrade supporters had also asked for certainty – 50,000 signed a petition to the Prime Minister in 2016, followed by a further 38,000 who demanded action from the Trade Secretary, Liam Fox, earlier this year. Analysis undertaken by Traidcraft has highlighted that developing countries could face an additional tax bill (import duties) of £1bn if their existing preferential access is not secured[8].

20. As a result, we were very pleased to hear the Government's announcement in June this year that it would roll over duty-free, quota-free access for the Least Developed Countries (LDCs), and ultimately, *"improve access to UK markets for the world's poorest countries post-Brexit"*.[9] The government's press release cited countries such as Pakistan, Jamaica and Ghana in this regard, stating that the UK government would *"explore options to expand on relationships*" with countries currently benefiting through the EU, from a mixture of reduced or zero tariffs on the export of goods to the UK. We were also pleased that the International Trade Secretary spoke of "*Free **and fair** trade*", an acknowledgement that the international trading system has not always been fair, and needs to be considered through the lens of power imbalances.

21. In practice, the Fairtrade Foundation does still have some concerns in relation to those developing countries whose market access (to the EU market) is currently set out in reciprocal agreements, including Free Trade Agreements (FTAs) with the EU, and through the controversial Economic Partnership Agreements (EPAs). At a very practical level, we still need to understand how the government's 'cut and paste' proposal will work, given the current restrictions on the UK negotiating new trade deals. If come March 2019, the UK does formally leave the Customs Union, then there still seems to be a 'cliff-edge' risk for a number of countries with high dependency on the UK export market.

22. Those non-LDC countries where the stakes are highest include some of the Caribbean countries such as St Lucia, Belize and Fiji – raw cane sugar and bananas are the key exports. The UK share of EU imports from these countries is more than 60% and so the future of the existing EPA (with CARIFORUM) is of utmost importance.

23. There are also particular risks associated with key sectors in some other developing countries. For example, the UK is a key market for Kenyan cut-flowers, its second largest export – around 12% of Kenyan cut flowers come to the UK.[10] From a Fairtrade perspective,

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[8] http://tjm.org.uk/documents/briefings/post-brexit-report.pdf
[9] https://www.gov.uk/government/news/government-pledges-to-help-improve-access-to-uk-markets-for-worlds-poorest-countries-post-brexit
[10] Source: https://atlas.media.mit.edu/en/

there are risks in relation to other countries and products, even though they may represent a smaller share of exports overall.

24. Risks are most acute for supply chains where margins are very squeezed (such as garments, flowers, bananas or tea) – and so marginal changes to the costs of trade affecting different countries can have a big impact on purchasing decisions. Such risks are heightened where production is easily set up and moved from one location to another, such as garment manufacturing, or flower farming.

25. One aspect of existing deals which is currently under discussion, is the division of 'tariff rate quotas' (TRQs). In relation to bananas, there are a number of important issues to consider, requiring the UK government to go beyond a 'cut and paste' approach. The biggest Fairtrade banana exporters are those in the Caribbean (e.g. Dominican Republic, St Lucia), but we also work with producers in West Africa (e.g. Ghana), and with those in Central America and the Andean region (e.g. Colombia). Of these exporters, the ACP countries with EPAs currently have duty-free and quota-free access. However overall, the system is 'managed' by a complex agreement on TRQs, designed to protect smaller producers (and indeed, EU producers), whilst allowing more competitive countries to expand their trade with the EU over time. Under current arrangements, there will be an increase in the volume of tariff-reduced access (to the EU market) for these countries of 109.5% between 2010 and 2020[11], with likely impact on both ACP exporters and EU banana producers. It is therefore not hard to see how problems could arise through transitioning existing agreements.

26. We understand that the UK government has been in conversations with developing country governments about replicating the FTAs and EPAs, and it would be helpful to have a clear statement on where this has got to by the end of this year (2017) in order to aid planning.

27. In addition to the practical issues around 'transitional adoption', there are other reasons to exercise caution, especially in relation to the government's intention to *replicate existing EPAs*, as set out on p.32 of the Trade White Paper[12]. In a recent parliamentary briefing paper, we have argued that the EPAs are problematic for a number of reasons, and that the government should therefore take this opportunity to think about offering positive alternatives.

28. Firstly, the EPAs require significant levels of liberalisation which threatens to undermine local industry and producers who may not be ready to compete with international imports. It is for this reason that some countries such as Tanzania and Nigeria have refused to sign – in East Africa the EPA will require an opening up of up to 82% over a twenty five year period and a significant loss in tariff revenue for the region.

[11] http://epamonitoring.net/acp-banana-exporters-and-brexit/

[12] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/654714/Preparing_for_our_future_UK_trade_policy_Report_Web_Accessible.pdf

29. Secondly, the EPAs include issues beyond trade in goods, such as investment protection and government procurement.

30. Thirdly, the EPAs undermine regional integration by offering different arrangements to countries within existing customs unions, leading to fragmentation and regional tensions. This point was also stressed in the recent report from the Africa APPG[13] which concluded in its report earlier this year, that *"cutting and pasting from EPAs to create trade agreements will not be an option…. The strong message that the delegation took away was that the UK post Brexit should try to work with existing regional agreements and negotiate with blocks rather than deploy a 'divide and rule' approach that the EPA process has been accused of."* (p.82).

31. For this reason, the Fairtrade Foundation would like to see the *inclusion of the existing FTA and EPA countries in a non-reciprocal UK preference scheme*. This could be for a time limited period, but it would be a way of guaranteeing existing market access and addressing some of the problems which have arisen through the EPAs. If the unilateral offer was based on existing access, then there would be very little grounds for challenging it at the WTO.

32. For those countries which are part of customs unions or emerging customs unions, themselves, which are predominantly made up of LDCs, we believe that there is a strong argument for extending duty-free and quota-free access in order to aid regional integration. This would apply to all countries in the East African Community (EAC), the Economic Community of West African States (ECOWAS), and the Central African Economic and Monetary Community (CEMAC).

33. The government could also consider extending this DFQF access to a wider set of 'economically vulnerable' countries as proposed by Traidcraft. Their 2017 report[14] draws on a number of other preference schemes, to show what might be possible and acceptable under global rules. For example, New Zealand offers preferential access to 141 countries, considering countries to be eligible if they are LDCs or if their GNI per capita is no greater than 70% of New Zealand's. The US AGOA scheme operates under a WTO waiver and applies to all sub-Saharan African countries which meet the eligibility criteria.

34. We are conscious of current debates about the number of 'tiers' that could apply to a new UK scheme. The current EU GSP essentially operates with three tiers:

- The Everything But Arms (EBA) scheme which applies to the LDCs (currently 49) and offers full duty-free quota-free access;
- The GSP+ which offers preferential access on 66% of the EU common customs tariff to those countries which have ratified and are implementing 27 international conventions;
- The standard GSP.

[13] http://www.royalafricansociety.org/sites/default/files/files/APPG%20report%202017-%20Future%20of%20Africa%20UK%20Relations%20Post%20Brexit%20v2(1).pdf
[14] http://tjm.org.uk/documents/briefings/post-brexit-report.pdf

35. If the government does decide to move forward with a two or three tier scheme, then there are still some improvements that could be made in relation to product coverage. For example, there are some products such as citrus fruits which would no longer be 'sensitive' with the UK outside of the EU and its customs union. There are other products which are central to the Fairtrade market (raw cane sugar, bananas, cut flowers) which are not included within the EU's standard GSP, and where there could be a case for inclusion across all future levels/tiers of a UK scheme. Given the potential trade-offs between supporting existing exporters (LDCs and others with preferential access through EPAs etc.), and improving access for other developing country exporters, it will be important to commission thorough impact assessments before any decisions are made.

36. We have also been encouraged by the UK government's position on 'value addition' and their openness to address tariff escalation and consider opportunities for processing and manufacturing within developing countries. From a Fairtrade perspective, there are opportunities within coffee and cocoa supply chains which require further exploration – garments are of course another area where we could see improvements. This can partly be addressed through tariffs – for example, for those countries in the standard GSP, roasted caffeinated coffee is subject to an import duty of 7.5% and roasted decaffeinated coffee subject to an import duty of 9%. However, there are other non-tariff barriers which also need addressing, including access to finance for investment and infrastructure.

37. The UK government could also simplify its 'rules of origin' post-Brexit which would be an important way to enhance regional integration. It would be helpful for the UK to continue engagement with EU on this topic so as to ensure that developing country exporters are able to both the UK and the EU 27 without additional burdens, should the rules diverge post-Brexit.

38. One opportunity that could arise from this process is the possibility of building a more coherent and comprehensive package around trade for development, bringing DIT together with the work of DFID. Of course with a more integrated agenda, there is a risk that development objectives are 'demoted' and we would therefore strongly advise that any cross-government package on trade and development be aligned with the Sustainable Development Goals and with the primary purpose of UK Aid (poverty reduction) front and centre.

39. DFID's new Economic Development Strategy has put 'economic transformation', particularly in Africa, front and centre, and so this presents opportunities to ensure that policy levers and programmatic support are working in sync and pulling in the same direction, for example, on an issue such as regional integration. DFID's Economic Development portfolio has been scaled up quite significantly and a number of UK Aid funded programmes such as TradeMark East Africa and Invest Africa, as well as the work of CDC, relate directly to this agenda.

40. By focusing on certain value chains, we would argue that the 'choice' which is sometimes presented between investing in large-scale infrastructure and trade facilitation, and investing in existing livelihoods and small-holder agriculture, is a false one. Fairtrade has

shown that it is possible to build a model which empowers small-holders, supporting 'decent jobs' and increasing their productivity through social premium investments. We do this by building a market for ethical and Fairtrade produce in the UK and we know from our own research that more than 20% of the general public make an active choice to buy Fairtrade products when they shop. However there are still significant gaps in investment in support – both upfront investment to help producers meet Fairtrade standards and gain certification (e.g. in gold), and ongoing investment in social infrastructure such as co-operative movements, trade unions etc.

41. EU investment in 'Aid for Trade' programming currently accounts for a third of all global A4T support. The UK, in considering its financial obligations and future contributions to European funds (including the 'European Development Fund' which is currently off-budget), will need to consider its impact on this significant portfolio of work. The government should examine whether its aid for trade objectives would be best met through continued contributions to pooled funds, or through a complementary UK programme.

42. In addition, there may be a requirement for additional 'Market Adjustment Support', to enable developing countries to adapt to any potential changes in market access arising from Brexit. Whilst minimising trade disruption is an objective that we very much share with the UK government, any risks must be identified at the earliest possible opportunity, in order to mitigate any potentially negative impacts to poorer and less resilient farmers and producers. A caveat is that market adjustment programmes historically often focus on macro-economic support, and many have a poor record of delivering support for farmers and industries directly affected. One example is the EU's adjustment programme for sugar cane producing countries linked to CAP reform, which focused on macro-economic support, but struggled to provide timely or effective support for many of the sugar cane farming communities it was intended to benefit.

Summary of Recommendations

- Guarantee an inclusive and transparent trade policy by enhancing the role of parliament and bringing forward legislation in the Trade Bill to secure:
  - *The right of parliament to set a thorough mandate to govern each trade negotiation, with a remit for the devolved administrations;*
  - *The right of the public to be consulted as part of setting that mandate;*
  - *Full transparency in negotiations;*
  - *The right of parliament to amend and to reject trade deals, with full debates and scrutiny guaranteed and a remit for the devolved administrations;*
  - *The right of parliament to review trade deals and withdraw from them in a timely manner.*

- Include a commitment to poverty reduction and achievement of the SDGs within the forthcoming Trade Bill.

- Embed a commitment to publishing publicly available, timely and thorough impact assessments of trade deals (including potential impact on developing countries), within the forthcoming Trade Bill.

- Guarantee market access for the non-LDCs by offering non-reciprocal access (matching current access through FTAs and EPAs) for a time-limited period and take this opportunity to improve upon the EPA approach.

- Through a new UK preference scheme, extend duty-free and quota-free access to a wider group of 'economically vulnerable' developing countries, including those countries in customs unions where the majority of countries are LDCs.

- If opting for a two or three tier system, improve product coverage in a UK scheme, by including certain key products as standard based on development impact, removing tariffs on non-sensitive products, and addressing tariff escalation on products such as coffee and chocolate. The UK should also consider simplifying its 'Rules of Origin' to support value-addition.

- DIT should work closely with DFID and other government departments to develop a comprehensive and coherent approach to 'trade for development', which includes a wider package of support driven by the goals of poverty reduction and meeting the SDGs. The government should ensure that there is continued and improved investment in 'Aid for Trade' post-Brexit, including investment in social infrastructure, and that adequate and timely 'Market Adjustment Support' is put in place to help developing countries deal with any changes arising from Brexit.

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